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107TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
107–454

JUSTICE UNDONE: CLEMENCY DECISIONS IN THE CLINTON WHITE HOUSE

SECOND REPORT

BY THE

COMMITTEE ON GOVERNMENT REFORM

Volume 1 of 3

together with

MINORITY AND ADDITIONAL VIEWS

Chapter 1—"Take Jack's Word": The Pardons of International Fugitives Marc Rich and Pincus Green
Chapter 2—Roger Clinton's Involvement in Lobbying for Grants of Executive Clemency



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MAY 14, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, DC, May 14, 2001.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: By direction of the Committee on Government Reform, I submit herewith the committee's second report to the 107th Congress. The committee's report is based on a study conducted by the full committee.

DAN BURTON,
Chairman.

DEDICATION

This report is dedicated to the memory of M. Scott Billingsley, counsel for the House Committee on Government Reform from 1999–2001. Scott died unexpectedly on March 25, 2002, at the age of 31.

During his time on the Committee staff, Scott was centrally involved in a number of important investigations. Scott made immeasurable contributions to the Committee's work, not only through his critical thinking and excellent writing, but also through his professionalism and cheerful spirit, which made him a pleasure to work with.

Scott devoted two years of his short life to the Committee on Government Reform because he wanted to root out waste, fraud, and abuse, and promote integrity in the federal government. Scott's final, and most important work for the Committee was on the investigation of President Clinton's eleventh-hour clemency grants. Scott played a key role investigating the pardons of Marc Rich and Pincus Green and drafted much of the first chapter of this report. Scott's work on the Rich and Green pardons was typical of all of his work for the Committee: excellent, accurate, and thorough.

Scott Billingsley certainly has a legacy that goes far beyond his work on this Committee. He has left behind many individuals who will miss him dearly. His memory will be cherished by his parents, sister, fiancé, family, and countless others whose lives he touched. However, this report should serve as a small, but lasting, reminder of Scott Billingsley's work and his devotion to the pursuit of truth.

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107TH CONGRESS, *2d Session* } HOUSE OF REPRESENTATIVES { REPORT 107–454

JUSTICE UNDONE: CLEMENCY DECISIONS IN THE CLINTON WHITE HOUSE

MAY 14, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BURTON, from the Committee on Government Reform submitted the following

SECOND REPORT

On March 14, 2002, the Committee on Government Reform approved and adopted a report entitled "Justice Undone: Clemency Decisions in the Clinton White House." The chairman was directed to transmit a copy to the Speaker of the House.

EXECUTIVE SUMMARY

THE PARDONS OF MARC RICH AND PINCUS GREEN

Marc Rich and Pincus Green have a history of illegal and corrupt business dealings contrary to the security interests of the United States.

- *Rich and Green have had extensive trade with terrorist states and other enemies of the United States.* Despite clear legal restrictions on such trade, Rich and Green have engaged in commodities trading with Iraq, Iran, Cuba, and other rogue states which have sponsored terrorist acts. By engaging in these activities, Marc Rich and Pincus Green demonstrated contempt for American laws, as well as the well-being of Americans who were harmed or threatened by these states.
- *The Central Intelligence Agency provided the following declassified information about Marc Rich to the Committee:*

If President Clinton had checked with the CIA, he would have learned that Marc Rich had been the subject of inquiries by various foreign government liaison services and domestic government agencies regarding their ongoing investigations of criminal activity.

In addition, President Clinton would have received information worthy of his consideration in making his decision on the pardon. This information cannot be declassified.

Marc Rich and Pincus Green were guilty of serious crimes and showed contempt for the American justice system.

- *Marc Rich and Pincus Green attempted to obstruct the criminal investigation of them in every way imaginable, including attempting to smuggle subpoenaed documents out of the country.* Rich and Green's tactics resulted in a record-setting contempt fine against them, totaling $21 million. Despite these tactics, the U.S. Attorney for the Southern District of New York was able to indict Marc Rich and Pincus Green on 51 counts of illegal activity, including tax evasion, mail fraud, wire fraud, and racketeering. The evidence against them was overwhelming.

- *Because of the strength of the case against them, Marc Rich and Pincus Green fled the country rather than face trial.* Rich's own lawyer told him that by fleeing the country, Rich had "spit on the American flag" and that "whatever you get, you deserve." For the 17 years leading up to his pardon, Marc Rich was one of America's 10 most wanted international fugitives. Although Jack Quinn, Rich's attorney, argued that Rich did not flee the United States to avoid prosecution, Rich's ex-wife refuted this view, stating that Rich told her that "I'm having tax problems with the government . . . and I think that we are going to have to leave."

- *In order to avoid extradition or apprehension by United States law enforcement, Marc Rich and Pincus Green attempted to renounce their United States citizenship.* While this attempt was rejected by the United States, it demonstrated that Rich and Green had no loyalty to the United States and viewed their citizenship as a liability to be discarded at will.

Rich and Green's crimes were so serious that for seventeen years, the U.S. government devoted considerable resources to apprehending them and closing down their business activities.

- *Rich and Green were such high-profile fugitives that on a number of occasions in the 1980s and 1990s, the United States Marshals Service attempted to arrest them in various foreign countries.* A number of countries from the United Kingdom to Russia attempted to assist the United States in these efforts. The pardons of Rich and Green have sent a message that individuals can go from the FBI's most wanted list to a Presidential pardon

if they spend money and have the proper connections. This message undermines U.S. efforts to apprehend fugitives abroad.

- *Rich and Green were such high-profile fugitives that in 1991, the Government Reform Committee, under Democratic leadership, held a number of hearings, and issued two reports about the government's efforts to apprehend Rich and Green.* At that time, Democrats and Republicans in Congress took the Bush Administration to task for not being aggressive enough in hunting down Rich and Green, or shutting down their business interests in the U.S.

- *While Rich and Green were fugitives from justice, the American government took a number of actions against their interests in the U.S.* The federal government seized Rich's assets and shut down his trade in metals and grain with the government.

The United States government repeatedly tried to reach a plea agreement with Rich and Green.

- For a number of years after Rich and Green fled the country, the U.S. government attempted to negotiate a plea bargain to settle the case. The government made a number of concessions in an attempt to reach a deal, but all offers were rebuffed by Rich and Green, who would not agree to any deal that resulted in jail time. While lobbying for a pardon, Jack Quinn and Rich's other lawyers claimed that the Justice Department had not even negotiated with Rich, and therefore, that a pardon was justified. Quinn and the other lawyers were misleading the White House when they made these claims.

Jack Quinn misled the White House about the Rich case and attempted to mislead the Committee and the public regarding his work for Marc Rich.

- *Marc Rich hired Jack Quinn after a recommendation from Eric Holder.* After numerous failed attempts to have his case settled, Marc Rich hired Jack Quinn to represent him. Quinn was hired after a recommendation from Deputy Attorney General Eric Holder. Gershon Kekst, who worked for Marc Rich on the pardon matter, asked Holder for a recommendation of how to settle a criminal matter with the Justice Department. Holder recommended that he hire a Washington lawyer "who knows the process, he comes to me, and we work it out." Holder then explicitly recommended the hiring of Jack Quinn. While Holder did not know that Kekst was referring to Marc Rich, it suggests that Holder was favorably disposed to Jack Quinn, and would be very receptive to arguments made by Quinn, no matter how baseless they were.

- *Marc Rich was going to pay Jack Quinn for his work on the pardon.* After the Marc Rich pardon was granted, Jack Quinn claimed that he was not being paid by Rich for his work on the pardon and that he expected no future payment for his work on the pardon. However, the Committee has uncovered evidence

that Robert Fink, a lawyer close to Marc Rich, had discussions with Rich and Quinn about paying Quinn for his work on the Rich pardon. Documents which Quinn and Fink withheld from the Committee for over a year, and which were produced only after a federal judge ordered them produced to a grand jury, shed further light on the contemplated payment of Quinn. These documents indicate that Quinn raised the question of his "status" with Rich and asked that Rich pay him a $50,000 per month retainer. The Committee attempted to interview Quinn about these documents, but Quinn refused to meet with Committee staff.

- *Jack Quinn may have been attempting to receive money from Marc Rich after the pardons were granted.* At the Committee's February 8, 2001, hearing, Quinn pledged that "I will not bill [Rich], and I will not accept any further compensation for work done on the pardon." This pledge surprised Rich's lawyer, who expected that Rich would be paying Quinn for his work. Indeed, records just produced to the Committee indicate that Quinn may have been attempting to negotiate some payment from Marc Rich shortly after he pledged that he would not take additional money for his work. A March 5, 2001, e-mail from Quinn to Rich states, "If you are agreeable, and I hope you are, I need to fax to you in the next few days a new retainer agreement." This e-mail raises the possibility that Quinn has been attempting to obtain payments from Rich, in possible violation of his pledge to the Committee. The Committee attempted to interview Quinn about this matter, but he refused.

- *Jack Quinn's work on the Rich pardon was in apparent violation of Executive Order 12834.* That executive order was enacted as part of President Clinton's promise to create "the most ethical administration in history," and it prohibited former executive branch employees from lobbying their former executive branch agencies within five years of their departure. Quinn has claimed that his work on the Rich pardon came within an exception for "communicating . . . with regard to a . . . criminal . . . law enforcement inquiry, investigation or proceeding[.]" However, this exception was clearly intended to apply to appearances before courts, not lobbying the White House for a pardon. The "revolving door" lobbying ban was intended to apply exactly to cases like this, where a former White House Counsel could come back and lobby the President to take an action that had no constitutional limits on it, largely based on the President's personal trust for that former staffer.

- *The pardon petition compiled by Jack Quinn and the other Marc Rich lawyers was highly misleading.* Most of the arguments used by Jack Quinn to justify the Rich and Green pardons were false and misleading. These arguments could have been completely refuted if anyone in the White House had sought out any of the prosecutors familiar with the Rich case.

- *The "letters of support" in the pardon petition were used in a misleading manner.* Another key element of the Rich pardon pe-

tition was a number of letters of support for Rich and Green from prominent Americans and Israelis. Rich and Green used these letters to try to show that their humanitarian activities justified their pardons. However, many of these letters were obtained under false pretenses, and the writers of the letters were not told that they were being used to obtain a Presidential pardon. In addition, a number of individuals who wrote in support of Rich and Green received large amounts of money from them.

Marc Rich and Pincus Green used a number of different individuals with close personal relationships with President Clinton and his staff to lobby regarding the pardon.

- *The role of Denise Rich.* Denise Rich played a key role in obtaining the Rich and Green pardons. Denise Rich had a close relationship with President Clinton, which was based in part on her role as a large-scale contributor to Democratic causes and the Clinton library, and in part on her extensive personal contacts with President Clinton. The $450,000 given by Denise Rich to the Clinton Library was an early and large contribution. Denise Rich used her relationship with President Clinton to lobby for the Marc Rich pardon on a number of occasions. She has refused to cooperate with the Committee, invoking her Fifth Amendment rights rather than answer questions about her role in the pardon.

- *The role of Beth Dozoretz.* Beth Dozoretz, another close friend of President Clinton, played a key role in obtaining the Rich pardon. Like Denise Rich, Beth Dozoretz had a relationship with President Clinton built on personal ties and political fundraising. Dozoretz has raised and contributed millions of dollars for the Democratic party and has pledged to raise an additional million dollars for the Clinton library. Beth Dozoretz also has close relationships with Denise Rich and Jack Quinn. Dozoretz used her close relationship with President Clinton to lobby for the Rich pardon. Because Dozoretz has invoked her Fifth Amendment rights against self-incrimination, the Committee is unable to conclude whether or not Dozoretz made any linkage between contributions to the DNC or the Clinton library and the granting of the Rich pardon.

- *The role of Prime Minister Ehud Barak.* Israeli Prime Minister Ehud Barak spoke to President Clinton three times about the Rich pardon. In his public statements about the Rich pardon, President Clinton has pointed to these conversations with Prime Minister Barak as one of the primary reasons he granted the pardon. However an examination of the transcripts of the calls shows that Barak did not make a particularly impassioned plea for Rich. Therefore, it appears that the President may be attempting to use Prime Minister Barak's interest in the Rich matter as a cover for his own motivations for granting the Rich pardon.

- *Barak had met with Rich personally and told Clinton that the Rich pardon "could be important . . . not just financially, but he*

helped Mossad on more than one case." Barak's statement raises the possibility that either Barak or Clinton acted on the Rich matter because of some promise of future financial return.

Eric Holder and Jack Quinn worked together to cut the Justice Department out of the decisionmaking process. Holder's decision to support the pardon had a critical impact.

- *Jack Quinn and Deputy Attorney General Eric Holder worked together to ensure that the Justice Department, especially the prosecutors of the Southern District of New York, did not have an opportunity to express an opinion on the Rich pardon before it was granted.* The evidence amassed by the Committee indicates that Holder advised Quinn to file the Rich pardon petition with the White House, and leave the Justice Department out of the process. One e-mail produced to the Committee suggests that Holder told Quinn to "go straight to wh" and that the "timing is good." The evidence also indicates that Holder failed to inform the prosecutors under him that the Rich pardon was under consideration, despite the fact that he was aware of the pardon effort for almost two months before it was granted.

- *Eric Holder's support of the Rich pardon played a critical role in the success of the pardon effort.* Holder informed the White House that he was "neutral, leaning towards favorable" on the Rich pardon, even though he knew that Rich was a fugitive from justice and that Justice Department prosecutors viewed Rich with such contempt that they would no longer meet with his lawyers. Holder has failed to offer any credible justification for his support of the Rich pardon, leading the Committee to believe that Holder had other motivations for his decision, which he has failed to share with the Committee.

- *Eric Holder was seeking Jack Quinn's support to be appointed as Attorney General in a potential Gore Administration, and this may have affected Holder's judgment in the Rich matter.* On several occasions, Holder sought out Quinn's endorsement to be appointed as Attorney General if Al Gore were to win the November 2000 election. Quinn was a Gore confidant whose endorsement would carry great weight. Holder's initial help to Quinn in the Rich matter predated the Supreme Court's decision in *Bush v. Gore*, and accordingly, Holder had some legitimate prospect of being appointed Attorney General when he was helping Quinn keep the Rich matter from the Justice Department's scrutiny. While Holder denies that his desire to be appointed Attorney General had anything to do with his actions in the Rich matter, it provides a much clearer and more believable motivation than any offered by Holder to date.

President Clinton made his decision knowing almost nothing about the Rich case, making a number of mistaken assumptions, and reaching false conclusions.

- *The White House never consulted with the prosecutors in the Southern District of New York regarding the Rich case.* As a re-

sult, the White House staff was never able to refute the false and misleading arguments made in the Marc Rich pardon petition.

- *Every White House staff member who was working on the Rich pardon opposed it.* However, because they failed to do the necessary background research on the Rich case, they were unable to refute the arguments made by Jack Quinn.

- *President Clinton was misled by Jack Quinn in their negotiations regarding the Rich pardon.* Late in the evening of January 19, 2001, President Clinton and Jack Quinn had a telephone discussion regarding the Rich pardon. During this conversation, Quinn repeated his usual misleading arguments about the Rich case. Quinn also offered to make his clients subject to civil liability for their actions. In furtherance of this offer, Quinn agreed to waive all statute of limitations and other defenses, which Rich and Green would have as a result of their fugitivity. President Clinton has cited this waiver as a key factor in his decision to grant the pardons. However, if President Clinton or his staff had done even cursory legal research, they would have understood that this was a hollow, meaningless deal. First, Quinn agreed to waive defenses that Rich and Green did not have. It is basic legal doctrine that fugitivity tolls the statute of limitations. Second, Rich and Green likely do not face any civil liability for their crimes, since those fines were already paid by their companies. Third, Rich and Green had been willing to pay $100 million to settle their case for years. A fine, even a large one, would have had no impact on Rich and Green, and it would merely stand for the proposition that the U.S. justice system is for sale.

- *When the White House did finally provide the names of Marc Rich and Pincus Green for a Justice Department background check in the middle of the night on January 19, 2001, the check turned up new, troubling information which was disregarded by President Clinton.* When the White House requested the Justice Department to perform a computer background check on Rich and Green prior to granting the pardons, the check came back with information that they were wanted for "arms trading." This was new information for all of the White House staff, and it raised serious questions among them as to whether the pardons should be granted. However, the only step the White House took to check on this allegation was to call Jack Quinn. Quinn predictably denied that his clients were involved in arms trading. Faced with this conflicting information about Rich and Green, President Clinton instructed his staff to "take Jack's word" and issue the pardons.

President Clinton has failed to offer a full accounting for his decision to issue the Marc Rich and Pincus Green pardons.

- *President Clinton has failed to answer any questions about the Rich and Green pardons.* The few statements that he has issued

have been misleading, incomplete, and raised more questions than they answered. Given his complete failure to explain the pardons, the Committee is left with serious unanswered questions regarding President Clinton's motives.

ROGER CLINTON'S EFFORTS TO LOBBY FOR EXECUTIVE CLEMENCY

Roger Clinton engaged in a systematic effort to trade on his brother's name during the Clinton Administration.

- *President Clinton encouraged Roger Clinton to capitalize on their relationship.* At the beginning of his second term, President Clinton instructed Roger Clinton to use his connections to the Administration to gain financial advantage. According to the lawyer for former Arkansas State Senator George Locke: "Roger related that Bill Clinton had instructed him that since this was his last term in office, Roger should find a way to make a living and use his relationship with the President to his advantage." By suggesting that Roger Clinton exploit his name, Bill Clinton encouraged the conduct described in this chapter. Roger Clinton apparently took this advice to heart, telling one person from whom he solicited money that he and the President "had only four years to get things done" and that they did not care "about ethics or what appearances were."

- *Roger Clinton received substantial sums of money from foreign governments solely because he was the President's brother.* When the FBI interviewed him, Roger Clinton admitted that since the beginning of the Clinton Administration, he had received substantial sums of money from foreign governments. Clinton told the FBI that "he knows he receives these invitations [to make paid appearances in foreign countries] strictly because he is the First Brother of the President of the United States." Clinton also informed the FBI that in addition to receiving hundreds of thousands of dollars for musical performances from foreign governments, he also received money for President Clinton from foreign governments. Roger Clinton told the FBI that he had to be instructed repeatedly by the President or White House staff that the President was not permitted to receive cash from foreign governments.

- *Roger Clinton received at least $335,000 in unexplained travelers checks, many of which were purchased overseas and likely imported illegally.* The Committee uncovered at least $335,000 in travelers checks deposited in Roger Clinton's bank account. Most of these travelers checks originated overseas, largely from Taiwan, South Korea, and Venezuela. The travelers checks were not restrictively endorsed by the purchaser but were instead given to Roger Clinton blank. This method of transferring large sums of money to Roger Clinton appears designed to conceal the fact that the funds originated overseas and probably violated criminal statutes requiring reports of the importation of monetary instruments. Roger Clinton has refused to provide the Committee with any explanation of why he received these funds.

These suspicious transactions require a complete and thorough investigation by law enforcement authorities, especially in light of his admissions to the FBI about receiving money from foreign governments.

- *Roger Clinton likely violated federal law by failing to register as required under the Lobbying Disclosure Act.* One company paid Roger Clinton $30,000 to lobby President Clinton and others to loosen government restrictions on travel to Cuba. Although his activity appears to meet the criteria outlined in the statute for those required to disclose their contacts with covered executive branch officials, Roger Clinton did not register as a lobbyist and did not disclose his paid lobbying contacts with his brother. His failure to register, therefore, needs to be investigated carefully and completely by the Department of Justice.

- *Roger Clinton participated in a plot to obtain a $35,000 per month contract in exchange for delivering a cabinet secretary to a speaking event.* The FBI briefly investigated Roger Clinton's involvement in a scheme with Arkansas lawyer Larry Wallace to pressure John Katopodis, promoter of an Alabama airport project. Clinton and Wallace attempted to obtain a $35,000 per month contract in exchange for Clinton's promise to ensure that Secretary of Transportation Rodney Slater would speak at a conference sponsored by Katopodis' organization of local governments. When Katopodis refused to pay and Slater subsequently refused to acknowledge the invitation, Katopodis suspected that Clinton and Wallace were to blame. Wallace had told him that his project would remain at a standstill until Katopodis "showed him the money."

Roger Clinton lobbied for the release from prison of Rosario Gambino, a notorious heroin dealer and organized crime figure.

- *Rosario Gambino was a major drug trafficker.* Rosario Gambino has been convicted in the United States and Italy of heroin trafficking. Before being sentenced to 45 years in federal prison, Gambino associated with known members of organized crime both in Italy and the United States. His associates have described him as a member of the Sicilian Mafia. When his brothers were convicted of racketeering, murder, illegal gambling, loan sharking, and heroin trafficking in 1994, witnesses described them as "the main link between Mafia heroin traffickers in Sicily and the American Mafia."

- *Roger Clinton received at least $50,000 from the Gambino family, and he expected to receive more if he succeeded in getting Rosario Gambino out of prison.* Tommaso "Tommy" Gambino, the son of Rosario Gambino, approached Roger Clinton to help win the release of Rosario Gambino from prison. Tommy Gambino promised Roger Clinton a substantial financial reward if he was successful. Even though he never was successful, Tommy Gambino provided Roger Clinton with $50,000, a gold Rolex watch, and an undisclosed amount of "expense money."

- *Roger Clinton attempted to use his relationship to the President to influence the decisionmaking of the United States Parole Commission ("USPC").* Roger Clinton lobbied the Parole Commission to grant parole to Gambino. While lobbying Parole Commission staff, Roger Clinton informed them that President Clinton was aware of his efforts on behalf of Rosario Gambino and that the President had suggested that he contact the Parole Commission members directly. Although the Commission staff tried to insulate the Commissioners from undue influence, Roger Clinton clearly attempted to use his relationship to the President to influence the Commission improperly and win Gambino's release.

- *The Chief of Staff of the Parole Commission hindered the FBI's investigation.* In 1998, the FBI began investigating Roger Clinton's contacts with the Parole Commission. However, it met resistance from Marie Ragghianti, the Chief of Staff of the Parole Commission. Ragghianti, who had participated in meetings with Roger Clinton on the Gambino case, objected to the FBI investigation and successfully halted an FBI plan to have an undercover agent meet with Clinton posing as a Parole Commission staffer. She also attempted to keep the FBI from recording a meeting between Roger Clinton and a Parole Commission staffer. Ragghianti's efforts may have kept the FBI from reaching a full understanding of Roger Clinton's involvement in the Gambino case.

- *Roger Clinton lied to FBI agents investigating his contacts with the Parole Commission and his relationship with the Gambino family.* When interviewed by the FBI in 1999, Roger Clinton said that he had never represented to anyone at the Parole Commission that the President was aware of his contacts with the Commission on behalf of Rosario Gambino. This self-serving claim is contradicted by contemporaneous, written memoranda detailing Clinton's contacts as well as by the vivid and credible recollections of Parole Commission staff. Clinton also lied about the purpose of a $50,000 check from the Gambinos, which he deposited on the day of the FBI's interview. While it is unclear whether he deposited the check before or after the interview, Clinton told the agents that Tommy Gambino had offered to loan him money for a down payment on his house. He repeated this explanation to the media when news of the money became public in 2001. However, after reviewing both Clinton's and Gambino's bank records, the Committee has found no evidence that Clinton used the $50,000 for a down payment or that he ever repaid any of the money. Accordingly, his claim to the FBI that the money was merely a loan is false. During his interview, Clinton also told the FBI agents three separate and contradictory stories in response to questions about his receipt of a Rolex watch from Tommy Gambino before finally producing a Rolex to the agents and claiming he had bought it in Tijuana, Mexico.

- *Roger Clinton apparently lobbied the White House to grant a commutation to Rosario Gambino.* In the last days of the Clinton Administration—after Roger Clinton had failed to win parole for Rosario Gambino and after he had received a Rolex

watch and $50,000 from the Gambino family—the White House received a petition for commutation for Rosario Gambino. Documents indicate that the White House lawyer responsible for clemency matters requested a criminal background check on Gambino, which is normally done when some serious consideration is being given to a grant of clemency. The obvious and logical inference that explains how the Gambino petition garnered that level of attention at the White House is that Roger Clinton was pushing for it. Because key Clinton White House staff have refused to answer questions about this matter, it is unknown whether Roger Clinton hand-delivered the Gambino petition as he did with others or whether he brought it to the attention of the White House some other way. Although the President did not ultimately grant clemency to Gambino, the circumstances surrounding the consideration of his petition are nevertheless suspect. The fact that granting clemency to a mobster and confirmed criminal like Gambino was considered at all is disturbing enough, but the reason it was considered is even more offensive. The Gambino family was apparently able to purchase access to the parole and clemency processes with cash payments and expensive gifts to the brother of the President of the United States. Moreover, despite an FBI investigation of the matter, the Justice Department has, to date, been unwilling or unable to prosecute Clinton for any of his activities.

Roger Clinton received a substantial portion of $225,000 that was swindled from the Lincecum family in Clinton's name with the promise of a pardon that never came.

- *The Lincecum family paid $225,000 to obtain a pardon for Garland Lincecum.* In 1998, Garland Lincecum, a convicted felon, was informed that he could purchase a presidential pardon for $300,000. Lincecum was told that Arkansas businessmen Dickey Morton and George Locke, who had a close relationship with Roger Clinton, could obtain the pardon. Lincecum borrowed $225,000 from his mother and brother and claims that a business associate paid another $70,000 to Morton and Locke for his pardon. The money he borrowed from his family constituted their life savings and means of support in retirement.

- *Roger Clinton received at least $43,500 in proceeds from the Lincecums' payments to Morton and Locke.* Dickey Morton, George Locke, and Roger Clinton divided the funds among themselves with Roger Clinton receiving a total of $25,500 in checks and $18,000 in cash. The Lincecums paid the checks to a company called CLM, which they were told stands for Clinton, Locke, and Morton. Dickey Morton then disbursed the funds from the company's bank account to Clinton, Locke, and himself. Roger Clinton has falsely denied any relationship with CLM while offering no explanation of why he received this substantial share of an elderly woman's retirement savings through CLM.

- *Roger Clinton may have been involved in a scheme to defraud the Lincecums.* Garland Lincecum never received a pardon, and there is no evidence that Dickey Morton, George Locke, or Roger

Clinton ever submitted Lincecum's name to the Justice Department or White House for consideration for a pardon. Therefore, it appears that the Lincecums were the victims of a scam perpetrated by Morton, Locke, and perhaps Roger Clinton as well.

Roger Clinton may have been involved in lobbying for as many as 13 other pardons and commutations.

- *Roger Clinton publicly admitted involvement in six clemency efforts, but the evidence connects him to many more.* Roger Clinton told the media that he had asked for pardons for approximately six close friends and that he did so because of concern for them and not for any personal gain. For example, Roger Clinton lobbied for pardons for George Locke and Dan Lasater, two associates from Arkansas who were convicted of drug offenses together with Clinton himself in the 1980s. However, the Committee has obtained evidence connecting Clinton to many more pardon seekers. Some of the cases involve people who were not his personal friends and some involve solicitations or offers of money and lucrative business opportunities in exchange for his ability to place a clemency petition in front of the President.

- *Roger Clinton was asked to lobby for a pardon for horse breeder J.T. Lundy in exchange for secretly sharing profits in a lucrative business venture.* Lundy promised Clinton a share of a the profits from a Venezuelan coal deal in exchange for Clinton's help in obtaining a pardon for him. Lundy suggested a scheme whereby the payments to Clinton could be concealed by placing his share of the profits in Dan Lasater's name. Lasater, who owned a 20 percent interest in the venture, discussed the possibility of a pardon for Lundy with Roger Clinton.

- *Roger Clinton delivered the pardon petition of former Reagan EPA official Rita Lavelle to the White House.* According to Lavelle, an intermediary for Roger Clinton asked her for a $30,000 fee for him to hand-carry her petition to the President. Lavelle responded that she could not afford to pay any money, but she said Clinton agreed to deliver the petition anyway. On the last night of the Clinton presidency, Roger Clinton asked Lavelle, "do you have $100,000 to get this through?" Being bankrupt, however, Lavelle laughed at the question. She did not pay Clinton any money and did not receive a pardon.

- *Roger Clinton was asked to lobby for a pardon for Houston real estate developer John Ballis, and Ballis' petition was seriously considered at the White House.* After being convicted of S&L fraud, Ballis married a former employee of Dan Lasater and friend of Roger Clinton. Through his wife's connection, Ballis sought Roger Clinton's help. Clinton first lobbied for Ballis before the U.S. Parole Commission, sometimes during the same meetings in which he lobbied for mobster Rosario Gambino. Ballis credited Clinton with helping him obtain early release and sought his help in obtaining a presidential pardon to eliminate his parole supervision and restitution payments. While he was not granted any form of clemency, the President reviewed

his petition, and a White House lawyer called Ballis' lawyer two nights before inauguration day to ask if Ballis would accept a grant of clemency that left intact his obligation to pay restitution.

- *Roger Clinton lobbied his brother to grant clemency to Steven Griggs, the son of the chief of an unrecognized American Indian tribe, who was in prison on drug charges.* Like Ballis, Steven Griggs was not a close friend of Roger Clinton's but merely someone who knew someone who knew him. Griggs also did not receive clemency, but Roger Clinton helped ensure that Griggs' petition was brought to the attention of the President even though Griggs had been a fugitive for a year before being sentenced. Griggs argued in his petition that he had received an unusually harsh sentence but failed to mention that he had fled after his conviction. It is not clear what motivated Roger Clinton to assist Griggs, but some evidence suggests that the tribe may have planned to open a casino when and if it were to become recognized by the federal government.

- According to his former lawyer, Arkansas restaurant operator Phillip Young was approached with an offer to obtain a pardon through Roger Clinton for $30,000. While Young denied to Committee staff that he was actually approached by anyone with such a proposal, his denial is not as credible as his former attorney's version of events.

Both the White House and the Justice Department hindered the Committee's investigation of Roger Clinton by improperly refusing to produce key documents.

- *For months, the Bush White House prevented the National Archives from producing even non-deliberative, clemency-related records from the Clinton administration.* The Committee did not learn that President Clinton had been considering a clemency petition from notorious mobster Rosario Gambino until after Archives personnel "inadvertently" produced documents that President Bush's Counsel had sought to withhold. The accidental production also included documents relating to three other previously unknown individuals who had sought clemency through Roger Clinton. The Bush Administration did manage to retain four additional deliberative Gambino documents from the files of the Clinton White House, refusing to produce the records even though they were not subject to any executive privilege claim.

- *The Ashcroft Justice Department produced certain Gambino-related records, but inexplicably withheld others.* After producing sensitive documents such as U.S. Parole Commission files related to Rosario Gambino and a summary of an FBI interview with Roger Clinton, the Justice Department ceased producing additional documents, claiming they were related to an ongoing criminal investigation, even though the Clinton-Gambino matter had reportedly been closed in 2000.

HUGH RODHAM'S INVOLVEMENT IN THE VIGNALI COMMUTATION

Vignali's clemency petition was false and misleading.

- *Carlos Vignali lied in his clemency petition.* First, he continued to maintain his innocence, despite overwhelming evidence of his involvement in selling a substantial amount of cocaine across state lines and a specific finding by the sentencing judge that he lied at trial about his involvement in a large drug distribution network. Second, Vignali claimed that he was a first-time offender, despite the fact that he had a prior criminal record. By not accepting responsibility for his crime and lying about his background, he should not have been eligible for executive clemency.

Vignali's supporters provided letters of support which were false and misleading.

- *A key element of the campaign by Carlos Vignali and his father Horacio Vignali, was a series of letters on Carlos' behalf from prominent Los Angeles politicians.* A number of these letters contained misleading statements calculated to create the impression that Carlos Vignali was innocent. The officials who submitted letters included Representative Xavier Becerra, Representative Esteban Torres, State Assembly Speaker Robert Hertzberg, State Assembly member Antonio Villaraigosa, State Senator Richard Polanco, Los Angeles County Supervisor Gloria Molina, Los Angeles City Councilmember Mike Hernandez, and Cardinal Roger Mahony, Archbishop of Los Angeles.

Los Angeles County Sheriff Lee Baca provided critical support for the Vignali commutation, which was inappropriate, given his position.

- *Sheriff Baca had a close relationship with Horacio Vignali which was based on Vignali's political and financial support for Baca.* Sheriff Baca has known Horacio Vignali since 1991, and Vignali has been a key political supporter of Baca, giving him at least $11,000 in contributions and raising between $60,000–$70,000 more.

- *Sheriff Baca spoke with the White House in support of the Vignali commutation.* In January 2001, Baca received a telephone call from Hugh Rodham in which Rodham told Baca that he would get a call from the White House about Horacio Vignali. Shortly thereafter, Baca received a call from White House staff and spoke in support of Horacio Vignali. Based on Baca's statements in this telephone call, White House staff clearly and justifiably concluded that Baca supported the commutation of Carlos Vignali's sentence.

- *Sheriff Baca continues to claim, without any basis, that he did not support the Vignali commutation.* Rather than express regret for his role in the Vignali commutation, Sheriff Baca maintains that he opposed the Vignali commutation and did nothing

that could have been interpreted as support for the commutation. However, Sheriff Baca's supposed opposition to the Vignali commutation does not square with the fact that: (1) he drafted a letter which he believed Horacio Vignali would use in the clemency effort; and (2) when he was asked squarely by the White House if the President should commute Vignali's prison sentence, he stated that it was "the President's decision to make," rather than express his opposition. These facts, and others outlined in this report, indicate that Sheriff Baca wanted to support the Vignali commutation, but was afraid of creating a paper record which would clearly indicate his support.

- *Sheriff Baca's efforts on behalf of the Vignalis are even more inappropriate given that there were extensive allegations that Horacio Vignali, Carlos' father, was also involved in illegal drug trafficking.* It is inappropriate enough for a senior law enforcement official like Baca to support a grant of clemency for an unrepentant, large-scale drug dealer like Carlos Vignali. However, when coupled with credible allegations indicating that Horacio Vignali was a drug dealer, and in fact was the source of cocaine supply for his son, Baca's support of Horacio and Carlos Vignali is even more inappropriate.

U.S. Attorney Alejandro Mayorkas provided critical support for the Vignali commutation, which was inappropriate, given his position.

- *U.S. Attorney Alejandro Mayorkas called the White House in support of the Vignali commutation.* Mayorkas, the top federal prosecutor in Los Angeles, was asked by Horacio Vignali to call the White House in support of his son's clemency petition. Mayorkas then called the White House about the Vignali commutation. While Mayorkas does not recall the details of his conversation, he now concedes that his call conveyed support for the Vignali commutation.

- *Mayorkas supported the Vignali commutation despite his ignorance of the facts of the case and his knowledge that the prosecutors responsible for the Vignali case opposed clemency.* Before he called the White House, Mayorkas had spoken twice with Todd Jones, the U.S. Attorney responsible for the Vignali case. Jones told Mayorkas that Vignali was a "major player" in drug trafficking, that he was "bad news" and that Mayorkas should not "go there" when it came to Vignali. Despite these warnings from a prosecutor who was intimately familiar with the Vignali case, Mayorkas still called the White House in support of the Vignali commutation.

- *Mayorkas' support for the Vignali commutation was inappropriate.* Mayorkas knew little about the Vignali case. What he did know indicated that Carlos Vignali was an unrepentant large-scale criminal. These facts alone make his support for the commutation, as a senior federal prosecutor, totally inappropriate.

There are a number of allegations that both Horacio and Carlos Vignali were involved in illegal drug trafficking.

- *There are allegations that, in addition to his son, Horacio Vignali was involved in illegal drug trafficking and that Carlos Vignali was involved in drug trafficking far beyond the conduct which led to his conviction in Minnesota.* DEA reports documenting these allegations include the following statements:

  > "[Horacio Vignali] negotiated with ATF agents to sell a machine gun and stated to them that he had also smuggled heroin into the United States utilizing automobiles."
  >
  > "[Redacted] has also purchased cocaine from Carlos Vignali Jr. of Los Angeles . . . Vignali's father Carlos Vignali aka "pops" owns a body shop, at 1260 Figueroa and is the source of supply for his son."
  >
  > "Carlos Horatio Vignali's role in [George Torres' drug dealing] organization is relatively unknown at this time. It is believed that Vignali functions as a financial partner in the organization."

- *These DEA reports are corroborated by law enforcement personnel who indicate that they had received information indicating that both Horacio and Carlos Vignali were involved in large-scale drug trafficking.* These charges have never been formally made in court, or substantiated by physical evidence. However, the mere existence of such allegations should have precluded senior law enforcement and political officials from supporting a commutation for Carlos Vignali on the strength of his father's reputation. However, it appears that no one checked with the DEA prior to granting the commutation.

Hugh Rodham provided false and misleading information to the White House in support of the Vignali commutation.

- *Hugh Rodham was paid $204,200 for his work on the Vignali commutation.* It appears that in return for this money, he worked part-time for two months gathering materials in support of Vignali's case and making telephone calls to White House staff. It appears that Rodham's payment in the Vignali matter was contingent upon his success, as he received the $200,000 payment on January 24, 2001, after President Clinton granted clemency to Vignali.

- *Rodham repeatedly provided false information during his communications with the White House.* First, and most importantly, Rodham told Bruce Lindsey that the trial attorney who prosecuted Vignali supported the commutation. This was completely false. Second, Rodham told Lindsey that Vignali was a first-time offender, when in fact, he had two prior convictions and two other arrests. Rodham also told Lindsey that Vignali "did not play a major role in the offense," when in fact, Vignali was a major source of cocaine for the Minnesota drug-dealing ring at issue in his case.

Hugh Rodham told the White House that First Lady Hillary Rodham Clinton was aware of his lobbying efforts and that the Vignali commutation was "very important" to her.

- *Hugh Rodham told White House staff that the Vignali commutation was "very important to him and the First Lady as well as others."* This statement is confirmed by the independent recollection of the White House staffer who spoke to Rodham as well as the note which she took contemporaneously. Rodham's statement raises two possibilities: first, that the First Lady was aware of, and approved of, Hugh Rodham's lobbying efforts; or second, that Hugh Rodham was lying to White House staff regarding the First Lady's knowledge of his efforts.

The White House sought the opinion of powerful Los Angeles political figures, but failed to consult with the prosecutors or judge who understood the Vignali case.

- *White House staff engaged in telephone conversations with a number of outside individuals regarding the Vignali case—Hugh Rodham, Lee Baca, and Alejandro Mayorkas, none of whom knew very much about the Vignali case.* It appears that key White House staff gave great weight to the input provided by Rodham, Baca, and Mayorkas, even though they knew little about the case and had mixed motives.

- *White House staff failed to reach out to the prosecutors who had convicted Vignali, or the judge who sentenced him.* White House staff justified their failure to take this simple action by concluding that they knew that the prosecutors and judge would object, so there was no need to speak to them. However, if the White House had spoken to Todd Jones, Denise Reilly, Andrew Dunne, or Judge David Doty, they would have learned that Carlos Vignali: (1) was not a small-time drug dealer; (2) was unrepentant about his criminal activity; and (3) never cooperated with law enforcement by telling them who supplied him cocaine.

The White House ignored the strenuous objections to the Vignali commutation which were lodged by the Pardon Attorney.

- The Pardon Attorney provided the White House with a report that contained his recommendation against granting the Vignali commutation. This report contained a number of powerful arguments against the commutation, which were apparently ignored by the White House. The existence of the Pardon Attorney's report means that the White House cannot claim that it was totally unaware that Vignali's arguments were completely false. The White House knew that the Vignali clemency petition had no merit, yet decided to grant the commutation anyway. President Clinton's decision raises questions about why the Vignali commutation was granted.

Rodham has apparently misled the public about returning to the Vignalis those fees he received in connection with the

clemency and ignored former President and Senator Clinton's request that he do so.

- On February 21, 2001, at the request of former President Clinton and Senator Hillary Rodham Clinton, Rodham promised to return to Horacio Vignali the legal fees he received in connection with the Vignali clemency. But, as of June 2001, Rodham had apparently returned only about $50,000 of the money that Horacio Vignali paid him. Rodham's attorney has confirmed to Committee staff that Rodham has not returned any additional amounts and has no plans to return the remaining $154,000.

HUGH RODHAM'S INVOLVEMENT IN THE BRASWELL PARDON

Glenn Braswell was under investigation by multiple federal agencies and several state attorneys general when the pardon was granted.

- Over the past two decades, Braswell has created a dietary supplement empire using false advertising to mislead consumers. After serving time in prison for mail fraud and tax evasion in 1983, Braswell has continued to defraud consumers about the benefits of his herbal remedies. In addition to facing numerous lawsuits, Braswell's companies have been investigated by the Internal Revenue Service, Federal Trade Commission, Food and Drug Administration, and Better Business Bureau.

- Unsurprisingly, Braswell was under another criminal investigation by federal prosecutors for a massive tax evasion and money-laundering scheme when he was pardoned. Braswell's petition bypassed the traditional route through the Justice Department and went directly to the White House. If the FBI had conducted a background investigation instead of the White House, Braswell's petition would have been rejected quickly.

Braswell paid Hugh Rodham $230,000 for successfully obtaining the pardon.

- Braswell hired Rodham to support his pardon petition for $230,000. For this price, Rodham claims he forwarded a letter of support for Braswell to the White House Counsel's Office, and he made a follow-up inquiry. According to Rodham, these two actions were the extent of his role in the Braswell pardon. Rodham refunded the $230,000 to Braswell after facing widespread criticism from the media and members of both political parties.

HUGH RODHAM'S EFFORTS TO LOBBY FOR CLEMENCY FOR THE LUMS

Gene and Nora Lum, prominent Democratic contributors and fundraisers, were convicted of making illegal conduit contributions and tax offenses.

- *In 1997, the Lums pleaded guilty to making $50,000 in illegal conduit contributions to the DNC.* They were sentenced to home detention, confinement in a halfway house and a $30,000 fine. In August 1998, Gene Lum pleaded guilty to tax fraud for filing tax returns claiming more than $7.1 million in false deductions and was sentenced to two years imprisonment.

The Lums attempted to obtain executive clemency through Hugh Rodham.

- *Hugh Rodham lobbied the White House as part of the Lums' efforts but failed to secure them a grant of clemency*. In December 2000, Nora Lum called one of her husband's criminal attorneys and asked him to send various documents to Hugh Rodham at the White House. He did so. In early January 2001, Rodham called Gene Lum's attorney again and asked him to resend those documents directly to, among others, Meredith Cabe, an associate White House counsel responsible for clemency matters. Subsequently, Rodham telephoned Cabe and discussed the merits of the Lums' pardon request. Cabe then told White House Counsel Beth Nolan and Deputy White House Counsel Bruce Lindsey about her discussion with Rodham. Both told Cabe that the Lums were not going to receive clemency.

The Lums and Hugh Rodham have refused to cooperate with the Committee's investigation.

- *Gene and Nora Lum have refused to cooperate with the Committee's investigation.* The Lums' daughter, Nicole (with whom Hugh Rodham apparently had some sort of business relationship), has likewise declined to be interviewed by the Committee. Hugh Rodham has also refused to cooperate with the Committee's request for an interview. Therefore, the Committee is unable to obtain a full understanding of the Lums' efforts to obtain executive clemency and Rodham's role in those efforts.

TONY RODHAM'S EFFORTS TO LOBBY FOR EXECUTIVE CLEMENCY

Tony Rodham's Role in the Case of Edgar and Vonna Jo Gregory

- *Tony Rodham lobbied President Clinton to grant pardons to Edgar and Vonna Jo Gregory while he was receiving substantial sums of money from the Gregorys.* Rodham received $244,769 in salary from the Gregorys over two and a half years and also received another $79,000 in loans from the Gregorys. The Gregorys claim that they paid Rodham this large sum of money for

various consulting services that Rodham provided to the Gregorys. However, the Gregorys do not have any documentation reflecting work performed for them by Rodham.

- *Given the fact that the Gregorys do not have any documentary evidence reflecting the $244,769 of work performed for them by Rodham, substantial questions are raised as to what Rodham actually did for the Gregorys that was so valuable.* The most valuable thing that Rodham did for the Gregorys was to obtain presidential pardons. Therefore, there is a substantial question as to whether the Gregorys paid Rodham for his efforts to obtain presidential pardons for them.

- *If Rodham was paid to obtain presidential pardons for the Gregorys, it creates the strong appearance of impropriety.* The prospect of financial benefit for Rodham would taint Rodham's actions in lobbying for the pardon. Also, if President Clinton knew about Rodham's financial arrangement, it would taint his actions in granting the pardons.

- *Compounding the appearance of impropriety in the Gregory case is the fact that the pardons were opposed by the Justice Department, the prosecutors responsible for the case, and also the Gregorys' sentencing judge.* Apparently, the only people in the Clinton Administration who felt that the Gregorys deserved pardons were President Clinton and Deputy White House Counsel Bruce Lindsey, both of whom knew of Tony Rodham's involvement in the matter.

Tony Rodham's Role in the Case of Fernando Fuentes Coba

- *Tony Rodham offered to help Vivian Mannerud obtain a pardon for her father, Fernando Fuentes Coba, in exchange for $50,000.* When Rodham learned in late 2000 that Mannerud was seeking a pardon for her elderly father, he met with Mannerud and told her that he could help obtain the pardon if she paid him a $50,000 consulting fee. Rodham told Mannerud that he had successfully obtained pardons before and showed her the Gregorys' pardon petition to support his claim.

- *Rodham attempted to convince Mannerud to hire him by making a number of false representations to her.* Rodham told Mannerud that he was close personal friends with the Pardon Attorney, Roger Adams. Rodham also told Mannerud that he would use the $50,000 to hire a law firm to handle her case and that Roger Adams' wife worked at the law firm, which would help her case be treated favorably. All of these representations were completely false and were apparently made to mislead Mannerud as to the purpose of the payment to Rodham.

- *Mannerud rejected Rodham's offer.* Mannerud was concerned that Rodham could not guarantee that he could obtain a pardon in exchange for the $50,000. She was also concerned about becoming embroiled in a scandal. Therefore, she rejected Rodham's offer.

- *After Mannerud rejected Rodham's offer, an associate of Rodham came back to Mannerud with another offer.* According to Mannerud, a month after she rejected Tony Rodham's proposal, Marilyn Parker, a mutual friend of Rodham's and Mannerud's who attended the initial meeting between them, came back to Mannerud and told her that Rodham now wanted only $30,000 to help her obtain a pardon for her father. Mannerud was still concerned about the nature of Rodham's proposal and rejected it.

- *The actions taken by Rodham and Parker may have been illegal.* Rodham, and maybe Parker as well, engaged in an effort to defraud Mannerud. While the effort was unsuccessful, it may have constituted criminal conduct. The Committee recommends that the Justice Department investigate these allegations.

PRESIDENT CLINTON'S GRANT OF CLEMENCY TO DRUG MONEY LAUNDERER HARVEY WEINIG

Weinig was properly imprisoned for conspiring to launder millions of dollars in drug money and concealing and furthering an extortion-by-kidnapping scheme.

- *Weinig, a former Manhattan attorney, conspired to launder about $19 million in drug proceeds through a Swiss bank for the Cali cartel.* Members of the money laundering organization, of which Weinig was a part, boasted that they successfully laundered more than $70 million for the cartel. In addition to conducting banking transactions for the organization, Weinig consulted with co-conspirators in furtherance of the organization's activities and stored the drug proceeds in his New York City apartment.

- *Weinig and other co-conspirators at his law firm stole from the Cali cartel about $2.5 million they were supposed to have laundered.* This theft exposed Weinig's family to a risk of being harmed by those drug dealers. In the course of investigating the organization's money laundering activities, authorities intervened when they learned that the drug dealers sent a hit man to kill one of Weinig's co-conspirators.

- *Weinig learned that one of his co-conspirators kidnapped an individual as part of a scheme to extort money from the victim's family.* Rather than report the kidnapping, Weinig made his office available as a meeting place where the ransom could be delivered and directed his associates at the firm to execute transfer agreements.

Weinig's lawyer, a prominent Washington attorney with close connections to the Clinton Administration, lobbied the White House in support of Weinig's clemency petition.

- *Weinig's wife, Alice Morey, retained Reid Weingarten, who was close to the Clinton White House, to lobby for the commutation.* In April 2000, Weingarten filed a clemency petition on Weinig's

behalf with the Justice Department and the White House. Knowing that the Justice Department would advise the President to reject the Weinig commutation petition, Weingarten lobbied the White House directly, approaching White House Counsel Beth Nolan, Deputy White House Counsel Bruce Lindsey and Chief of Staff John Podesta.

- *Weingarten chose not to familiarize himself with the facts of Weinig's underlying conviction.* Accordingly, he was unable to convey to those he lobbied a full, accurate factual basis of the merits of Weinig's petition.

Two former Clinton Administration officials, David Dreyer and Harold Ickes, lobbied the White House on Weinig's behalf.

- *Alice Morey enlisted the assistance of her cousin, former White House Deputy Communications Director David Dreyer.* Dreyer repeatedly raised the Weinig commutation with John Podesta. Ultimately, Podesta recommended that the President grant the Weinig commutation. Dreyer has invoked his Fifth Amendment rights rather than cooperate with the Committee's investigation.

- *Morey also obtained support for Weinig's commutation from former Deputy Chief of Staff Harold Ickes, whose children attended the same school as did her sons.* Ickes discussed the Weinig case with President Clinton twice and recommended the commutation of Weinig's sentence.

The Justice Department repeatedly and adamantly recommended against the commutation of Weinig's sentence.

- *On several occasions, U.S. Attorney Mary Jo White, whose office convicted Weinig, objected to any reduction of Weinig's sentence.* Ultimately, in a report to President Clinton, the Pardon Attorney and Deputy Attorney General Eric Holder voiced their strong opposition to a commutation of Weinig's sentence.

- *Pardon Attorney Roger Adams submitted a report to the President advising against the Weinig commutation.* Adams pointed out that Weinig "was a well-respected lawyer who used his professional skills to assist in laundering millions of dollars that he knew constituted the proceeds of a huge narcotics trafficking enterprise. He was involved in this activity for an extended period of time, and he admits that he engaged in it purely out of greed." Adams also informed the President that Weinig "aided and abetted the extortion of money from an individual he knew had been kidnapped at the direction of a co-defendant in order to coerce the production of a ransom."

After an apparently cursory review, the White House set aside the Justice Department's negative recommendation and granted Weinig clemency.

- *Support for Weinig's petition from John Podesta and Beth Nolan appears to have been critical.* The Associate White House coun-

sels responsible for clemency matters did not support the petition. However, setting aside the negative recommendations of not only the Justice Department but also staff at the White House Counsel's Office, Nolan and Lindsey, who were lobbied by Weingarten, recommended Weinig's clemency to President Clinton. John Podesta, who was lobbied by Weingarten and Dreyer, also recommended to the President that Weinig's sentence be commuted.

The White House was unjustified in commuting Weinig's sentence.

- *None of the arguments made by Weinig entitle him to executive clemency.* In his petition, Weinig stated three main reasons why his sentence should have been commuted: (1) his sentence was disproportionate and excessive; (2) his contributions to society justified his early release from prison; and (3) one of his children was suffering emotional difficulties as a result of his imprisonment and needed him to return home. The first reason is simply not true. Weinig's sentence was comparable to those received by other co-conspirators who were directly responsible for laundering large amounts of drug money and declined to cooperate with authorities. Weinig's sentence was also comparable to those received by co-defendants who participated in the extortion-by-kidnapping scheme, which Weinig concealed and facilitated. The other two reasons fail to distinguish Weinig from the vast number of other similarly situated felons, who were properly sentenced but whose families have suffered because of their imprisonment.

President Clinton's commutation of Weinig's sentence has sent out the wrong message about the United States' commitment to fighting drug trafficking.

- *President Clinton's decision conveyed an appearance of granting special consideration to wealthy, politically well-connected criminals and their relatives.* Pardon Attorney Roger Adams foresaw the message sent by the Weinig commutation, warning President Clinton that "[t]o commute [Weinig's] prison term to the five years he proposes would denigrate the seriousness of his criminal misconduct, undermine the government's legitimate interest in encouraging prompt guilty pleas and truthful cooperation from criminal defendants, and could give the appearance of granting special consideration to economically advantaged, white-collar offenders."

- *The Weinig commutation undermines the nation's efforts to fight the illegal drug trade.* Complaints are frequently made that U.S. drug laws punish low-level drug criminals too severely, yet do not punish high-level drug distributors enough. When a large-scale drug money launderer like Harvey Weinig receives executive clemency after serving five years of an eleven-year sentence, it sends the message that the U.S. is not serious about prosecuting the high-level criminals who make the drug trade possible.

- *The Weinig commutation has eroded the United States' moral authority to press other countries to fight the drug trade within their own borders.* The Weinig commutation could harm the efforts of the U.S. government to extradite drug traffickers and money launderers from Latin America. Newspapers in Latin American countries have accused the U.S. of hypocrisy in the Weinig case. For example, in Colombia's leading daily, former Colombian attorney general Gustavo De Greiff, in an op-ed entitled "The Morality of the Strongest," labeled President Clinton's clemency decision "monstrous."

INTRODUCTION

A. Why the Committee Investigated These Matters

Unlike most other powers granted to the President by the Constitution, the power to grant executive clemency is virtually unchecked. Some have argued that because the power to grant clemency is unlimited, Congress has no oversight role over grants of executive clemency. The opposite is true. Because the President can grant clemency to whomever he wants for whatever reasons, it is critically important that certain grants of clemency be subject to Congressional and public scrutiny. If this scrutiny were not applied to grants of clemency, the power could easily be abused. As James Madison observed:

> A popular Government, without popular information, or the means of acquiring it, is but a prologue to a Farce or a Tragedy; or perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives.[1]

While the grants of clemency issued by President Clinton will not, and cannot, be overturned by the Committee's investigation, this report can serve a valuable purpose to inform the public about President Clinton's abuse of power in issuing grants of clemency to so many undeserving individuals. The report can also serve as a reminder to future Presidents not to exercise their pardon power in such a reckless and corrupting fashion.

Before President Clinton, when a President made controversial grants of clemency, he often provided a full accounting of his reasons for the decision. For example, when President Ford pardoned former President Nixon in 1974, President Ford made an unprecedented appearance before the House Judiciary Committee to explain his decision.[2] When President George H.W. Bush pardoned Caspar Weinberger for his involvement in the Iran-Contra matter, he provided a full accounting of his decision in a public statement and released a number of documents dispelling any concerns that President Bush's pardon was meant to cover up his own involvement in the Iran-Contra matter.[3] President Bush even consulted with prominent Democratic Members of Congress before issuing the Weinberger pardon to see if they would object.[4] However, Presi-

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[1] JAMES MADISON, THE WRITINGS OF JAMES MADISON 103 (Gaillard Hunt ed., 9th ed. 1910).
[2] "Pardon of Richard M. Nixon and Related Matters," *Hearing Before the House Comm. on the Judiciary*, 93rd Cong. (Oct. 17, 1974).
[3] 57 Fed. Reg. 62,145 (1992).
[4] According to news reports, House Speaker Tom Foley, Chairman Les Aspin, and Senator Daniel Patrick Moynihan told President Bush that they would not object to the Weinberger pardon. Senator Moynihan even urged President Bush to grant a pardon to Iran-Contra figure El-

Continued

dent Clinton issued a number of controversial pardons and commutations and failed to ever provide a satisfactory accounting for his decisions. Not only did he avoid consultation with Members of Congress, but President Clinton also avoided consultation with his own Justice Department and other knowledgeable agencies. Moreover, President Clinton has declined to answer any questions about his decisions, choosing instead to make occasional self-serving statements to friendly reporters.[5]

President Clinton's abuse of the clemency power began with the August 11, 1999, grants of clemency to 16 terrorists who were part of the FALN and Macheteros terrorist network. When the Committee and the public understandably raised questions regarding these grants of clemency, President Clinton did nothing to answer those questions. Rather, he invoked executive privilege over 2,800 pages of documents which would have showed why he made his decision.[6] When President Clinton did attempt to offer an explanation for the FALN clemency, it was factually inaccurate. Indeed, some documents indicated that the President made his decision for political benefit.[7] For example, one document said that the release of the 16 terrorists would "have a positive impact among strategic Puerto Rican communities in the U.S. (read, voters)." Another document stated: "[t]he Vice President's Puerto Rican position would be helped." [8]

In the final hours of his term, President Clinton issued 141 pardons and 36 commutations.[9] While other Presidents had issued controversial pardons and commutations, never before had a President made so many grants of clemency with so little justification. To understand the wholesale nature of the President's questionable clemency grants, it is useful to recall that he granted clemency to 13 individuals convicted in connection with independent counsel investigations of the Clinton Administration.[10] Strong arguments could be made against all of these grants of clemency. The individuals who received these grants of clemency were convicted of serious crimes, and many of them played significant roles in major political scandals. For example, Susan McDougal was convicted of mail fraud, misapplication of funds, and false statements, and then was jailed on contempt of court charges for refusing to tell a grand jury whether President Clinton had testified truthfully at her trial.

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liot Abrams, a former Moynihan aide. *See* Marjorie Williams, *Burden of Proof*, WASH. POST MAG., Apr. 11, 1993, at 6; Rowland Evans and Robert Novak, *Bush Faces Fallout on Iran-Contra Pardons*, CHI. SUN-TIMES, Dec. 30, 1992, at 25.

[5] *See, e.g., Rivera Live* (CNBC television broadcast, Feb. 15, 2001).

[6] Log of Documents Subject to Executive Privilege, *noted in* "The FALN and Macheteros Clemency: Misleading Explanations, A Reckless Decision, A Dangerous Message," *Hearing Before the Comm. on Govt. Reform*, 106th Cong. 325–68 (Dec. 10, 1999).

[7] *See generally* "The FALN and Macheteros Clemency: Misleading Explanations, A Reckless Decision, A Dangerous Message," *Hearing Before the Comm. on Govt. Reform,* 106th Cong. (Dec. 10, 1999).

[8] *Id.*

[9] Department of Justice Document Production DJ/PAO–MR–00009–23 (List of Pardon and Commutation Grants, Jan. 20, 2001) (Exhibit 1).

[10] Individuals convicted in the Whitewater investigation and receiving pardons on January 20, 2001, were: Susan H. McDougal; Robert W. Palmer; Stephen A. Smith; and Christopher V. Wade. Individuals convicted in the investigation of former Agriculture Secretary Mike Espy and receiving pardons on January 20, 2001, were: Richard Douglas; Alvarez Ferrouillet; John Hemmingson; James H. Lake; Brook K. Mitchell, Sr.; and Jack L. Williams. Receiving a commutation for a conviction in the Espy case was Ronald Blackley. Individuals convicted in the Cisneros investigation and receiving pardons on January 20, 2001, were: Henry Cisneros and Linda Jones. In addition, Archibald Schaffer, a key defendant in the Espy investigation, received a pardon shortly before the end of the Clinton Administration, on December 22, 2000.

If Susan McDougal were not a close friend of the President, her pardon would be troubling enough. She was a convicted felon who defrauded a bank and defied the right of a grand jury to receive honest testimony. Considering that McDougal was a close friend of the President, who was jailed for contempt rather than testify against him, there is the indelible appearance that the pardon was a reward for McDougal's silence. Yet the Committee did not investigate the McDougal pardon or any of the other 12 pardons and commutations relating to independent counsel investigations. Neither did the Committee investigate the pardons and commutations granted to former Congressman Mel Reynolds,[11] William Borders,[12] or CIA Director John Deutch,[13] all of which were subject to widespread criticism. Rather, the Committee limited its investigation to pardons and commutations where there was no credible explanation for the grant of clemency, and where there was an appearance of impropriety relating to inappropriate access or corruption. The fact that the Committee did not investigate pardons like Susan McDougal's speaks volumes about both the Committee's exercise of restraint and the severity of the abuses in those cases the Committee did investigate.

The Committee investigated two types of clemency grants. First was the case of Marc Rich and Pincus Green, which raised substantial questions of direct corruption, primarily whether pardons were issued in exchange for political and other financial contributions. The second group of cases involved indirect corruption, where close relatives of the President—namely Roger Clinton, Hugh Rodham, and Tony Rodham—apparently traded on their relationships with the President to lobby for pardons and commutations. These cases raised serious concerns that Roger Clinton and the Rodhams used their access to the White House to lobby for pardons, in some cases successfully, and received large payments for their lobbying efforts.

The Committee had three main purposes in its clemency investigation. First, as discussed above, the Committee sought to let the public know whether President Clinton had abused the clemency power. By subjecting the President's exercise of clemency to public scrutiny, the Committee hopes to make it clear to future Presidents that history will hold them accountable for clemency grants that are abusive. Second, the Committee sought to determine whether there are adequate safeguards in place to prevent individuals with

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[11] Reynolds received a commutation for his federal convictions for bank fraud, wire fraud, false statements, and conspiracy to defraud. He also served time in prison for state convictions for sexual misconduct, obstruction of justice, and solicitation of child pornography. He is currently a registered sex offender in the state of Illinois. *See Illinois Sex Offender Information* (visited Mar. 4, 2002) <http://samnet.isp.state.il.us> (listing Reynolds' registration as a sex offender).

[12] Borders was convicted for participating in a conspiracy to bribe federal judge Alcee Hastings. Borders refused to testify at Hastings' criminal trial or his impeachment hearings, which resulted in Borders' imprisonment for both contempt of court and contempt of Congress. By granting clemency to Borders, President Clinton violated his own standards as drafted by then-White House Counsel Jack Quinn. Quinn wrote that "offenses involving central involvement in political corruption" were among those President Clinton would not consider "under almost any circumstances." Arnold & Porter Document Production A0556–57 (Executive Clemency Policy, Jan. 26, 1996) (Exhibit 2).

[13] Deutch was accused of mishandling hundreds of highly classified documents, including information relating to covert actions, storing many on a home computer used to surf "high risk" sites on the internet, making the documents easily accessible to a hacker. Jerry Seper, *Deutch Planned Guilty Plea Before Clinton Pardoned Him*, WASH. TIMES, Jan. 25, 2001, at A3. Less than a day before receiving the pardon, Deutch had signed a plea agreement wherein he admitted a misdemeanor and agreed to pay a $5,000 fine. Vernon Loeb, *Senate Committee Questions Clinton's Pardon of Deutch*, WASH. POST, Feb. 16, 2001, at A2.

close relationships with the President from trading on their access to win pardons. A number of the most troubling pardons granted by President Clinton were the result of lobbying from former White House staff like Jack Quinn or close relatives like Hugh Rodham. Third, the Committee examined whether there are adequate procedures in the pardon process to protect against abuse by the President. While the Justice Department has regulations governing its handling of applications for clemency, the President is free to ignore those regulations, and President Clinton did ignore them in the last month he was in office. The key lesson to be learned from the facts detailed in this report is that more disclosure is likely to remedy the problems in each of these three areas of concern. Public scrutiny after-the-fact may provide some deterrence, but a more open process before a grant of clemency is likely to be more effective. That is why the Committee moved legislation to require public disclosure of contributions to entities like the Clinton Library, given the potential effect of such contributions on policymaking decisions.[14] Another example of potential legislation would be a clarification of the definition of "lobbying" under the Lobbying Disclosure Act.[15] It could be amended to explicitly cover those who are paid to contact executive branch officials on behalf of clemency seekers.[16] If Jack Quinn and Hugh Rodham had been required to disclose their status publicly as paid lobbyists seeking clemency for their clients, then Marc Rich and Carlos Vignali may not have been pardoned. The public outcry could have occurred beforehand and possibly prevented the damage done by these grants of clemency to public confidence in the integrity of government. Even if such a measure would not have prevented these particular grants of clemency, knowing who is paid to lobby for clemency would certainly assist future presidents in making appropriate decisions.

B. President Clinton Deviated From All Applicable Standards

In his rush to grant pardons and commutations in the waning hours of his presidency, Bill Clinton ignored almost every applica-

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[14] As a result of the Committee's investigation into the Marc Rich and Pincus Green pardons, the Committee voted out H.R. 577, the Presidential Library Disclosure Act, a bill which ensures that contributions to presidential libraries are publicly disclosed. This bill was approved by the House of Representatives in a 392 to 3 vote on February 5, 2002, and is awaiting action in the Senate.

[15] 2 U.S.C. § 1602(8)(a) currently defines a "lobbying contact" as:

> . . any oral or written communication . . . to a covered executve branch official . . . that is made on behalf of a client with regard to—
>
> (i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);
>
> (ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government;
>
> (iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license);
>
> or (iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

[16] 2 U.S.C. § 1602(8)(b)(xii) currently contains an exception for "a communication that is . . . made to an official in an agency with regard to . . . a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding." This exception could arguably exclude lobbying for clemency from the statute's disclosure requirements. *But see In re Grand Jury Subpoenas*, 179 F. Supp. 270 (S.D.N.Y., Mar. 9, 2001) (holding that "the pardon process was not adversarial" in the Marc Rich case, that his lawyers were "acting principally as lobbyists," and that they were, therefore, not entitled to withhold certain documents under the attorney-client privilege).

ble standard governing the exercise of the clemency power. There were three obvious sources of guidance regarding the exercise of the power. First, the Justice Department had published guidelines regarding its handling of clemency petitions. While these guidelines were not binding upon the President, they should have provided guidance to the Justice Department and the President. At a minimum, they provide a mechanism to provide the President with relevant information. The Justice Department guidelines state first that pardon petitions should not be filed until five years after the petitioner is released from prison, or, if no prison time is served, five years after the date of conviction.[17] The guidelines also state that commutation petitions should not be filed while there are other forms of judicial or administrative relief, like appeals, still available.[18]

The U.S. Attorney's Manual also contains detailed standards applied to clemency petitions by the Pardon Attorney's Office. The Manual lists five standards applicable to the review of pardon petitions:

> 1. Post-conviction conduct, character, and reputation.
>
> An individual's demonstrated ability to lead a responsible and productive life for a significant period after conviction or release from confinement is strong evidence of rehabilitation and worthiness for pardon.
>
> * * *
>
> 2. Seriousness and relative recentness of the offense.
>
> When an offense is very serious (e.g., a violent crime, major drug trafficking, breach of public trust, or white collar crime involving substantial sums of money), a suitable length of time should have elapsed in order to avoid denigrating the seriousness of the offense or undermining the deterrent effect of the conviction. In the case of a prominent individual or notorious crime, the likely effect of a pardon on law enforcement interests or upon the general public should be taken into account.
>
> * * *
>
> 3. Acceptance of responsibility, remorse, and atonement.
>
> The extent to which a petitioner has accepted responsibility for his or her criminal conduct and made restitution to its victims are important considerations. A petitioner should be genuinely desirous of forgiveness rather than vindication. While the absence of expressions of remorse should not preclude favorable consideration, a petitioner's attempts to minimize or rationalize culpability does not advance the case for pardon.

[17] 28 C.F.R. § 1.2 (2002).
[18] 28 C.F.R. § 1.3 (2002).

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> 4. The need for relief.
>
> The purpose for which a pardon is sought may influence disposition of the petition. A felony conviction may result in a wide variety of legal disabilities under state or federal law, some of which can provide persuasive grounds for recommending a pardon.

* * *

> 5. Official recommendations and reports.
>
> The comments and recommendations of concerned and knowledgeable officials, particularly the United States Attorney whose office prosecuted the case and the sentencing judge, are carefully considered. The likely impact of favorable action in the district or nationally, particularly on current law enforcement priorities, will always be relevant to the President's decision.[19]

The U.S. Attorney's manual also contains standards for the consideration of commutation petitions:

> Generally, commutation of sentence is an extraordinary remedy that is rarely granted. Appropriate grounds for considering commutation have traditionally included disparity or undue severity of sentence, critical illness or old age, and meritorious service rendered to the government by the petitioner, e.g., cooperation with investigative or prosecutive efforts that has not been adequately rewarded by other official action.[20]

A second source of guidance comes from a 1996 memorandum from then-White House Counsel Jack Quinn to Deputy Attorney General Jamie Gorelick and Pardon Attorney Margaret Colgate Love. In this memorandum, Quinn issued a number of directives from President Clinton regarding the exercise of his clemency authority. Quinn first stated that the "President intends to continue to rely greatly on your joint recommendations regarding clemency applications." Quinn also stated that President Clinton had identified a number of factors in addition to those listed in the U.S. Attorney's Manual, which he wanted considered as part of the review of clemency petitions:

The following circumstances would weigh in favor of granting clemency:

> 1. Indications that the crime for which clemency is sought was truly abberational, i.e., a lone instance of criminal behavior in an otherwise exemplary life.
>
> 2. Cases committed long ago when the individual was very young and which do not involve major crimes.

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[19] U.S. Attorney's Manual 1–2.112.
[20] U.S. Attorney's Manual 1–2.113.

> 3. Cases not involving major crimes in which the individual has clearly turned his or her life around by making sustained and significant contributions to the community since being released from prison.
>
> By contrast, in certain cases, even extraordinarily exemplary actions post-conviction may not merit the remedy of executive clemency. These cases might include:
>
> 1. *The commission of major crimes*: There are categories of crimes which are so serious that the President will not consider granting a pardon for them under almost any circumstances. Such crimes would include large-scale drug trafficking, sex offenses involving minors, offenses involving central involvement in political corruption, or violent crimes such as murder or rape.
>
> 2. *An extensive criminal history*: Three or more separate convictions should raise a substantial presumption against granting a pardon with respect to any one of them. This presumption would only be overcome by a truly exceptional rehabilitative history involving exemplary service to the individual's community or country.[21]

The final source of guidance regarding the exercise of the President's clemency power is, of course, the President's own personal views. In 1996, President Clinton was asked if he was considering a pardon for Susan McDougal and other Whitewater defendants. He responded:

> [M]y position would be that their cases should be handled like others . . . there's a regular process for that, and I have regular meetings on that. And I review those cases as they come up and after there's an evaluation done by the Justice Department, and that's how I think it should be handled.[22]

Therefore, the President suggested that the McDougal case, and all others, would be handled according to the "regular process," including screening by the Justice Department.

As to the President's claim that he would follow the "regular process," he granted clemency to 30 individuals who had not even filed clemency petitions with the Justice Department,[23] and some who had not filed any petition at all, not even with the White House.[24] The President also granted clemency to 14 individuals who had their petitions previously denied and thus were not pend-

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[21] Arnold & Porter Document Production A0556–57 (Memorandum from Jack Quinn to Jamie Gorelick (Jan. 26, 1996)) (Exhibit 2).

[22] *The NewsHour with Jim Lehrer* (PBS television broadcast, Sept. 23, 1996).

[23] Letter from Sheryl Walter, Office of Legislative Affairs, Department of Justice, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 6, 2001) (Exhibit 3).

[24] The Committee has not attempted to discover every single case where clemency was granted without a clemency petition being filed. However, it has been reported that a number of individuals who were convicted in connection with independent counsel investigations, for example, Richard Douglas, Alvarez Ferrouillet, John Hemmingson, James H. Lake, Brook K. Mitchell, Sr., Jack L. Williams, Ronald Blackley, Henry Cisneros, and Linda Jones all received grants of clemency without having filed a petition with either the White House or the Justice Department. *See* Weston Kosova, *Running on Fumes: Pulling All-Nighters, Bill Clinton Spent His Last Days Obsessing Over Details and Pardons*, NEWSWEEK, Feb. 26, 2001, at 30.

ing with the Justice Department.[25] Even more important, in a number of cases, President Clinton dramatically deviated from the "regular process" of seeking the Justice Department's input.

Many of the President's last-minute grants of clemency violated all of these standards. Marc Rich and Pincus Green, for example, fail all five Justice Department criteria for pardons. They did not demonstrate responsible behavior after their indictment. Rather, by all accounts, they have remained fugitives from justice and continued to engage in business relations with the enemies of the United States. Their offenses were serious and notorious crimes for which, according to the Justice Department, a suitable length of time should pass between conviction and pardon. Yet Rich and Green never even stood trial. Rich and Green did not demonstrate any responsibility, remorse, or atonement for their crimes. Rather, they maintained that they were "singled out" and unfairly prosecuted. Rich and Green had no real need for relief. They lived in luxury and apparently sought the pardons only so that they could travel freely around the world, without the fear of being apprehended by the U.S. Marshals Service in countries that were cooperating with U.S. efforts to apprehend them. Finally, there were no official recommendations or reports regarding the Rich and Green pardons, since the White House circumvented the normal pardon review process. If there had been such reports, however, it is safe to assume that the U.S. Attorney's office would have strongly objected to the Rich and Green pardons.

The other grants of clemency reviewed in this report also fail to meet the applicable standards. Carlos Vignali satisfies none of the appropriate grounds for commutation identified in Justice Department regulations, as his sentence was not disparate or unfair, and he did not cooperate with law enforcement. As a large-scale drug dealer, Vignali also was not eligible for clemency under the President's own guidelines of 1996. Harvey Weinig similarly failed all relevant standards, having been sentenced fairly and having never cooperated with law enforcement. Weinig, as a large-scale money launderer for the Cali Cartel, also was ineligible for clemency under the President's guidelines. Glenn Braswell clearly failed to meet the standards for a pardon, as he was under active investigation for new criminal acts at the time he received a pardon. Edgar and Vonna Jo Gregory similarly fell short of the applicable standard, having committed one of the largest bank frauds in Alabama history. Moreover, prosecutors objected to the Gregory pardons.

C. Individuals Close to President Clinton Used Their Influence to Lobby for Undeserved Grants of Clemency

One of the most disturbing aspects of the closing month of President Clinton's term in office is that a number of people close to the President used their relationship with him to lobby for clemency grants which ordinarily would not have been considered. While there are certainly individuals who would seek to abuse their access in any administration, never have they been so successful as in the Clinton Administration. Jack Quinn abused his relationship

[25] Letter from Sheryl Walter, Office of Legislative Affairs, Department of Justice, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 6, 2001) (Exhibit 3).

with the President to lobby for the pardons of Marc Rich and Pincus Green. There can be little doubt that these pardons would not have been issued if Jack Quinn had not exploited his position as former White House Counsel. Hugh Rodham successfully lobbied the President for grants of clemency to Carlos Vignali and Glenn Braswell. Tony Rodham successfully lobbied the President to grant pardons to Edgar and Vonna Jo Gregory. David Dreyer, a former White House staffer, lobbied the President to grant a commutation to his cousin, Cali cartel money launderer Harvey Weinig.

It is clear that none of these grants of clemency would have been issued on the merits. Marc Rich and Pincus Green were fugitives from justice, indicted for the largest tax evasion scheme in U.S. history and for selling oil to Iran while Americans were being held hostage. Carlos Vignali was the source of cocaine for a major drug dealing ring. Glenn Braswell was an extremely successful con artist who was actually under criminal investigation at the time he received his pardon from President Clinton. Edgar and Vonna Jo Gregory had been convicted for the largest bank fraud in Alabama history. Harvey Weinig laundered millions of dollars for the Cali cartel and participated in a kidnapping, and was only caught when he began to steal money from the Cali cartel. Only by capitalizing on relationships between President Clinton and individuals close to him were these petitioners able to obtain grants of clemency.

D. A Number of Potential Violations of Law Have Been Discovered by the Committee

In the course of its investigation, the Committee has learned of a number of potential violations of law by Roger Clinton and Tony Rodham. The Committee recommends that the Department of Justice review these matters in conjunction with the ongoing criminal investigation being conducted by the U.S. Attorney for the Southern District of New York.

The Committee has uncovered a number of potential criminal acts by Roger Clinton. First, Roger Clinton may have imported more than $10,000 in monetary instruments into the United States without properly disclosing it to the Customs Service. Clinton received substantial sums of money originating from overseas between 1998 and 2000. If Clinton imported this money into the United States, then he was required to report it to proper authorities and apparently did not do so. Second, Roger Clinton appears to have violated the Lobbying Disclosure Act. There is evidence that Roger Clinton lobbied the President regarding travel restrictions to Cuba. Clinton did not register as a lobbyist, despite the fact that he was likely required to do so. Third, Clinton lied to FBI agents who interviewed him regarding his lobbying for Rosario Gambino in 1999. When they interviewed Roger Clinton, he claimed that "he did not represent to anyone on the Parole Commission that his brother was aware of his efforts to assist the Gambino family."[26] However, when Clinton lobbied the U.S. Parole Commission, he had explicitly stated that his brother was "com-

[26] Department of Justice Document Production FBI–RC–00003 (Summary of Interview with Roger Clinton, Oct. 1, 1999) (Exhibit 4).

pletely aware" of his involvement.[27] Roger Clinton also lied to the FBI about a $50,000 payment from the Gambino family.[28] Although he deposited the payment the same day as the FBI interview, he did not disclose it to the agents explicitly or truthfully. Rather he claimed that Rosario Gambino's son had offered to loan him money for a down payment on a house.[29] Despite this claim to the FBI, which Clinton repeated to the media in the summer of 2001, bank records indicate that Clinton neither used the $50,000 for a down payment nor did he ever repay any of the money. During the interview, Clinton also told three separate and contradictory stories when questioned about a Rolex watch he received from the Gambinos.[30]

The Committee has also learned about Tony Rodham's participation in a scheme to defraud Vivian Mannerud in connection with Mannerud's effort to obtain a commutation for her father, Fernando Fuentes Coba. Tony Rodham was introduced to Mannerud by his business partner, Marilyn J. Parker. Together, Rodham and Parker attempted to convince Mannerud to hire Rodham to help her obtain a commutation for her father. In making his pitch to Mannerud, Rodham made a number of false statements to Mannerud, including the assertion that he was friendly with Pardon Attorney Roger Adams, and that he would hire a law firm at which Adams' wife was a partner. Rodham then asked Mannerud to pay him $50,000 to help with the Fernando Fuentes Coba commutation effort. After Mannerud refused, Marilyn Parker called Mannerud to tell her that Rodham now only wanted $30,000 to help with the Fuentes commutation. Mannerud declined both offers for fear of being involved in some improper activity. The activity by Rodham and Parker may amount to a criminal conspiracy to defraud Vivian Mannerud. Whether or not the conduct by Rodham and Parker amounts to criminal activity depends greatly upon the specific evidence that can be gathered by the Justice Department. However, it is clear that this matter deserves thorough investigation by the Department of Justice.

E. The Message Sent by President Clinton's Grants of Clemency

The way in which a President exercises the clemency power speaks volumes about that President's priorities. The clemency grants reviewed in this report send a clear message, one that does not speak well of President Clinton. While the clemency power is vitally important and should be used by the President, it should

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[27] USPC Document Production 00894 (Memorandum from Michael A. Stover, General Counsel, U.S. Parole Commission, to File (Jan. 31, 1996)) (Exhibit—5); Telephone Interview with Thomas Kowalski, Case Operations Manager, U.S. Parole Commission (July 27, 2001). Roger Clinton made it clear to Parole Commission staff on multiple occasions that President Clinton had specific knowledge that he was contacting the Parole Commission regarding Rosario Gambino. *See generally,* Chapter Two: Roger Clinton's Involvement in Lobbying for Executive Clemency, Section II.E.1., "Roger Clinton's Statements Regarding his Brother's Knowledge."

[28] *See generally,* Chapter Two: Roger Clinton's Involvement in Lobbying for Executive Clemency, Section II.E.2., "Roger Clinton's Statements Regarding Payment from the Gambinos."

[29] Department of Justice Document Production FBI–RC–00005–06 (Summary of Interview with Roger Clinton, Oct. 1, 1999) (Exhibit 4).

[30] The interviewing FBI agents apparently were not satisfied with Roger Clinton's candor during the interview, as they took the unusual step of explaining to Clinton the penalties for making false statements during the course of the interview. *Id.* at FBI–RC–00006. *See generally,* Chapter Two: Roger Clinton's Involvement in Lobbying for Executive Clemency, Section II.E.3., "Roger Clinton's Statements Regarding the Rolex Watch."

not be debased, particularly where large sums of money are flowing to relatives of the President or to foundations in which he has a significant interest.

First, President Clinton granted pardons and commutations to individuals who never would have received clemency but for the fact that they hired individuals close to the President to represent them. Marc Rich, Pincus Green, Carlos Vignali, Glenn Braswell, Edgar Gregory, and Vonna Jo Gregory were all extremely wealthy and were able to hire Jack Quinn, Tony Rodham, and Hugh Rodham to lobby the White House and short-circuit the normal clemency review procedures. The average low-income criminal defendant does not have the money necessary to hire a White House insider to lobby for his pardon. At best, he can fill out his clemency application and watch it proceed through the normal Justice Department review process. By listening to the advice of highly-paid White House insiders like Jack Quinn, Hugh Rodham, and Tony Rodham, and by granting clemency to their clients, President Clinton has sent the message that he had two standards of justice—one for the rich, and one for the poor. Representative Elijah Cummings described some of his concerns about this issue at the Committee's February 8, 2001, hearing:

> One of the things that concerns me about [the Rich] pardon is that I think anybody who is sitting in this audience or anybody who is watching this at home, you know, when the little guy, when the Department of Justice comes after the little guy, the guys that I used to represent, they tear their lives apart, I mean rip them apart. They can't afford the Mr. diGenovas, the great lawyers, as he is and others. They do the best they can. They spend all of their money. Their reputations are tarnished. Even if they're found not guilty, friends are brought in, FBI goes into their homes, subpoenas are issued.
>
> And when people look at Mr. Rich and others who apparently goes off to another country, they've got the money to do so, and it appears as if they're evading the process. The little guys that I represent and the women, you know, they really have a problem with that, because they sit here and they say, wait a minute, you know, I'm sitting in jail for 20 years. And it does not even compare. I mean, I may have done one-millionth of what was allegedly done here, but I'm sitting in jail. And I didn't have the money to go off somewhere else. I didn't have the money to do that. I didn't have the money to hire the big-time lawyers. So it does concern me.
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> * * *
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> And it's one thing to go to trial. It's one thing to stay here and face the music. It's one thing to be found not guilty. It's a whole other thing, in my opinion, when somebody, because they have the money, can go outside the country and evade the system. I tell you it really concerns me be-

> cause my constituents have a major problem with that, and I do, too.[31]

These concerns are shared by many on the Committee.

President Clinton's pardons did not just send the message that he believes in two standards of justice. By pardoning fugitives from justice, President Clinton undermined the efforts of law enforcement officers everywhere. Since 1983, Assistant United States Attorneys and agents of the United States Marshals Service have been trying to apprehend Marc Rich and Pincus Green. They listed Rich as one of the most wanted fugitives in the world. They set up sting operations to arrest Rich overseas. They have submitted arrest requests and extradition requests to a number of foreign countries. President Clinton's pardon of wanted fugitives is a direct slap in the face to the U.S. law enforcement officers who spent almost two decades trying to apprehend Rich. The pardons also could serve to undermine U.S. efforts to extradite fugitives in the future.

By commuting the sentences of Carlos Vignali and Harvey Weinig, President Clinton undermined U.S. efforts to fight the flow of illegal drugs into the country. Neither was a minor participant in drug trafficking. Vignali supplied cocaine to the largest drug-dealing ring in Minnesota history. Moreover, he never cooperated with law enforcement and failed to reveal where he obtained his cocaine. Harvey Weinig laundered millions of dollars for the Cali cartel. Without individuals like Harvey Weinig, drug traffickers would not be able to enjoy the proceeds from their drug sales. Despite the seriousness of their crimes, President Clinton commuted the sentences of both Vignali and Weinig.

The message of these commutations was loud and clear. Tony Adams, a narcotics detective in Minnesota, spoke eloquently to the meaning of the Vignali commutation. Adams stated that he was stunned to learn of the commutation: "It's like, basically, you've just been told that this kid, he's untouchable."[32] Adams observed that the Vignali case "more or less tells us that America's system has been bought if you have money."[33] He also observed that "politicians always get in front of this camera and say "We're trying to take dope off the streets. We're trying to put dope dealers in jail." Well, you just let one out, a big one."[34] Finally, Adams suggested that "the politicians in L.A. or Washington, D.C., should finish the nine years that [Vignali] has left on his time, and I'm standing right by that."[35] Adams is certainly not alone in his criticism of the Vignali commutation, but his comments are particularly noteworthy, coming from a detective who investigated the case, and who routinely places his life on the line to protect the public from drug traffickers.[36]

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[31] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 164–65 (Feb. 8, 2001) (statement of the Honorable Elijah Cummings).

[32] Richard A. Serrano and Stephen Braun, *Working the American System*, L.A. TIMES, Apr. 29, 2001, at 10.

[33] *Fox Special Report with Brit Hume* (Fox News television broadcast, Feb. 27, 2001).

[34] *Nightline* (ABC News television broadcast, Feb. 23, 2001).

[35] *Fox Special Report with Brit Hume* (Fox News television broadcast, Feb. 23, 2001).

[36] While conducting plainclothes surveillance in April 2001, Adams was shot at by a suspect and escaped uninjured. David Chanen, *Man Fires at Officer, But Nobody is Hurt*, STAR TRIB. (Minneapolis, MN), Apr. 20, 2001, at 9B.

The Weinig case has sent no less a destructive message to U.S. law enforcement. In fact, the Weinig commutation has created a great deal of consternation in Latin American nations from which the U.S. is attempting to extradite drug kingpins. Many individuals in these nations have argued that they should not extradite their citizens to the U.S. for narcotics offenses because the U.S. clearly is not serious about enforcing its narcotics laws, pointing specifically to the Weinig commutation.[37] By pardoning a major money launderer for the Cali cartel, President Clinton has made it harder for the U.S. to extradite drug traffickers to the U.S. and harder to fight the war on drugs.

F. Obstacles Faced by the Committee

The Committee conducted a thorough investigation, interviewing dozens of witnesses. The majority of parties contacted by the Committee cooperated with the investigation. However, a number of key individuals refused to cooperate, which in turn seriously hampered the Committee's investigation.

1. Witnesses Who Have Not Cooperated with the Investigation

The Committee has faced a number of obstacles that have prevented it from discovering the full truth regarding the pardon and commutations which it investigated. The greatest problem faced by the Committee was that a number of key witnesses invoked their Fifth Amendment rights or otherwise refused to cooperate with the Committee's investigation. A total of 26 witnesses either invoked their Fifth Amendment rights or refused to be interviewed in the course of the Committee's investigation. Some of these witnesses, like Marc Rich, Denise Rich, Beth Dozoretz, and Roger Clinton, were critically important. The impact of the refusal of key witnesses to cooperate is discussed below in the relevant chapters regarding each part of the investigation.

Another significant problem the Committee has faced is the refusal of a number of parties to produce records subpoenaed or requested by the Committee. A number of document requests issued by the Committee have not been complied with by their recipients, either because of an invocation of Fifth Amendment rights or an invocation of attorney-client privilege. In some cases, the invocation of privilege has been spurious. For example, Hugh Rodham refused to produce any records regarding the Vignali matter because of the attorney-client privilege. Obviously, Rodham possesses records which are not privileged, which he could provide to the Committee, however, he simply declined to do so.[38] This refusal adversely impacted the ability of the Committee to develop a full understanding of Rodham's work on the Vignali matter. The specific problems faced by the Committee in each aspect of the pardon investigation are discussed below in the relevant chapters regarding each pardon and commutation.

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[37] *See Colombian General Hits Clinton Commutation,* WASH. TIMES, Mar. 6, 2001, at A13; Russell Crandall, *The Americas: In the War on Drugs, Colombians Die, Americans Are Pardoned*, WALL ST. J., Apr. 20, 2001, at A15.

[38] Such records would include records provided to Rodham by third parties and documents which Rodham provided to third parties.

2. The White House

It is a matter of some concern that the Bush White House and Justice Department failed to cooperate fully with the Committee's investigation. Early in its investigation of the Marc Rich pardon, the Chairman requested that former President Clinton waive any claim of executive privilege he might have over testimony and documents relating to the pardons and commutations he granted.[39] On February 27, 2001, former President Clinton's attorney, David Kendall, sent the Chairman a letter in which he informed the Committee that "he will interpose no Executive Privilege objections to the testimony of his former staff concerning these pardons, or to other pardons and commutations he granted."[40] Despite former President Clinton's decision to waive executive privilege, the Committee faced a number of problems receiving records relating to the pardons and commutations, both from the White House and the Justice Department.

Beginning on January 25, 2001, the Committee issued a series of document requests to the National Archives and Records Administration ("NARA"), seeking records relating to pardons and commutations issued or considered by former President Clinton. Under the Presidential Records Act, once the responsive records were located by NARA staff, they were provided to staff for former President Clinton to be reviewed for executive privilege concerns.[41] After President Clinton's staff had reviewed them, the records were reviewed by staff for President Bush, who independently has the right to assert executive privilege over the records. The Committee's first requests to NARA for records relating to Marc Rich and Pincus Green were satisfied. However, shortly thereafter, the Committee began to have significant problems receiving the records it had requested from NARA.

On March 8, 2001, the Committee issued a request to NARA for records relating to the pardons and commutations of a number of individuals—including Glenn Braswell, Carlos Vignali, Edgar and Vonna Jo Gregory, and Eugene and Nora Lum—as well as records relating to Roger Clinton's involvement in lobbying for pardons. The Committee's request called for the records to be provided to the Committee by March 22, 2001. At some point in April 2001, NARA had gathered all of the responsive documents, and they had been reviewed and cleared by the office of former President Clinton. However, they had not been provided to the Committee because of objections from the Bush White House Counsel's Office.[42]

Committee staff spent the next month engaged in fruitless negotiations with the Bush White House regarding the production of the requested records. Staff from the Bush White House explained that they had concerns about producing the requested records, be-

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[39] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to former President William J. Clinton (Feb. 15, 2001) (Exhibit 6).

[40] Letter from David E. Kendall, Counsel for President Clinton, Williams & Connolly, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 27, 2001) (Exhibit 7). In addition to waiving any claim of privilege with respect to the testimony of his former staff, President Clinton has not raised executive privilege with respect to any of the records the Committee has requested from the National Archives.

[41] *See* 44 U.S.C. § 2204 (2002).

[42] Notes of Telephone Conversation with Amy Krupsky, Associate General Counsel, National Archives and Records Administration (May 1, 2001).

cause the records went to the heart of the clemency review process, which was part of a core Presidential power. During these negotiations, Committee staff pointed out that the White House had been delaying the production of a wide variety of records from NARA, including documents sent into the White House from individuals seeking pardons, and that these records could not possibly raise any privilege concerns. The White House agreed to provide these types of non-deliberative records to the Committee.[43]

However, the White House was not nearly so accommodating with respect to deliberative documents about the clemency process that were generated inside of the Clinton Administration. White House staff informed the Committee staff that the White House did not plan to assert executive privilege over these records but would simply decline to produce them and hope that the Committee understood the reasons why. Committee staff attempted to explain that a number of these records were critically important to the Committee's investigation. For example, the report prepared by Pardon Attorney Roger Adams regarding the Vignali commutation was central to the Committee's understanding of the Vignali matter. Committee staff also offered to reach a number of compromise accommodations, which would satisfy the Committee's needs to review the Adams memo, while still protecting the White House's interests. All of these offers were rejected. The White House's refusal to reach any accommodation meant that the Committee was unable to obtain a number of key documents regarding pardons and commutations issued by President Clinton.

On June 7, 2001, shortly after the Committee's offers to the White House were rejected, the Committee received a production of records from NARA. This production apparently included both deliberative and non-deliberative records responsive to the Committee's March 8, 2001, request. Approximately two weeks later, Committee staff informed the White House that NARA had provided the Committee with a number of records that the White House may have intended to withhold from the Committee. Shortly thereafter, the Committee received a telephone call and then a letter from the NARA General Counsel, Gary Stern, requesting the return of the documents. In his letter, Stern stated that "some of the records that were provided to the Committee were inadvertently produced. Accordingly, we now request the return of these records, and any copies made thereof."[44]

However, for several reasons, the Committee decided not to return the records in response to Stern's request. First, the records were responsive to the Committee's request and, therefore, should have been produced in any event. Second, neither President Bush nor President Clinton asserted any privilege over the documents. In the absence of a valid claim of privilege, the Committee has a right to receive documents responsive to its request. Third, even if President Bush or President Clinton had asserted executive privi-

[43] The White House did not agree to provide records provided to the White House from third parties until June 6, 2001. It is unclear why these types of records, which were clearly not privileged, were withheld from the Committee for so long. The delay in the production of these records—which did not occur until three months after they were requested—imposed a substantial delay on the Committee's investigation.

[44] Letter from Gary Stern, General Counsel, NARA, to Jim Wilson, General Counsel, Comm. on Govt. Reform (June 21, 2001) (Exhibit 8).

lege, the Committee might have determined to keep certain essential records produced by NARA on June 7, 2001. A number of these records were critical to the Committee's investigation and did not raise legitimate executive privilege concerns. However, since neither the current nor the former President raised any such privilege, the Committee used these documents in its investigation and in this report.

The documents that were "inadvertently" produced to the Committee were of central importance to the Committee's investigation. The following is a brief description of some of the records included in that production:

- *All White House records regarding the Vignali commutation:* These records included the report by Pardon Attorney Roger Adams objecting to the Vignali commutation.[45] This report was of critical importance to the Committee, as it showed the extent to which the Clinton White House was aware of Carlos Vignali's criminal activities. These records also included one White House document indicating that Hugh Rodham had informed the White House staff that the Vignali commutation was "very important" to First Lady Hillary Clinton.[46]

- *Documents that led the Committee to uncover Roger Clinton's efforts to obtain a commutation for organized crime figure Rosario Gambino:* Before receiving these records from NARA, the Committee was aware only of a payment of $50,000 from Anna Gambino to Roger Clinton. Only after receiving these documents did the Committee have reason to believe this payment might be related to an effort to free Rosario Gambino from prison.[47]

- *Documents showing three additional pardons that Roger Clinton attempted to obtain:* These documents indicated that representatives of Mark St. Pé and Steven Griggs sent materials requesting pardons to Roger Clinton at the White House, and that these materials were forwarded to the White House Counsel's office. Another document indicating that William McCord had sent a petition was produced in the midst of other Roger Clinton-related material.

- *Pardon Attorney Roger Adams' report on the commutation of drug money launderer Harvey Weinig:* This report demonstrated that the White House was fully aware of the extent of Weinig's criminal activities, including his role in a kidnapping.[48]

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[45] *See* NARA Document Production (Report to the President on Proposed Denial of Executive Clemency for Carlos Anibal Vignali, Jr., Jan. 12, 2001) (Exhibit 9).

[46] *See* NARA Document Production (Note from Dawn Woolen, Administrative Assistant, to Bruce Lindsey, Deputy Chief of Staff, the White House) (Exhibit 10).

[47] Committee staff had been unable to reach Mrs. Gambino or determine the purpose of her payment. The key document in the NARA production was a note apparently drafted by White House staffer Meredith Cabe which referenced the fact that she was requesting an NCIC check on Rosario Gambino. Given the fact that Rosario Gambino was a well-known organized crime figure who was an exceedingly unlikely candidate for a legitimate grant of clemency, the Committee investigated this matter and determined that Anna Gambino was Rosario Gambino's daughter, and that the payment of $50,000 from Anna Gambino to Roger Clinton was part of the Gambinos' efforts to obtain a commutation for Rosario Gambino.

[48] *See* NARA Document Production (Report to the President on Proposed Denial of Executive Clemency for Harvey Weinig) (Exhibit 11).

Given the importance of these records to the Committee's investigation, and the absence of any claim of privilege over the documents, the Committee decided to use the records in its investigation and in this report. Given the apparent sensitivity of the records to the White House, the Committee is using only those records which are directly relevant to necessary subject matter covered in this report.

The Committee must emphasize that it is disappointed with the way the Administration handled its requests for documents relating to the pardon matter. It is clear that if a large number of documents relating to the pardon had not been "inadvertently" produced by NARA personnel on June 7, the Committee would never have received those records. Consequently, Members of Congress, historians, and the public might never have known about many of the significant abuses of public trust detailed in this report. Developments since June 2001 have made it clear that the Administration is engaged in a wide-ranging effort to expand executive privilege beyond its traditional boundaries and reduce Congressional oversight of the White House and Justice Department. It is disappointing that the Bush Administration would attempt to withhold key documents from the Committee in an investigation like this, where the Committee is looking into allegations of malfeasance at the highest levels of government. That the Bush Administration attempted to withhold these records even though former President Clinton approved their release is especially discouraging.

3. The Justice Department

The recalcitrance of the Bush Administration in refusing to turn over records in the pardon investigation also extended to the Justice Department. The Justice Department refused to provide a number of records requested by the Committee in the course of its investigation. Most of these documents related to the Committee's investigation of Roger Clinton, specifically relating to Roger Clinton's efforts to obtain a commutation for Rosario Gambino. The Committee requested from the Justice Department all records relating to any consideration of a grant of clemency for Rosario Gambino, as well as all records relating to the Justice Department's investigation of Roger Clinton's efforts to obtain a grant of clemency for Gambino. The Justice Department refused to comply fully with either request.

With respect to the Committee's request for records relating to the Justice Department's work on the Gambino commutation request, the Department refused to turn over any records or even specify which records it was withholding. Apparently, the Justice Department based its refusal on privilege concerns, presumably executive privilege, although Justice Department staff did not identify any specific privileges in explaining their decision.

With respect to the Committee's request for records relating to the investigation of Roger Clinton's involvement in the Gambino matter, the Justice Department initially provided records but then abruptly stopped doing so. The Justice Department claimed that it was entitled to withhold records because of its ongoing investigation of Roger Clinton. However, the records that the Committee sought related to the Justice Department's investigation of Roger

Clinton, which was conducted in 1998 and 1999, and then closed, not its ongoing investigation from the Southern District of New York. The Justice Department's decision to withhold these records significantly hindered the Committee's investigation of the Gambino matter. The withheld documents likely contain the Justice Department's rationale for failing to pursue criminal charges against Roger Clinton, as well as the answers to key factual questions such as whether the FBI was even aware of the $50,000 payment from the Gambinos before the Committee uncovered it in the summer of 2001. Without a complete understanding of facts and reasoning underlying the Justice Department's decision to close the Clinton-Gambino investigation, the Committee is unable to determine whether that decision was made in good faith or may have been tainted by political considerations.

[Exhibits referred to follow:]

U.S. Department of Justice

Washington, D.C. 20530

January 20, 2001

Pardon Grants January 2001

Name	*Home Town*	*Offenses*
ALLEN, Verla Jean	Everton, Arkansas	False statements to agency of United States
ALTIERE, Nicholas M.	Las Vegas, Nevada	Importation of cocaine
ALTSCHUL, Bernice Ruth	Sherman Village, California	Conspiracy to commit money laundering
ANDERSON, Joe, Jr.	Grove Hill, Alabama	Income tax evasion
ANDERSON, William Sterling	Spartanburg, South Carolina	Conspiracy to defraud a federally insured financial institution, false statements to a federally insured financial institution, wire fraud
AZIZKHANI, Mansour T.	Huntsville, Alabama	Conspiracy and making false statements in bank loan applications
BABIN, Cleveland Victor, Jr.	Oklahoma City, Oklahoma	Conspiracy to commit offense against the United States by utilizing the U.S. mail in furtherance of a scheme to defraud
BAGLEY, Chris Harmon	Harrah, Oklahoma	Conspiracy to possess with intent to distribute cocaine
BANE, Scott Lynn	Mahomet, Illinois	Unlawful distribution of marijuana
BARBER, Thomas Cleveland	Hampton, Florida	Issuing worthless checks
BARGON, Peggy Ann	Monticello, Illinois	Violation of the Lacey Act, violation of the Bald Eagle Protection Act
BHATKA, Tansukhlal		Income tax evasion
BLAMPIED, David Roscoe	Ketchum, Idaho	Conspiracy to distribute cocaine
BORDERS, William Arthur, Jr.	Washington, D.C.	Conspiracy to corruptly solicit and accept money in return for influencing the official acts of a federal district court judge (Alcee L. Hastings), and to defraud the United States in connection with the performance of lawful government functions; corruptly influencing, obstructing, impeding and endeavoring to influence, obstruct and impede the due administration of justice, and aiding and abetting therein; traveling interstate with intent to commit bribery
BOREL, Arthur David	Little Rock, Arkansas	Odometer rollback
BOREL, Douglas Charles	Conway, Arkansas	Odometer rollback

EXHIBIT 1

BRABHAM, George Thomas	Austin, Texas	Making a false statement or report to a federally insured bank
BRASWELL, Almon Glenn	Doravilla, Georgia	~~Conspiracy to defraud government with respect to claims;~~ perjury ; tax evasion ; mail fraud
BROWDER, Leonard	Aiken, South Carolina	Illegal dispensing of controlled substance and Medicaid fraud
BROWN, David Steven	New York, New York	Securities fraud and mail fraud
BURLESON, Delores Caroylene, aka Delores Cox Burleson	Hanna, Oklahoma	Possession of marijuana
BUSTAMANTE, John H.	Cleveland, Ohio	Wire fraud
CAMPBELL, Mary Louise	Ruleville, Mississippi	Aiding and abetting the unauthorized use and transfer of food stamps
CANDELARIA, Eloida		False information in registering to vote
CAPILI, Dennis Sobrevinas	Glendale, California	Filing false statements in alien registration
CHAMBERS, Donna Denise	Memphis, Tennessee	Conspiracy to possess with intent to distribute and to distribute cocaine, possession with intent to distribute cocaine, use of a telephone to facilitate cocaine conspiracy
CHAPMAN, Douglas Eugene	Scott, Arkansas	Bank fraud
CHAPMAN, Ronald Keith	Scott, Arkansas	Bank fraud
CHAVEZ, Francisco Larios	Santa Ana, California	Aiding and abetting illegal entry of aliens
CISNEROS, Henry G.		
CLINTON, Roger		
COHN, Stuart Harris	New Haven, Connecticut	1. Illegal sale of gold options 2. Illegal sale of silver options
COOPER, David Marc	Wapakoneta, Ohio	Conspiracy to defraud the government
COX, Ernest Harley, Jr.	Pine Bluff, Arkansas	Conspiracy to defraud a federally insured savings and loan, misapplication of bank funds, false statements
CROSS, John F., Jr.	Little Rock, Arkansas	Embezzlement by a bank employee
CUNNINGHAM, Rickey Lee	Amarillo, Texas	Possession with intent to distribute marijuana
DE LABIO, Richard Anthony	Baltimore, Maryland	Mail fraud, aiding and abetting
DEUTCH, John		Described in January 19, 2001 information
DOUGLAS, Richard		False statements
DOWNE, Edward Reynolds		Conspiracy to commit wire fraud and tax evasion; securities fraud
DUDLEY, Marvin Dean	Omaha, Nebraska	False statements
DUNCAN, Larry Lee	Branson, Missouri	Altering an automobile odometer
FAIN, Robert Clinton		Aiding and assisting in the preparation of a false corporate tax return

FERNANDEZ, Marcos Arcenio	Miami, Florida	Conspiracy to possess with intent to distribute marijuana
FERROUILLET, Alvarez		Interstate transport of stolen property, money laundering, false statements
FUGAZY, William Denis	Harrison, New York	Perjury in a bankruptcy proceeding
GEORGE, Lloyd Reid		Mail fraud
GOLDSTEIN, Louis	Las Vegas, Nevada	Possession of goods stolen from interstate shipment
GORDON, Rubye Lee	Tampa, Florida	Forgery of U.S. Treasury checks
GREEN, Pincus	Switzerland	
HAMNER, Robert Ivey	Searcy, Arkansas	Conspiracy to distribute marijuana, possession of marijuana with intent to distribute
HANDLEY, Samuel Price	Hodgenville, Kentucky	Conspiracy to steal government property
HANDLEY, Woodie Randolph	Hodgenville, Kentucky	Conspiracy to steal government property
HARMON, Jay Houston	Jonesboro, Arkansas	1. Conspiracy to import marijuana, conspiracy to possess marijuana with intent to distribute, importation of marijuana, possession of marijuana with intent to distribute 2. Conspiracy to import cocaine
HEMMINGSON, John		Interstate transport of stolen property, money laundering
HERDLINGER, David S.	St. Simons Island, Georgia	Mail fraud
HUCKLEBERRY, Debi Rae	Ogden, Utah	Distribution of methamphetamine
JAMES, Donald Ray	Fairfield Bay, Arkansas	Mail fraud, wire fraud, and false statement to a bank to influence credit approval
JOBE, Stanley Pruet	El Paso, Texas	Conspiracy to commit bank fraud, and bank fraud
JOHNSON, Ruben H.	Austin, Texas	Theft and misapplication of bank funds by a bank officer or director
JONES, Linda		Conspiracy to commit bank fraud and other offenses against the United States
LAKE, James Howard		Illegal corporate campaign contributions, wire fraud
LEWIS, June Louise	Lowellville, Ohio	Embezzlement by a bank employee
LEWIS, Salim Bonnor	Short Hills, New Jersey	Securities fraud, record keeping violations, margin violations
LODWICK, John Leighton	Excelsior Springs, Missouri	Income tax evasion
LOPEZ, Hildebrando	San Isidro, Texas	Distribution of cocaine
LUACES, Jose Julio	Ft. Lauderdale, Florida	Possession of an unregistered firearm

MANESS, James Timothy		Conspiracy to distribute a controlled substance
MANNING, James Lowell	Little Rock, Arkansas	Aiding and assisting in the preparation of a false corporate tax return
MARTIN, John Robert	Gulf Breeze, Florida	Income tax evasion
MARTINEZ, Frank Ayala	Elgin, Texas	Conspiracy to supply false documents to the Immigration and Naturalization Service
MARTINEZ, Silvia Leticia Beltran	Elgin, Texas	Conspiracy to supply false documents to the Immigration and Naturalization Service
McCORMICK, John Francis	Dedham, Massachusetts	Racketeering conspiracy, racketeering, and violation of the Hobbs act
McDOUGAL, Susan H.		
MECHANIC, Howard Lawrence		1. Violating the Civil Disobedience Act of 1968 2. Failure to appear 3. Making false statement in acquiring a passport
MITCHELL, Brook K., Sr.		Conspiracy to illegally obtain USDA subsidy payments, false statements to USDA, and false entries on USDA forms
MORGAN, Charles Wilfred, III	Little Rock, Arkansas	Conspiracy to distribute cocaine
MORISON, Samuel Loring	Crofton, Maryland	Willful transmission of defense information, unauthorized possession and retention of defense information, theft of government property
NAZZARO, Richard Anthony	Winchester, Massachusetts	Perjury and conspiracy to commit mail fraud
NOSENKO, Charlene Ann	Phoenix, Arizona	Conspiracy to defraud the United States, and influencing or injuring an officer or juror generally
OBERMEIER, Vernon Raymond	Belleville, Illinois	Conspiracy to distribute cocaine, distribution of cocaine, and using a communications facility to facilitate distribution of cocaine
OGALDE, Miguelina	Glendale, California	Conspiracy to import cocaine
OWEN, David C.	Olathe, Kansas	Filing a false tax return
PALMER, Robert W.	Little Rock, Arkansas	Conspiracy to make false statements
PERHOSKY, Kelli Anne	Bridgeville, Pennsylvania	Conspiracy to commit mail fraud
PEZZOPANE, Richard H.	Palo Heights, Illinois	Conspiracy to commit racketeering, and mail fraud
PHILLIPS, Orville Rex	Waco, Texas	Unlawful structure of a financial transaction

POLING, Vinson Stewart, Jr.	Baldwin, Maryland	Making a false bank entry, and aiding and abetting
PROUSE, Norman Lyle	Conyers, Georgia	Operating or directing the operation of a common carrier while under the influence of alcohol
PRUITT, Willie H. H., Jr.	Port Richey, Florida	Absent without official leave
PURSLEY, Danny Martin, Sr.	Goodlettsville, Tennessee	Aiding and abetting the conduct of an illegal gambling business, and obstruction of state laws to facilitate illegal gambling
RAVENEL, Charles D.	Charleston, South Carolina	Conspiracy to defraud the United States
RAY, William Clyde	Altus, Oklahoma	Fraud using a telephone
REGALADO, Alfredo Luna	Pharr, Texas	Failure to report the transportation of currency in excess of $10,000 into the United States
RICAFORT, Ildefonso Reynes	Houston, Texas	Submission of false claims to Veterans Administration
RICH, Marc	Switzerland	
RIDDLE, Howard Winfield	Mt. Crested Butte, Colorado	Violation of the Lacey Act (receipt of illegally imported animal skins)
RILEY, Richard Wilson, Jr.		Possession of cocaine with intent to distribute
ROBBINS, Samuel Lee	Cedar Park, Texas	Misprision of a felony
RODRIGUEZ, Joel Gonzales	Houston, Texas	Theft of mail by a postal employee
ROGERS, Michael James	McAllen, Texas	Conspiracy to possess with intent to distribute marijuana
ROSS, Anna Louise	Lubbock, Texas	Distribution of cocaine
RUST, Gerald Glen	Avery, Texas	False declarations before grand jury
RUST, Jerri Ann	Avery, Texas	False declarations before grand jury
RUTHERFORD, Bettye June	Albuquerque, New Mexico	Possession of marijuana with intent to distribute
SANDS, Gregory Lee	Sioux Falls, South Dakota	Conspiracy to distribute cocaine
SCHWIMMER, Adolph		Conspiracy to commit an offense against the United States, conspiracy to export arms and ammunition to a foreign country and related charges
SERETTI, Albert A., Jr.	McKees Rocks, Pennyslvania	Conspiracy and wire fraud
SHAW, Patricia Campbell Hearst	Wilton, Connecticut	Armed bank robbery and using a firearm during a felony
SMITH, Dennis Joseph	Redby, Minnesota	1. Unauthorized absence 2. Failure to obey off-limits instructions 3. Unauthorized absence
SMITH, Gerald Owen	Florence, Mississippi	Armed bank robbery
SMITH, Stephen A.		

SPEAKE, Jimmie Lee	Breckenridge, Texas	Conspiracy to possess and utter counterfeit $20 Federal Reserve notes
STEWART, Charles Bernard	Sparta, Georgia	Illegally destroying U.S. Mail
STEWART-ROLLINS, Marlena Francisca	Euclid, Ohio	Conspiracy to distribute cocaine
SYMINGTON, John Fife, III		
TANNEHILL, Richard Lee	Reno, Nevada	Conspiracy and restraint of trade
TENAGLIA, Nicholas C.	Lafayette Hill, Pennsylvania	Receipt of illegal payments under the Medicare program
THOMAS, Gary Allen	Lancaster, Texas	Theft of mail by postal employee
TODD, Larry Weldon	Gardendale, Texas	Conspiracy to commit an offense against the U.S. in violation of the Lacey Act and the Airborne Hunting Act
TREVINO, Olga C.	Converse, Texas	Misapplication by a bank employee
VAMVOUKLIS, Ignatious	Exeter, New Hampshire	Possession of cocaine
VAN DE WEERD, Patricia A.	Tomahawk, Wisconsin	Theft by a U.S. Postal employee
WADE, Christopher V.		
WARMATH, Bill Wayne	Walls, Mississippi	Obstruction of correspondence
WATSON, Jack Kenneth	Oakridge, Oregon	Making false statements of material facts to the U.S. Forest Service
WEBB, Donna Lynn	Panama City, Florida	False entry in savings and loan record by employee
WELLS, Donald William	Phenix City, Alabama	Possession of an unregistered firearm
WENDT, Robert H.	Kirkwood, Missouri	Conspiracy to effectuate the escape of a federal prisoner
WILLIAMS, Jack L.		Making false statements to federal agents
WILLIAMS, Kevin Arthur	Omaha, Nebraska	Conspiracy to distribute and possess with intent to distribute crack cocaine
WILLIAMS, Robert Michael	Davison, Michigan	Conspiracy to transport in foreign commerce securities obtained by fraud
WILSON, Jimmie Lee	Helena, Arkansas	Converting property mortgaged or pledged to a farm credit agency, and converting public money to personal use
WINGATE, Thelma Louise	Sale City, Georgia	Mail fraud
WOOD, Mitchell Couey	Sherwood, Arkansas	Conspiracy to possess and to distribute cocaine
WOOD, Warren Stannard	Las Vegas, Nevada	Conspiracy to defraud the United States by filing a false document with the Securities and Exchange Commission
WORTHEY, Dewey	Conway, Arkansas	Medicaid fraud
YALE, Rick Allen	Belleville, Illinois	Bank fraud
YASAK, Joseph A.	Chicago, Illinois	Knowingly making under oath a false declaration regarding a material fact before a grand jury

YINGLING, William Stanley		Interstate transportation of stolen vehicle
YOUNG, Phillip David	Little Rock, Arkansas	Interstate transportation and sale of fish and wildlife

U.S. Department of Justice

Washington, D.C. 20530

January 20, 2001

COMMUTATIONS GRANTED JANUARY 20, 2001

Name	Offense	District/Date/Sentence	Terms of Grant
BERGER, Benjamin	Conspiracy to defraud the United States; wire fraud; false statement; money laundering; filing a false tax return	S. D. N. Y.; October 18, 1999; 30 months' imprisonment, two years' supervised release, $522,977 in restitution	Commute prison sentence to 24 months' imprisonment, leaving intact and in effect the remaining provisions
BLACKLEY, Ronald Henderson	False statements	D. D. C.; March 18, 1998; 27 months' imprisonment, three years' supervised release	Commute prison sentence to time served, leaving intact and in effect the remaining provisions
BOLAN, Bert Wayne	Conspiracy to commit mail fraud and illegal remuneration for patient referrals; mail fraud	N. D. Tex.; April 14, 1995; 97 months' imprisonment, three years' supervised release, $375,000 fine	Commute prison sentence to time served and remit unpaid balance of fine in excess of $15,000, leaving intact and in effect the remaining provisions
CAMARGO, Gloria Libia	Conspiracy to possess cocaine with intent to distribute, attempt to possess cocaine with intent to distribute	S. D. Fla.; February 22, 1990; 188 months' imprisonment, five years' supervised release	Commute prison sentence to time served, leaving intact and in effect the remaining provisions
CAMPBELL, Charles F.	Conspiracy to distribute crack cocaine, distribution of crack cocaine	D. D. C.; January 25, 1994, modified on December 17, 1997; 240 months' imprisonment, 10 years' supervised release	Commute prison sentence to time served on the condition that he serve a five-year period of supervised release with a special condition of drug testing, leaving intact and in effect the remaining provisions
CHANDLER, David Ronald	Conspiracy to possess with intent to distribute and to distribute marijuana; engaging in a continuing criminal	N. D. Ala; May 14, 1991; sentence of death for murder in furtherance of a continuing criminal enterprise; aggregate sentences of life	Commute the death sentence to imprisonment for life without parole, leaving intact and in

	enterprise; murder in furtherance of a continuing criminal enterprise; aiding and abetting the use or carrying of a firearm in relation to a drug-trafficking offense; money laundering	imprisonment, plus 10 years on the remaining counts.	effect the sentences of imprisonment already imposed
CHIN, Lau Ching	Conspiracy to possess heroin with intent to distribute; interstate travel to commit a drug offense	N. D. Ill.; June 27, 1990; 210 months' imprisonment, five years' supervised release	Commute prison sentence to time served, leaving intact and in effect the remaining provisions
CLARK, Donald R.	Conspiracy to manufacture, distribute and possess with intent to distribute marijuana	M. D. Fla.; November 4, 1994, as modified December 20, 1996; 329 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
COFFMAN, Loreta De-Ann	Conspiracy; possession with intent to distribute crack cocaine; use of telephone to commit drug offense; distribution of crack cocaine near a school	N. D. Tex.; November 12, 1993, as modified June 24, 1996, and February 26, 1998, 85 years' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
CURRY, Derrick	Conspiracy to distribute and possess with intent to distribute cocaine and cocaine base; aiding and abetting the distribution of cocaine base; and aiding and abetting the possession of cocaine base with intent to distribute	D. Md.; October 1, 1993; 235 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
DESALUS, Velinda	Possession with intent to distribute cocaine base	M. D. Fla.; December 18, 1992; 120 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
ELBAUM, Jacob	Conspiracy to defraud the United States; embezzlement from	S. D. N. Y.; October 18, 1999; 57 months' imprisonment, two years'	Commute prison sentence to 30 months'

	federally funded program; wire fraud; mail fraud; making a false statement; filing a false tax return; failure to file a tax return	supervised release, $11,089,721 in restitution	imprisonment, leaving intact and in effect the remaining provisions
EVANS, Linda Sue	1. Possession of firearm by convicted felon 2. Harboring a fugitive 3. Possession of firearm by convicted felon and false statements in acquiring firearms 4. Malicious damage to Government property and conspiracy to damage Government property	1. S. D. N. Y.; November 21, 1985; two years' imprisonment 2. S. D. N.Y.; July 10, 1986; three years' imprisonment (consecutive to No. 1) 3. E. D. La.; May 20, 1987 (modified on December 8, 1988); 30 years' imprisonment (consecutive to Nos. 1 & 2) 4. D. D.C.; December 6, 1990; five years' imprisonment (consecutive to Nos. 1 - 3)	Commute prison sentences to 25 years, eight months' and 11 days, leaving intact and in effect the remaining provisions. Action effectuates her immediate release.
FISH, Loretta Sharon	Conspiracy to manufacture and distribute methamphetamine	E. D. Pa.; December 8, 1994, 235 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
FRINK, Antoinette M.	Conspiracy to aid and abet the possession of cocaine with intent to distribute; aiding and abetting the possession with intent to distribute; counseling others to travel in interstate commerce with the intent of facilitating the possession of cocaine with intent to distribute	M. D. Ga.; July 11, 1989; 188 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
GOLDSTEIN, David	Conspiracy to defraud the United States; wire fraud; embezzlement from a federally funded program; mail fraud	S. D. N.Y.; October 18, 1999, 70 months' imprisonment; three years' supervised release; $10,118,182 in restitution	Commute prison sentence to 30 months' imprisonment, leaving intact and in effect the remaining provisions

GREENFIELD, Gerard A.	Possession of phencyclidine (PCP) with intent to distribute	D. Utah; September 9, 1993; 192 months' imprisonment, five years' supervised release; $25,000 fine	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
ISRAEL, Jodie E.	Conspiracy to manufacture; possess with intent to distribute and distribute marijuana; conducting financial transaction with proceeds from sale of controlled substances; distribution of marijuana	D. Mont.; February 4, 1994; 135 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
JOHNSON, Kimberly D.	Conspiracy to possess with intent to distribute cocaine base	D. S. C.; November 14, 1994; 188 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
LANGSTON, Billy Thornton, Jr.	Conspiracy to manufacture PCP; manufacture of PCP	C. D. Calif.; September 9, 1994, as modified by 1996 court order; 324 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
LUMPKIN, Belinda Lynn	Conspiracy to possess with intent to distribute crack cocaine and marijuana	E. D. Mich.; March 24, 1989; 300 months' imprisonment, three years' supervised release	Commute prison sentence to time served on condition that she serve a five-year period of supervised release with special condition of drug testing, leaving intact and in effect the remaining provisions
MACDONALD, Peter, Sr.	1. Racketeering; racketeering conspiracy; extortion by an Indian tribal official; mail fraud; wire fraud; and interstate transportation in aid of racketeering	1. D. Ariz.; November 30, 1992; 60 months' imprisonment, three years' supervised release, $10,000 fine, and $1,500,000 in restitution	Commute prison sentence to time served, leaving intact and in effect the remaining provisions

	2. Conspiracy to commit kidnapping; third-degree burglary	2. D. Ariz.; February 16, 1993; 175 months' imprisonment, five years' supervised release (concurrent with No. 1); $5,000 fine, $4,431.03 in restitution	
MANN, Kellie Ann	Conspiracy to distribute LSD; possession of LSD with intent to distribute; use of mail to facilitate drug offense	N. D. Ga.; January 26, 1994; 120 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
NINEMIRE, Peter	1. Manufacturing marijuana 2. Failure to appear	1. D. Kan.; April 26, 1991; 292 months' imprisonment, eight years' supervised release 2. D. Kan., June 28, 1991; 30 months' imprisonment, consecutive to No. 1, and three years' supervised release	Commute prison sentence to time served on the condition that he serve a five-year period of supervised release with a special condition of drug testing, leaving intact and in effect the remaining provisions
PADMORE, Hugh Ricardo	Possession with intent to distribute cocaine base	E. D. N. C.; October 31, 1995; 135 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
PROSPERI, Arnold Paul	Filing a false tax return; making, uttering, or possessing a counterfeited security with intent to deceive another	S. D. Fla.; March 27, 1998; 36 months' imprisonment, one year's supervised release, $25,000 fine	Commute any period of confinement that has already been imposed or will be imposed upon him that is in excess of 36 months, and further commute any such period of confinement to be served in home confinement, leaving intact and in effect the remaining provisions
REYNOLDS, Melvin J.	Bank fraud; wire fraud; making false statements to a financial institution; conspiracy to defraud the	N. D. Ill.; July 15, 1997; 78 months' imprisonment, five years' supervised release, $20,000 in restitution	Commute remainder of prison sentence to period of equal length to be served in a

	Federal Election Commission; false statements to a federal official		community corrections center, on condition of compliance with rules, leaving intact and in effect the remaining provisions
RIVEIRO, Pedro Miguel	Conspiracy to possess with intent to distribute cocaine	S. D. Fla.; February 9, 1995; 102 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
RIVERS, Dorothy	Obstruction of a federal audit; false statements to a federal agency; tax evasion; failure to file tax returns; wire fraud; mail fraud; theft from a federally funded organization	N. D. Ill.; November 17, 1997; 70 months' imprisonment, three years' supervised release	Commute prison sentence to 50 months' imprisonment, leaving intact and in effect the remaining provisions
ROSENBERG, Susan	Conspiracy to possess unregistered firearm; receive firearms and explosives shipped in interstate commerce while a fugitive and unlawfully use false identification documents; possession of unregistered destructive devices; possession of unregistered firearm; carrying explosives during commission of felony; possession with intent to use identification documents; false representation of Social Security number; possession of counterfeit Social Security cards	D. N. J.; May 20, 1985; 58 years' imprisonment	Commute prison sentences to an aggregate sentence of 25 years, eight months, and 11 days, leaving intact and in effect the remaining provisions of the sentences. Action effectuates her immediate release.
STERN, Kalmen	Conspiracy to defraud the United States; embezzlement from a federally funded program; wire fraud; mail fraud; filing a false tax return	S. D. N. Y.; October 18, 1999, 78 months' imprisonment, three years' supervised release; $11,179,513 restitution	Commute prison sentence to 30 months' imprisonment, leaving intact and in effect the remaining provisions
STRINGFELLOW, Cory	1. Conspiracy to possess with intent to distribute and to distribute LSD	1. D. Colo.; July 21, 1995; 188 months' imprisonment, four years' supervised release	1. Commute prison sentence to time served on the

	2. False statement in a passport application	2. D. Utah; November 17, 1995; four months' imprisonment (consecutive to No. 1); four years' supervised release	condition that he serve a five-year period of supervised release with a special condition of drug testing, leaving intact and in effect the remaining provisions 2. Sentence left intact and in effect
VIGNALI, Carlos Anibal, Jr.	Conspiracy to distribute cocaine; using facilities in interstate commerce with intent to promote a business enterprise involving narcotics; illegal use of communication facility to facilitate commission of controlled substance offense	D. Minn.; July 17, 1995; 175 months' imprisonment, five years' supervised release	Commute prison sentence to time served with a special condition of drug testing during supervised release, leaving intact and in effect the remaining provisions
WADDELL, III, Thomas Wilson	Conducting an illegal gambling business; conspiracy to commit money laundering	N. D. Calif.; January 13, 2000, 24 months' imprisonment, three years' supervised release; $7,500 fine; criminal forfeiture	Commute prison sentence to 12 months' imprisonment and one year's supervised release to be served before the three-year period of supervised release already imposed, leaving intact and in effect the already imposed three-year period of supervised release and the other remaining provisions of the sentence
WEINIG, Harvey	Conspiracy to commit money laundering; criminal forfeiture and misprision of felony	S. D. N. Y.; March 22, 1996; 135 months' imprisonment, three years' supervised release	Commute prison sentence to a term of imprisonment of five years and 270 days upon condition that he serve a period of supervised release of three years and 95 days, leaving intact and in effect the remaining provisions
WILLIS, Kim Allen	Conspiracy to distribute	D. Minn.; April 20, 1990;	Commute the prison

	cocaine; aiding and abetting the attempt to possess with the intent to distribute cocaine	188 months' imprisonment, five years' supervised release	sentence to time served, leaving intact and in effect the remaining provisions

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THE WHITE HOUSE
WASHINGTON

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January 26, 1996

PARDON ATTORNEY

MEMORANDUM FOR JAMIE S. GORELICK
DEPUTY ATTORNEY GENERAL

FROM: JACK QUINN
COUNSEL TO THE PRESIDENT

SUBJECT: Executive Clemency Policy

I write this memorandum to convey to you as well as the Pardon Attorney the essence of several recent directives I received from the President concerning his executive clemency policy.

Preliminarily, the President reiterated his belief that the power to grant executive clemency is an important presidential prerogative which he takes very seriously. As such, he asked me to express to you and to the Pardon Attorney his sincere appreciation for the care and attention with which your office reviews clemency requests. The President intends to continue to rely greatly on your joint recommendations regarding clemency applications.

The President has reviewed the criteria employed by the Department of Justice at present in determining whether to recommend that a particular clemency request be granted or denied. These criteria, of course, include: (1) post-conviction conduct, character and reputation; (2) seriousness and relative recentness of the offense; (3) acceptance of responsibility, remorse and atonement; (4) official recommendations and reports; and, (5) any specific need for relief. The President has also identified additional factors that he believes we should integrate into the evaluation of clemency applications. These factors fall broadly into two categories: those which militate in favor of granting clemency and those which raise a presumption that clemency should be denied. Use of these additional factors should provide for even greater consistency among the ultimate recommendations forwarded to the President for the many different types of requests submitted.

The following circumstances would weigh in favor of granting clemency:

1) Indications that the crime for which clemency is sought was truly aberrational, i.e., a lone instance of criminal behavior in an otherwise exemplary life.

EXHIBIT
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2) Cases committed long ago when the individual was very young and which do not involve major crimes.

3) Cases not involving major crimes in which the individual has clearly turned his or her life around by making sustained and significant contributions to the community since being released from prison.

By contrast, in certain cases, even extraordinarily exemplary actions post-conviction may not merit the remedy of executive clemency. These cases might include:

1) The commission of major crimes: There are categories of crimes which are so serious that the President will not consider granting a pardon for them under almost any circumstances. Such crimes would include large-scale drug trafficking, sex offenses involving minors, offenses involving central involvement in political corruption, or violent crimes such as murder or rape.

2) An extensive criminal history: Three or more separate convictions should raise a substantial presumption against granting a pardon with respect to any one of them. This presumption would only be overcome by a truly exceptional rehabilitative history involving exemplary service to the individual's community or country.

Again, these factors are not meant to supplant the criteria currently employed, but, rather, should enhance the analysis of clemency requests. As you and I have discussed, we would like to explore whether there are additional applications for clemency, pardons in particular, that should be considered. We do not intend to imply by this that the percentage of applications approved by the President should necessarily be substantially increased. We would, however, entertain additional requests in order to determine if such an increase may be appropriate.

Please do not hesitate to call me if you have any questions concerning the implementation of the guidance outlined in this memorandum.

cc: Margaret Colgate Love
Pardon Attorney

U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

February 6, 2001

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Chairman:

This supplements our response to your letter, dated January 25, 2001, and responds to the letter, dated February 1, 2001, from the Committee's chief counsel, regarding President Clinton's grants of clemency on January 20, 2001.

With regard to your letter of January 25th, we have been advised by the Federal Bureau of Investigation that they have no information indicating that Messrs. Rich or Green have entered the United States since 1983.

In response to Mr. Wilson's letter of February 1st, I want to advise you that the following persons did not file clemency applications with the Department of Justice prior to President Clinton's clemency grants of January 20, 2001:

1. Tansukhlal Bhatka
2. Almon Glenn Braswell
3. John H. Bustamante
4. Henry G. Cisneros
5. Roger Clinton
6. John F. Cross, Jr.
7. Richard Douglas
8. Edward Reynolds Downe
9. Robert Clinton Fain
10. Alvarez Ferrouillet
11. Lloyd Reid George
12. John Hemmingson
13. Linda Jones
14. James Howard Lake
15. James Timothy Maness
16. Susan H. McDougal
17. Richard H. Pezzopane



18. Charles D. Ravenel
19. Adolph Schwimmer
20. Stephen A. Smith
21. John Fife Symington III
22. Christopher V. Wade
23. Jack L. Williams
24. Jimmie Lee Wilson
25. William Stanley Yingling
26. Velinda Desalus
27. Kimberly D. Johnson
28. Arnold Raul Prosperi
29. Dorothy Rivers
30. Thomas Wilson Waddell III

Although the following persons had previously filed clemency applications with the Department of Justice, such applications had been denied by President Clinton on December 28, 1998, and thus were not pending with the Department at the time of President Clinton's clemency grants on January 20, 2001:

1. Rickey Lee Cunningham
2. Rubye Lee Gordon
3. John Robert Martin
4. Frank Ayala Martinez
5. Silvia Leticia Beltran Martinez
6. Miguelina Ogalde
7. Orville Rex Phillips
8. Howard Winfield Riddle
9. Gerald Glen Rust
10. Jerri Ann Rust
11. Gary Allen Thomas
12. Larry Weldon Todd
13. Patricia A. Van De Weerd
14. Mitchell Couey Wood

When Eloida Candelaria and William Denis Fugazy filed pardon applications, they were not eligible to apply because of the provision in the Rules Governing Petitions for Executive Clemency requiring a five year waiting period from the date of release from confinement or from the date of conviction, whichever is later, before a person is eligible to apply for this type of clemency. The Department considered their petitions as requests for waivers of this five year period and both requests were denied. Accordingly, neither had applications pending at the Department when the pardons were granted on January 20. The clemency application of Louis Goldstein was pending at the time of President Clinton's clemency grants of January 20, 2001.

I hope that this information is helpful. Please do not hesitate to contact me if you would like additional assistance regarding this or any other matter.

Sincerely,

Sheryl L. Walter

cc: The Honorable Henry Waxman
Ranking Minority Member

FD-302 (Rev. 10-6-95)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/01/1999

Roger C. Clinton, date of birth (DOB), [redacted], [redacted], Redondo Beach, California, (310) [redacted], was interviewed at his residence. After being advised of the identity of the interviewing agents, and the nature of the interview, Clinton stepped out into the front yard of the house, and voluntarily agreed to answer questions. He thereafter provided the following information:

Clinton advised he first met Tommy Gambino about four to four and a half years ago. He was introduced to Tommy Gambino at a club in Beverly Hills by a man named Pasquale (LNU), who was the manager for musician Gino Vinelli. Clinton could not provide the name or location of the club.

Clinton stated that the two most common questions he gets asked regularly are, "What is it like to be the President's brother? and Can you help me get someone out of jail?" Clinton stated after talking to Tommy Gambino he knew the reason for the introduction was to see if he could help Tommy Gambino get his father released from prison.

At this point, Clinton and the reporting agents moved from the front lawn of the house to the side of the house and stood on the driveway for the remainder of the interview.

Clinton advised that after he began to spend time with Tommy Gambino, he learned about the family and the efforts that they have made to get Tommy Gambino's father, Rosario, released from prison. They have hired very qualified attorneys and been through the appeal process. Clinton stated that he identified with Tommy Gambino on a number of levels and because of this, he became passionate about trying to help him get his father released.

Clinton stated that since Rosario Gambino has been in prison, Tommy has had to grow up without a father. Clinton advised that he, too, had grown up without a father, and sympathized with that position. Tommy Gambino has a close knit Italian family. Clinton stated that when he grew up in Arkansas he and his brother grew up close to an unnamed tight knit Italian family. He further

FBI-RC-00001

UPLOADED - C
DATE: 12/29/99 - Notarized

Investigation on 9/30/99 at Redondo Beach, CA

File # 72-BA-96138 Date dictated 10/1/99

by SA Tracey Silberling
SA Kevin M. Adley

ATTACHMENTS

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to yo it and its contents are not to be distributed outside your agency.

EXHIBIT 4

FBI/DOJ-Boyers, PA

stated that he has is own prison experience which has given him an insight to the prison system. Through his experience of being incarcerated, he claimed to have learned that things are not always as they appear or as they are reported.

Clinton advised that Tommy Gambino provided him with all the case files related to his father's case. He has spent hours reviewing all the files. Clinton stated that after his full review of the case, he does not believe Rosario Gambino is being treated fairly. Rosario Gambino has served three years longer than the maximum guidelines for his offenses. He has been given release dates on two occasions and they have both been denied. The same person, whose name he declined to provide, has denied the release, and provided different reasons each time. Clinton further advised that he believes Tommy Gambino's father may be treated differently than other people strictly because of this name. Clinton advised that he too has experienced that problem. He stated that the name can be both a positive or negative depending on the circumstances.

Clinton stated that after getting to know Tommy Gambino, and reviewing Rosario Gambino's case file, he wanted to help the family. He told Tommy Gambino that he would not agree to help the family unless they provided him with all the information related to the case. Clinton told Tommy Gambino that he did not want any information withheld that might effect his decision to help the family. Gambino told Clinton if there is any information withheld from you, it was also being withheld from him (Tommy Gambino). Clinton stated he really felt for the family and grew passionate about trying to help them. He further advised that he told Tommy Gambino that by his providing assistance and making contact with the U.S. Parole Commission to seek assistance with this case, it could actually work against him. Clinton stated his name will not necessarily be an advantage when it comes to fighting this matter. Gambino was willing to take the risk and have Clinton attempt to help.

Clinton stated that his agreement to help Tommy Gambino attempt to obtain the release of his father from prison was purely informal. They did not write any contracts or discuss specific compensation for the assistance. Clinton told Tommy Gambino that he did not know if his efforts to assist would produce any positive results. In fact, he stated some of the officials he contacted might be worried about appearances of helping him because of his name, and that could work against them. Clinton said, "As you can see, I was right. To date, my efforts have provided no help".

Clinton stated that he knew his name associated with the Gambino name would raise some eyebrows, but he did not realize it would generate this much interest.

Clinton stated he did not discuss his decision to assist the Gambino family in this case with anyone. He advised he telephoned the U.S. Parole Commission directly and asked for the names of the individuals who are members of the Commission. He then began to telephone and write letters to individuals on the Commission in an attempt to arrange meetings and discuss the case. Clinton stated he did not tell his brother, the President of the United States, specifically what he was working on. He believes, however, that the President knew he had some business with the U.S. Parole Commission, but did not know specifically what he was working on. He did not tell his brother that he was working on the Rosario Gambino case. He did not seek advise or referrals from the President in his efforts to contact the Parole Commission on behalf of Rosario Gambino.

Clinton stated that he did not represent to anyone on the Parole Commission that his brother was aware of his efforts to assist the Gambino family or that the President was supporting his effort to assist in getting Rosario Gambino released from prison. Clinton stated he would not ask the President for help in a matter like this. Clinton further stated that is why he was keeping his contact with the U.S. Parole Commission "above-board." In fact, during the process he learned from someone at the Parole Commission that if he was to receive information regarding a specific case, he would have to obtain a waiver from the prisoner or his or her family. He would have to register himself as an official representative of that person, in order to permit the authorized disclosure of personal and protected information. Clinton stated as soon as he learned that, he processed the proper paperwork to register as an official representative of Rosario Gambino.

Clinton stated that one of the individuals he met with on the Parole Commission was Tom Kowalski. Another individual he attempted to meet with was the Commissioner Michael Gaines. Clinton stated that he knew Gaines from growing up in Arkansas. He placed a telephone call to Gaines office requesting an after hours meeting or dinner with Gaines. Clinton advised Gaines must have known what he wanted to discuss because Gaines assistant called Clinton back and told him that it was inappropriate for Gaines to speak with Clinton regarding a case. He has placed telephone calls, written

letters and attempted to set up meetings with others on the Commission to discuss the Gambino case.

Clinton advised that he did not want to provide the names of specific people he has spoken with concerning this matter. Clinton said "I'm sure it is a public record and you can find out by checking the records."

Clinton was asked if he was ever given anything of value for his assistance in this matter. He advised he had not received anything for this assistance. Clinton stated that Tommy Gambino said if he (Clinton) could help get his father released from prison, "we will take care of you." Clinton said that he knows what that means. He stated " I'm not stupid, I understand what the big picture is." He again stated that no specific compensation was discussed if he were to be successful in obtaining Rosario Gambino's release. Clinton advised it was his understanding if he were successful, he would be financially compensated. Clinton is not sure however, if he will be able to help Tommy Gambino and his family. Clinton then stated that he had received two airline tickets to Washington DC from Tommy Gambino and expenses for the trips. Tommy Gambino put the airline tickets on his credit card. Clinton also admitted to having received an undisclosed amount of expenses, but did not provide any information as to how the expense money was furnished to him.

Clinton was asked if he had received any gifts from Tommy Gambino while he was assisting the family with the case, and Clinton initially responded "no." After further inquiry, Clinton then advised "I was shown a Rolex watch once, but it was not given to me." Clinton explained that the watch was on the wrist of Tommy Gambino who asked Clinton if he ever had a Rolex.

Clinton related that he and Tommy Gambino were discussing watches and cigars at a coffee shop in Beverly Hills, the name and location of which Clinton could not remember. He stated he and Tommy Gambino got into a conversation about cigars. Clinton stated he knew that if the embargo on Cuban cigars ever got lifted, "they could all make a lot of money." Clinton recalled a conversation, the date or approximate time of which he could not recall, he had with his brother, Bill Clinton, who told him the cigar embargo would not be lifted while he was still President. President Clinton allegedly said "The embargo will be eased for food and medicine because that is the direction the world is going, but not for cigars, not during your life time."

Clinton stated that after leaving the coffee shop, Tommy Gambino took him to look at watches at an unnamed "pawn shop," also in Beverly Hills, California where they encountered actor and Hollywood celebrity George Hamilton. Clinton said Hamilton, who is "a friend of Tommy's," sells watches and cigars. Clinton said Hamilton had a briefcase full of watches which he displayed to Clinton and Gambino, but they left without buying a watch.

Clinton subsequently reversed his earlier denials and admitted to having actually received a watch from Tommy Gambino, who told him it was an "Italian custom" to give such a gift as a token of appreciation. Clinton could not remember either when he was given the watch, or where he was when he received it. Clinton claimed, however, he did not keep it, but returned it to Gambino after he had "heard" the watch is a "fake." Clinton could not remember who told him the watch was an imitation, or when he had learned it was a "fake."

Clinton again amended his previous statement when pressed for details regarding the watch's return. Clinton stated that even though it was supposed to be "a fake," he did not return the watch because it was a gift of appreciation from the family. Clinton contended that he never wore it because it was "too gaudy" with a thick gold band and a blue face. Clinton said he was confused in that he did not know the present location of the watch. Clinton stated "Tommy could have it," or that he may actually still have the watch. He stated "he really didn't know." Clinton advised "It could be in my flippin trunk for all I know, it could be in my garage, or almost anywhere." Clinton offered to locate the watch "if it is really important, but it's going to take a lot of effort, so don't ask unless you really need it." Clinton was asked to look for the watch after the interview and contact the interviewing agents if he located it. Clinton agreed to do so.

Clinton asked if Tommy Gambino was in trouble and if he was involved in something Clinton should know about. He stated that as far a he knew, Tommy Gambino is very clean.

Clinton advised he is currently trying to buy a house in the Torrance, California area and Tommy Gambino has offered to loan him an undisclosed amount of money for the down payment. This loan is not compensation for his assistance to the Gambino's in attempting to get Rosario Gambino released from prison. The offer is for a loan which must be repaid. It is not to give Clinton the

money. This offer was made regardless of the outcome with Clintons efforts to obtain Rosario Gambino's release.

Clinton repeatedly asked if Tommy Gambino was in trouble. He said he felt very uncomfortable about giving information about Tommy Gambino because he was a friend. Clinton stated he learned in prison not to "rat" on people. He said he is very uncomfortable giving the reporting agents any names unless he is given a very specific reason for the need. Clinton stated "I don't even have to talk to you guys." The reporting agents acknowledged Clinton's comment, and again thanked him for his cooperation and answering questions.

Clinton stated that he does now own a silver Rolex watch. He bought it from an unknown street vendor in front of a "rainbow" or "multicolored" hotel in Tijuana, Mexico. He paid $250 dollars for the watch in cash and has no receipt of the purchase. He could not provide either the name, street address or approximate location of the hotel.

Clinton went inside the residence and returned with the watch he purchased in Mexico. The watch is a Rolex Oyster Perpetual Date Explorer II, with an expandable silver band. On the reverse side of the face, a faint serial number 16570 appeared below the Rolex logo inside the green medallion.

At this stage in the interview, the interviewing agents advised Clinton of the provisions of Title 18, U.S. Code Section 1001 and the criminal exposure of making false statements to federal agents. Clinton was informed it was a violation of law to provide false information to federal law enforcement officers and that he could be prosecuted, fined and imprisoned for doing so. Clinton was then asked, after being advised of Title 18, U.S. Code Section 1001, would he care to change or otherwise amend any of his previous statements, and Clinton replied "No," he was comfortable with what he had said.

Clinton was asked about his business travel. He stated that he has made a number of business trips to foreign countries over the last few years. Clinton stated that he is a musician and plays with a six piece band. He has received invitations from Presidents and other foreign government leaders from between 10-12 different countries. Clinton advised he knows he receives these invitations strictly because he is the First Brother of the President of the United States. Clinton advised that the President

is aware of the invitations, in general, but may not know each time he takes a trip. Clinton stated that when he receives an invitation to visit a country he is often offered money by the country to make the trip. He stated that he would not accept the invitation unless he could earn the money. He insists on performing with his band while visiting the country. He is a musician and wants to be recognized for his music. Clinton stated he receives a minimum of $25,000 per performance when he travels. He may play a few nights during a given trip. He likes to perform for children during these trips and attempts to make those arrangements.

Clinton stated he has traveled to South Korea approximately six times. He has gone as the personal guest of President Kim Dae Jong (phonetic). He has been paid as much as $200,000 for performing on a trip. He has also traveled to Japan, Argentina and 8 to 10 others countries. Clinton stated that the country extending the invitation usually pays for him and his six piece band to fly to the country and perform. The host country usually pays all their expenses and provides a Presidential security detail while they are there.

Clinton stated he has received payment for these performances in a number of ways. He has received payment by check in United States dollars, cash in United States dollars and also in the currency of the host country. Clinton stated in some instances the foreign government even provides extra funds to cover the costs of taxes that would be assessed against the money. Clinton advised he did not want to provide specific details on what exactly he is paid for his performances or the method of payment because that is "personal."

Clinton stated that when he receives an invitation to a country he always calls the National Security Council to get the clearance to make the trip. He stated that they usually say no at the very beginning, then he talks them into agreeing to let him make the trip. Clinton stated that he always provides the Security Council with an itinerary whenever he makes one of these trips. Clinton advised that he usually does not take his wife on these trips because he considers these trips to be business trips. She has gone on one or two of the trips with him. Clinton stated that just last week they got back from Kazakhstan.

Clinton advised that while he visits foreign countries as their guest he is often presented with all kinds of gifts. Examples he gave were vases, sheep skin rugs and many more he could not

remember. He also received gifts for the President which he has sometimes kept. Clinton advised that in his earliest trips, at the beginning of the Presidents term, he would be offered money for the President from some of the foreign government officials he was visiting. He stated years ago he did not know he could not accept money for the President. Clinton stated he was told by either the President or his staff that he could not bring money back from a foreign country for the President. He advised he was told on a couple of occasions to send the money back because the President was not allowed to accept money from a foreign country.

Clinton was asked if he reported the money he earned on his foreign country visits as income on his United States tax returns. He stated that yes he reported the income. He was asked if he claimed the expenses on his tax returns as well. Clinton stated that he only claimed the expenses that he actually paid for on his tax returns. Clinton further advised that years ago he had some tax problems. At one point he owed between $40,000 to $60,000 dollars in taxes. He made arrangements with the Internal Revenue Service (IRS) to pay of the tax debt, and does not want to have any more problems.

Memorandum

Subject	Date
Gambino, Rosario Reg. No. 06235-050	January 31, 1996

To	From
The File	Michael A. Stover General Counsel U.S. Parole Commission

On January 30, 1996, I was asked by Commissioner Gaines for advice as to how to proceed with regard to a telephone message that had been taken down for him by the NAB secretary. The message purported to be from Roger Clinton, brother of the President. The message was that Roger Clinton had a "very important" matter to discuss, and that his brother had recommended meeting with Commissioner Gaines. Commissioner Gaines was reluctant to return this telephone call because the case was pending a decision by the National Commissioners under 28 C.F.R. § 2.17. Given the ethical and legal implications of this telephone message, and the impropriety of a National Commissioner accepting telephone calls about a case pending review, I volunteered to return the call for Commissioner Gaines, and to advise his caller as to the Commission's procedures.

With Deputy DAEO Sharon Gervasoni present, I thereupon returned Roger Clinton's telephone call at (310)[redacted] I spoke with a man who introduced himself as Roger Clinton, and who began the conversation by informing me that his brother "...is completely aware of my involvement." Roger Clinton stated that his brother had recommended to him that he not meet with Commissioner Getty (as Roger Clinton had originally sought to do) because Commissioner Getty's Kansas City Regional Office was about to be closed. Roger Clinton informed me that his brother suggested that he contact Commissioner Gaines instead. (I knew about the previous contact with Commissioner Getty's office, and that Roger Clinton is apparently a friend of Rosario Gambino's son Thomas, who also lives in California.)

I informed Roger Clinton that I was returning the telephone call on behalf of Commissioner Gaines, and that the Privacy Act of 1974 prohibited Commissioners and staff of the U.S. Parole Commission from discussing any case with a member of the public without a signed waiver from the inmate in question authorizing disclosure of file material. I further informed Roger Clinton that Commissioner Gaines could not meet with him because, even if Roger Clinton were an authorized representative of the inmate, he would have to appear before the hearing examiners at a regularly-scheduled parole hearing. (Roger Clinton had a copy of the hearing summary in this case, and was aware that a

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hearing had just been held in December.) I explained the Commission's procedures whereby hearing examiners make recommended decisions after hearing presentations on the record, and that Commissioners vote and make their decisions without meeting with prisoners' representatives. I explained that, in this respect, the Commission operates like a court of law.

Roger Clinton evinced his strong disappointment upon learning that he could not meet with Commissioner Gaines about this case. He complained that he had been given inconsistent advice, because he had already set up a meeting with Hearing Examiner Sam Robertson in the Kansas City office, who allegedly promised him that Commissioner Getty would be there. I informed him that such a meeting would not have been appropriate. Roger Clinton then asked me how it could be that the President would be misinformed as to the law, and emphasized that the President had suggested that he should meet with Commissioner Gaines, "...a friend of ours from Arkansas." Roger Clinton professed his bewilderment as to how the President would not be knowledgeable as to the law with regard to the propriety of this suggested meeting. He stated that he would have to inform his brother that his brother had been wrong. I replied that it would be an honor for me to be advising the President of the United States, directly or indirectly, as to the law. Roger Clinton again stated that he would have to report this information to his brother, who would be "glad to know" what I had said. During this colloquy, however, Roger Clinton's voice rose, and betrayed the fact that he was upset with what I was saying.

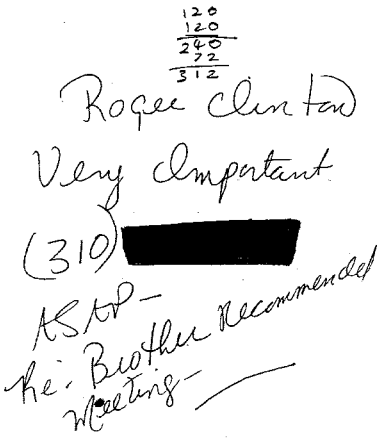
I concluded the conversation by informing Roger Clinton that the proper course for him to take would be to submit a letter to the Commission, addressed to Vice Chairman Clay, presenting his views as to how the Commission should decide Mr. Gambino's case. I informed Roger Clinton that any interested member of the public could do this. I also informed him that the Commission could grant parole, deny parole and schedule a rehearing at the normal time, or remand the case for another hearing if information requiring a remand were brought to their attention. I told Roger Clinton that he could ask the Commission to remand the case for another hearing, and that if such a hearing were ordered, that he (Roger Clinton) could appear and be heard, if he were to be selected by the inmate as his authorized representative.

At several points in the above conversation, Roger Clinton stated that he wished only to know what the correct procedures were, and to do everything in the proper way. However, both the Deputy DAEO and I are disturbed at the tactic employed by Roger Clinton of repeatedly invoking his brother as having (allegedly) recommended that he meet with Commissioner Gaines on the basis of that Commissioner being "...a friend of ours from Arkansas." The U.S. Parole Commission must not permit itself to be subjected to improper attempts to exercise political influence over its procedures. (Roger Clinton did not address himself to the merits of the case itself.) If Roger Clinton sends the Commission a letter that repeats these suggestions of political influence, I intend that the letter be referred immediately to the Deputy DAEO for review rather than admit it into the record. Although Roger Clinton is a member of the public who has the right to communicate his views to the Parole Commission, the Commission should not allow the fairness of its deliberations to be placed in doubt through inclusion in the record of any communication

that gratuitously introduces the factor of a potential political influence into the case. My preference is for the Commission to vote a decision based only on the facts of the Gambino case, and without reference to this episode.

Finally, I have discussed the situation with Commissioner Gaines, who agrees that the Commission should be shielded, if at all possible, from the unwelcome intrusion of a man who would appear to have nothing to contribute to the Commission's deliberations in the Gambino case but a crude (and I hope unauthorized) effort to exercise political influence. Commissioner Gaines is prepared to vote on the Gambino case, as scheduled, based solely on the file information. Neither I nor the Deputy DAEO find any reason for Commissioner Gaines to recuse himself in this matter, given his correct refusal to permit Roger Clinton to speak or meet with him.

MAS/ae



USPC/Gambino--00896

DAN BURTON, INDIANA
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA
RANKING MINORITY MEMBER

ONE HUNDRED SEVENTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143

Majority (202) 225–5074
Minority (202) 225–5051

February 15, 2001

The Honorable William J. Clinton
Office of Former President Clinton
Washington, D.C. 20503-0730

Dear Mr. Clinton:

The Committee on Government Reform has been conducting an investigation of pardons issued by you to Marc Rich and Pincus Green. In order to arrive at a more complete understanding of the facts of this matter, the Committee respectfully requests that you waive all potential claims of privilege that you might be able to assert over communications pertaining to the pardons of Mr. Rich and Mr. Green. As you are aware, President Reagan waived potential claims of privilege during investigations of the Iran-Contra matter, and it is my hope that you will take the same step in this inquiry.

Sincerely,

Dan Burton

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Member
David E. Kendall, Esq.



LAW OFFICES
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(202) 434-5000
FAX (202) 434-5029

EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

DAVID E. KENDALL
(202) [redacted]

February 27, 2001

The Honorable Dan Burton
Chairman
Committee on Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Former President Clinton has requested that I respond to your letter to him, dated February 15, 2001, copied to me, requesting him to waive all Executive Privilege claims he might be able to assert with respect to the testimony of former White House officials "over communications pertaining to the pardons of Mr. Rich and Mr. Green." He has asked me to inform you that he will interpose no Executive Privilege objections to the testimony of his former staff concerning these pardons, or to other pardons and commutations he granted.

Sincerely,

David E. Kendall

cc: The Honorable Henry A. Waxman, Ranking Minority Member
Judge Alberto R. Gonzales, White House Counsel



National Archives and Records Administration

8601 Adelphi Road
College Park, Maryland 20740-6001

June 21, 2001

Mr. Jim Wilson
Committee on Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6143

By Facsimile

Dear Mr. Wilson:

On June 7, 2001, the National Archives and Records Administration (NARA), in accordance with the Presidential Records Act (PRA), 44 U.S.C. § 2205(2)(C), provided the Committee on Government Reform with approximately 38 file folders containing Presidential records of the Clinton Administration in response to paragraph one of the March 8, 2001, request from Chairman Burton. That paragraph requested all records relating to the consideration of executive grants of clemency for a list of 18 individuals.

As we discussed on the phone, some of the records that were provided to the Committee were inadvertently produced. Accordingly, we now request the return of these records, and any copies made thereof. Attached to this letter is a list of the records, by file folder, that had been inadvertently produced. We would be happy to assist you if you have any further questions about which particular documents are involved.

We very much regret the processing error that resulted in this inadvertent release, and greatly appreciate your cooperation in facilitating the return of these records. (We will be contacting the Minority staff on this matter as well.)

Sincerely,

GARY M. STERN
General Counsel

Cc: Brett Kavanaugh, Associate Counsel to the President

Attachment

EXHIBIT
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ATTACHMENT

The following is a list of Presidential records, by file folder, that were inadvertently provided to the Committee. Except as itemized in item 6, the entire contents of each folder were inadvertently produced.

1. Counsel's Office – Emily Karcher/Beth Nolan, OA 24963 (loose material)
2. Counsel's Office – Emily Karcher/Beth Nolan, OA 24963 (loose material)
3. Counsel's Office – CF 2031 – Charts
4. Eric Angel – OA 24522 Folder.
5. Meredith Cabe – Counsel's Office CF 2031 – DOJ Denials & Comm. - Vignali
6. Meredith Cabe – Counsel's Office CF 2034 – DOJ materials – New Square (deliberative documents: Facsimile cover sheet from Deborah Landis, DOJ, to Beth Nolan, Memo from Landis to Nolan, 1/16/01, including 10 pages of sentencing transcript; Facsimile cover sheet from Lorraine Lewis, OIG, Dept. of Education, duplicate copy of Landis to Nolan, 1/16/01 memo, including sentencing transcript)
7. Counsel's Office – Bruce Lindsey – OA 21524 Folder Title: Misc. Pardon Material
8. Counsel's Office – Bruce Lindsey – OA 24817 Folder Title: Pardons Misc.
9. Counsel's Office – Bruce Lindsey OA 21523 Folder Title: General Pardon File
10. John Podesta – OA 22060 Folder: Briefing Materials December 2000- January 2001
11. Staff Secretary – OA 22085 Monday, November 20, 2000
12. Staff Secretary Chron. December 12- 19, 2000 OA 22086 Folder: Tuesday, December 19, 2000
13. Staff Secretary Chron. December 12- 19, 2000 OA 22086 Folder: Friday, December 22, 2000
14. Staff Secretary Chron. December 12- 19, 2000 OA 22086 Folder: Thursday, December 28, 2000
15. Staff Secretary Chron. December 12- 19, 2000 OA 22086 Folder: Tuesday, January 2, 2001
16. Vignali, Carlos & Others - Charts

REPORT TO THE PRESIDENT

ON PROPOSED DENIAL OF EXECUTIVE CLEMENCY FOR

CARLOS ANIBAL VIGNALI, JR.

Offense:	Conspiracy to distribute cocaine; using facilities in interstate commerce with intent to promote a business enterprise involving narcotics; illegal use of communication facility to facilitate commission of a controlled substance offense.
Sentence:	175 months' imprisonment; five years' supervised release.
Date:	July 17, 1995.
District:	Minnesota.
Relief sought:	Commutation.

Summary of essential facts:

From the mid-1980's to November 1993, Gerald Williams operated a major powder and crack cocaine distribution organization in the Minneapolis/St. Paul area. Beginning in 1992, Williams's principal supplier of supply was California resident Dale Evans, who, in early 1993, began obtaining his cocaine from petitioner and another co-conspirator. Law enforcement authorities conducted a six-month wiretapping investigation, which intercepted conversations among petitioner, Evans, Williams, and others, discussing shipments of cocaine to Minnesota. One of those shipments, which contained six kilograms of the [illegible], was intercepted by postal inspectors in October 1993. During that same month, petitioner also sold three kilograms of cocaine to another major Minnesota distributor, Todd Hopson, who cooked the powder into crack for sale.

In December 1993, the government filed a 34-count superseding indictment, charging petitioner and 30 codefendants with various offenses in connection with the trafficking conspiracy. Petitioner was the sole Hispanic defendant; all of the others were African-American.[1] Most pleaded guilty; only petitioner and three others went to trial. The jury convicted petitioner of conspiracy and two substantive counts, while acquitting him of a third substantive count.

[1]Petitioner's defense counsel used this fact to argue his client's innocence to the jury, characterizing the case as involving a "black drug dealing network," and emphasizing that petitioner was not black.



The presentence report recommended that petitioner receive a two-level enhancement for role in the offense, as well as a two-level enhancement for obstruction of justice due to his commission of perjury during his trial testimony, which would have resulted in a sentencing range of 235-293 months' imprisonment. The sentencing court declined to follow either recommendation, reducing the range to 151-188 months, but imposed a sentence of 175 months after finding that petitioner's role as a supplier of cocaine tends to make him more culpable and warrants a sentence in the upper end of the guideline range.

The Eighth Circuit affirmed petitioner's conviction, rejecting *inter alia* petitioner's claims of improper joinder and "vouching" by the prosecution for the credibility of its witnesses. The appellate court agreed with the district court that "there was considerable evidence of Vignali's guilt." Petitioner then filed a motion pursuant to 28 U.S.C. 2255, collaterally attacking his conviction on the grounds of ineffective assistance of counsel, which was denied by the district court. The Eighth Circuit refused his request for a certificate of appealability of the court's ruling.

Petitioner has two 1989 convictions, for fighting in a public place, for which he received a $84 fine, and vandalism, for which he received 12 months probation. The conduct on which the latter conviction was based appears to have been associated with his admitted membership in the "West Covina Mob," a Los Angeles gang. He also has a 1988 arrest for reckless driving (disposition unknown) and a 1990 arrest for inflicting corporal injury on a spouse or cohabitant (case dismissed).[2]

Grounds for clemency:

Now 28 years old and projected for release in A[illegible] 2007, petitioner seeks clemency primarily on the grounds of innocence, maintaining that a $25,000 loan to a friend was misconstrued as a drug deal. He argues that he was convicted solely on the basis of "misinterpreted" recorded telephone conversations and the "highly rewarded" testimony of a co-conspirator. He also complains that he had no prior contact with the state of Minnesota and that he was acquainted with only two of his 29 co-defendants. Finally, he contends that the 175-month sentence "for a 21 year old, first time, nonviolent offender with no significant prior record is unwarranted."[3]

Two United States congressmen from California have expressed interest in petitioner's case. Congressman Estaban E. Torres wrote in support of clemency for petitioner on the grounds he had "no prior criminal record" and that the government had failed to prove its case:

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[2]Petitioner did not disclose these arrests on his commutation petition, although the application form requires such disclosure.

[3]It should be noted that petitioner was 24 years old at sentencing and 22 years old at the time of most of the conduct for which he was convicted.

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Neither drugs nor drug money was found in Carlos's possession. Carlos had simply loaned money to a friend, who happened to be involved in the sale of narcotics. At trial, the evidence offered against Carlos was misinterpreted telephone recordings between Carlos and his friend and the testimony of another alleged co-conspirator, who had negotiated a reduced sentence in exchange for his testimony.

Congressman Xavier Becerra telephoned the Office of the Pardon Attorney in connection with petitioner's application and requested an explanation of clemency procedures.

Official comments:

United States Attorney B. Todd Jones strongly o[illegible]s clemency for petitioner, noting that petitioner's persistent claims of innocence are undermined by strength of the evidence presented against him:

> Th[e] testimony [of the cooperating coconspirators] was consistent and independently corroborated by the Title III wiretap interceptions, search warrant evidence and police surveillance. The evidence clearly established that Carlos Vignali, Jr. was a member of the charged drug conspiracy and facilitated the distribution of narcotics in the Twin Cities by supplying Evans, Williams and Hopson with substantial quantities of cocaine from Los Angeles, California.

Mr. Jones noted that the two main cooperating coconspirators, Williams and Evans, received sentences of 180 months and 95 months respectively. He concluded by stating:

> The sentence imposed by Judge Doty reflects the seriousness of the defendant's role in a large scale narcotics conspiracy as the [illegible]rnia source of cocaine to Evans, Williams, and Hopson. To my knowledg[illegible]Vignali has refused to accept personal responsibility for his criminal activities and has never expressed sincere remorse for his conduct. In light of the exacting standards generally applicable in pardon cases, this case does not warrant such a commutation.

he recommended other cases where contested?

Reasons for denial:

In applying for clemency, petitioner has to a large degree merely recycled arguments already rejected by the jury and the courts. He continues to deny his guilt, and his petition contains misleading statements and misstatements of fact. As for his allegation that he has no connection to Minnesota, the jury convicted him of the offense of supplying large quantities of cocaine to distributors in that state. Moreover, his contention that his sentence is excessive fails in light of the sentencing record, which establishes that the district court accorded him leniency in refusing to adopt two enhancements recommended by the presentence report. For all these reasons, I recommend that you deny his petition.

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Respectfully submitted,

Roger C. Adam

Pardon Attorney

Date: 1/12/01

Need to XC
for Bruce.

Definitely isn't
simply make me
a loan —
& do we believe
the gang thing?
USA is actually
against — maybe we
should call

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THE WHITE HOUSE
WASHINGTON

Hugh says this is very important to him and the First Lady as well as others.

Sheriff Baca (from LA) is more than happy to speak with you about him but is uncomfortable writing a letter offering his full support.



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REPORT TO THE PRESIDENT

ON PROPOSED DENIAL OF EXECUTIVE CLEMENCY FOR

HARVEY WEINIG

Offense:	Conspiracy to commit money laundering; misprision of felony.
Sentence:	135 months' imprisonment; three years' supervised release; criminal forfeiture.
Date:	March 22, 1996.
District:	Southern New York.
Relief sought:	Commutation of sentence.

Summary of essential facts:

In May 1993, petitioner, a New York attorney who specialized in commercial litigation, established the law partnership of Hirsch Weinig in Manhattan with attorney Robert Hirsch. The two men had been partners in another law firm that dissolved due to financial difficulties, and both continued to represent certain clients with whom they had previously established professional relationships. One of the clients Hirsch continued to assist was Tohmes Peter, a resident of Germany who was part of an international network (eventually numbering approximately 30 people, including petitioner and Hirsch) that had been engaged for about two years in laundering millions of dollars annually for Colombian drug traffickers reportedly involved with the Cali cartel.[1]

In October 1993, Hirsch requested petitioner's help in retrieving for Peter $267,830 in cash that had been seized in Puerto Rico by Drug Enforcement Administration (DEA) agents from one of Peter's couriers, and a suitcase containing another $260,000 that the courier had stored at the Sands Hotel there. Petitioner recruited one of his clients, a "street smart" former fireman turned small businessman named Richard Spence, to travel to Puerto Rico to reclaim the suitcase of cash from hotel security personnel. Spence accepted the assignment and went to Puerto Rico but was unsuccessful in obtaining the valise of cash from the hotel. During the next several weeks, petitioner and Hirsch filed a civil action in the Eastern District of New York against the Sands Hotel on behalf of the courier alleging that the hotel had mishandled the suitcase, and Hirsch traveled to Germany to confer with Peter about the courier operation. Upon his return, Hirsch, petitioner, and Spence developed a plan under which Spence agreed to

[1] By the conclusion of their investigation, federal authorities amassed evidence indicating that the ring laundered approximately $50 million between 1991 and late 1994.



supervise the courier operation,[2] take custody of the cash that the couriers transported through the United States and Canada for the Colombian drug traffickers, and deposit the funds in bank accounts controlled by him or the firm of Hirsch Weinig. Spence, Hirsch, or petitioner would then wire the funds to foreign bank accounts, primarily in Switzerland, that were controlled by other members of the conspiracy, who in turn would transfer the funds to bank accounts designated by the Colombians. The three men further agreed that they would divide the profits derived from Spence's work equally among them, with each receiving one-third of the commission paid on each transaction.[3]

In early 1994, as petitioner and his associates deepened their involvement with the money laundering operation, the DEA, FBI, and New York City Police Department began a joint investigation of the ring, utilizing physical surveillance, court-authorized wiretaps of telephone lines, and undercover operations, among other methods, to gather evidence. Early in the year, petitioner and Hirsch directed one of their law firm's associates to incorporate Transglobal Import Export Trading Company, Inc. on Spence's behalf so that he could open a corporate bank account through which to process the cash delivered by the couriers. Thereafter, petitioner and Hirsch decided to begin using the Hirsch Weinig attorney trust account for laundering purposes as well. Hirsch and several of the European members of the conspiracy met twice in Switzerland during the first half of the year to discuss the ring's business, and Spence, Hirsch, and, less frequently, petitioner, routinely wired to foreign banks the money the couriers delivered to Spence. In all, Spence, Hirsch, and petitioner laundered approximately $19 million for the Colombian drug dealers between 1993 and 1994.[4] Moreover, after DEA agents made seizures totaling more than $2.5 million from three of the ring's couriers in Houston, Texas in January 1994,[5] Hirsch and petitioner filed a series of fraudulent claims of ownership with DEA on behalf of Spence seeking return of these funds, as well as the money confiscated in the October 1993 seizure in Puerto Rico. In each instance, Spence swore that the funds were his and represented business trip expense money or the proceeds of overseas sales of precious stones and metals.

In April 1994, Spence, Hirsch, and petitioner decided to augment their commissions by stealing and splitting some $2.4 million of the drug-trafficking proceeds they were supposed to

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[2]Among the couriers Spence supervised for the ring were a New York City police officer, a New York City fireman, two purported rabbis, and a hospital administrator. This last courier, Gary Salerno, also acted as an enforcer for Spence.

[3]Approximately one year later, in a tape-recorded conversation with Hirsch in November 1994, petitioner recalled that "we schlepped forward because [Spence] was the only game in town. He was the only person we knew who could . . . get money to a bank. And we had no alternatives . . . . We talked about it but we had none, so we used Dick. We understand what it was." He further opined, however, that "[Spence] cut a bad deal for himself. . . . When it started, a third, a third, a third was not the right deal. . . . He was taking the phone calls, he was picking up the money, he was sending the money out. He was doing everything. . . . Basically, what we were was a funder. That changed, but initially, a third, a third, a third, was not the right deal. . . ."

[4]Petitioner received approximately $1 million from the operation, and stored some of this money in the Manhattan apartment he shared with his wife and two young sons and in the family's summer home on Long Island.

[5]In all, law enforcement authorities seized nearly $5 million from the ring's couriers during their investigation of the money laundering conspiracy.

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launder.[6] To cover up the theft from the Colombian drug traffickers, Hirsch created a bogus indictment and a fraudulent seizure order naming Spence as a criminal defendant from whom the money had been seized by the DEA. When the drug traffickers discovered later that year that shortages existed in the laundered funds,[7] they began to put pressure on various members of the money laundering ring. In August and September 1994, Hirsch received several complaining and threatening telephone calls from his Colombian contacts; in September, DEA agents learned that one of the Colombians had threatened to kidnap and kill Hirsch or a member of his family. Law enforcement officials thereupon contacted Hirsch, who immediately agreed to cooperate with the government in its investigation. Thereafter, between September and November 1994, he recorded his conversations with his co-conspirators, including petitioner.

After conferring about the shortage, Hirsch, petitioner, and Spence decided it would be best to repay the Colombians. On September 20, 1994, petitioner gave Hirsch $200,000, which Hirsch deposited in Spence's bank account so that it could be wired to the Colombians. Two days later, petitioner told Hirsch that their principal Colombian contact had called their law office and left his telephone numbers for Hirsch. Hirsch and petitioner further discussed the problems presented by their outstanding debt, and petitioner assured him that if necessary, they could pay down the debt using money from accounts the two men had in Switzerland[8] or from the firm's escrow accounts. At the end of the month, petitioner and Hirsch had further discussions about their payment problem, and on October 4, 1994, petitioner gave Hirsch another $250,000.

While the conspirators were attempting to resolve their indebtedness to the Colombians, Spence sought to obtain repayment of a bad debt of his own. He had previously purchased part interest in a mortgage company from James Clooney for $237,000 and had come to believe that he had been swindled. When Clooney did not repay him, Spence had Gary Salerno, see note 2, *supra*, and two other men kidnap Clooney on Saturday night, November 12, 1994, to force him and his family to raise the money. The kidnappers held Clooney in a series of hotel rooms in the New York metropolitan area until Wednesday morning, November 16th. In the interim, Clooney's parents and girlfriend had been negotiating with Spence's representative, Richard

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[6]In a recorded conversation with Hirsch in October 1994, petitioner explained his rationale for their theft of the drug traffickers' money:

> And all of a sudden, someone says to me, I can put a million in cash in your . . . attic. I do a quick analysis, and understand that if everything else goes wrong in the world for the rest of my life, a million in cash takes care of everything I'll ever need. . . . And so I said, I'm dealing with people, and I remember this was . . . my approach. We're dealing with people who are total assholes, who are out of control, who are scumbag, lying, cheats. And I am gonna be in this for the long haul? Fuck 'em! Fuck 'em! I'm taking a million dollars and let's . . . see you get it from me. That was my approach. . . . This is not, this is dealing with normal Americans (*sic*). This is dealing with guys I wouldn't take a telephone call from.

[7]Petitioner and his immediate associates apparently were not the only members of the laundering operation who took the opportunity to skim money. In a conversation with Hirsch in September 1994, Tohmes Peter estimated that the ring owed the Colombians approximately $9 million "plus penalties and interest."

[8]The government's investigation revealed that petitioner and Hirsch maintained two numbered accounts at Bank Leumi in Switzerland, whose aggregate balance at the time of this conversation was about $320,000.

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Messina, and the parties ultimately agreed that Clooney and his girlfriend would sign over various property to Spence in a meeting at the Hirsch Weinig law firm that afternoon.

Although petitioner was not initially aware of the kidnapping, he had learned of it from Spence by November 15th, on which date he told Hirsch about the crime in a recorded telephone conversation. Explaining that Spence had "seized a person" and describing Clooney as being held "in protective custody," he told Hirsch that Clooney would "be released as soon as his family produces money . . . ." Hirsch worried that Clooney would contact the authorities, but petitioner commented, "Well, he's not in a position to call the [p]olice at this point (UI), right?"[9]

In a second conversation with Hirsch recorded on November 16th, petitioner related that he had learned from Spence that the kidnapping was "falling apart" because Clooney's relatives had "[a]pparently" notified law enforcement authorities. To Hirsch's expression of concern that the kidnappers would be arrested, petitioner replied, "I don't really care. I, I mean, what do you care really?" He further described to Hirsch what Spence had asked him to do and how he had responded: "'Here's the thing, what I want you to do is pursue all legal means of securing my debt from [the Victim],' and I said 'fine.' And that's what we're doing, you know, we're filing the deed, we'll file the letters of claim. He owes Dicky $200,000, we're lawyers." When Hirsch emphasized that he did not want to be involved in a kidnapping, petitioner replied,

> We're not involved. We're not involved in a kidnapping. We don't know anything about a kidnapping. All we know, remember the last thing that happened is that Messina called me and said, "call the girlfriend of [the Victim], she has some Peter Max paintings (UI)," and I said, that's Good, and I, and I had [The First Associate] call her and (UI), but basically I agree one hundred percent, we don't want to be involved in a kidnapping.

As the conversation about the kidnapping continued, petitioner insisted repeatedly that "we didn't do it," and stated, "I don't know anything about it. That's my position. I don't know anything about it." He acknowledged: "If he tells me a crime is going to be committed, then I have an obligation, I have to disclose it or go to the authorities." However, petitioner asserted: "But he didn't do that. He just talked to me a few times about, 'I couldn't just sit around and wait, so I had some goons go talk to the guy and they're gonna make sure that the money comes this week.'" When Hirsch inquired whether he was "going to proceed" with what petitioner termed "the civil" matter involving Clooney, petitioner opined, "Whether or not (UI) was arrested, he still has an indebtedness of $237,000, right? . . . I mean, it doesn't take away from the fact that he gave someone $237,000, and they didn't pay him."

On the same day, petitioner instructed two junior attorneys in his firm to meet with Clooney and prepare the documents by which Clooney could assign Spence security interests in his house and certain artwork. In the late afternoon of November 16th, Clooney and his girlfriend brought several paintings and the deed to Clooney's house to the law firm. There, they met with

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[9]The recorded conversations were transcribed by the government in preparation for trial. Quotations from the conversations that appear in this report are taken from these transcripts. The designation "UI" in a quotation stands for "unintelligible."

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the assigned lawyers, Clooney paid $7,900 to Spence's associate, Richard Messina, and he and his girlfriend executed documents to assign security interests in the property to Spence's wife.

On November 29, 1994, law enforcement agents obtained arrest warrants for petitioner, Spence, and their co-conspirators, including several foreign nationals, and search warrants for a number of locations, including the Hirsch Weinig law office and petitioner's apartment and summer home. See note 4, *supra*. Petitioner was arrested the following day and released on bail.[10] Like Hirsch, Spence began cooperating with the government immediately upon his arrest, but petitioner declined repeated requests from prosecutors for assistance. He ultimately was indicted with multiple co-defendants in the United States District Court for the Southern District of New York and charged with conspiring to launder narcotics proceeds, 15 counts of money laundering, two counts of interstate transportation of stolen money, wire fraud, three counts of making false statements, and criminal forfeiture.[11] He was also charged in a separate indictment with interference with commerce by extortion based upon his involvement in the Clooney kidnapping and ransom plot.

Petitioner announced his intention to proceed to trial, but on September 20, 1995, shortly before trial was due to begin and well after his primary co-conspirators, including Hirsch and Spence, had pled guilty, he negotiated a plea bargain with the government. He agreed to plead guilty to the indicted charge of conspiring to launder monetary instruments and to an information charging him with misprision of felony for failing to promptly report the extortion scheme that targeted James Clooney. He further agreed to forfeit his interest in certain property in satisfaction of the forfeiture count of the money laundering indictment.[12] In return, the government agreed to dismiss all other charges against him. The parties further stipulated that the value of the funds laundered by petitioner and his confederates was $19 million, that petitioner's applicable sentencing range was 108-135 months,[13] that neither an upward nor a downward

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[10]The ensuing prosecution of the money laundering ring received media coverage in a number of national newspapers.

[11]The initial indictment returned against the ring in December 1994 charged one count of conspiracy to commit money laundering and one count of criminal forfeiture. After further investigation, additional substantive counts were added by the return in April 1995 of a superseding indictment.

[12]The property included his summer home, the contents of various Swiss and United States bank accounts, the assets of his law firm, and some $940,000 in cash that Hirsch had turned over to the government.

[13]The sentencing range was calculated in the following manner. Because the two offenses to which petitioner pled guilty were not related for purposes of the guidelines, they could not be grouped together. According to the guideline for money laundering, U.S.S.G. § 2S1.1, petitioner's base offense level for that offense was 20. This offense level was adjusted upward by a total of 14 levels due to the value of the funds laundered, the fact that petitioner knew or acted with conscious disregard to avoid learning that the funds were the proceeds of narcotics trafficking, and petitioner's use of his special skills as an attorney in committing the offense. Pursuant to the guideline for misprision of felony, U.S.S.G. 2X4.1, petitioner's offense level for that crime was 15 (the level was determined by reference to the guideline for the underlying felony of extortion and upward adjustments based upon the value of the property that was extorted and the abduction of the victim). Under U.S.S.G. § 3D1.4(c), which determines combined offense levels, petitioner's offense level of 34 for money laundering was not increased by virtue of the misprision offense, but the misprision did "provide a reason for sentencing at the higher end of the sentencing range for the applicable offense level." Finally, the parties agreed that petitioner should receive a three-level downward adjustment for accepting responsibility, resulting in a final offense level of 31. Since he had no other criminal record, petitioner's sentencing range was 108-135 months.

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departure from that range was warranted, and that neither party would seek a departure. The agreement did not include any reference to cooperation by petitioner with the government, or any statement suggesting that the government would consider filing a motion for downward departure on petitioner's behalf based upon substantial assistance by him.

On September 21, 1995, petitioner entered his guilty plea to the money laundering conspiracy and misprision charges. After an extended colloquy with the court establishing the knowing and voluntary nature of the plea and his understanding of the specifics of the bargain, he gave a detailed statement outlining his involvement in both the money laundering operation and the extortion scheme. Petitioner represented that he originally believed representations made by Hirsch that Tohmes Peter was an entreprencur engaged in the "worldwide distribution of parallel market or greige market goods, including electronic equipment, computer equipment, health and beauty aids, and other commodities." However, he conceded that "[f]rom the very start, . . . [he] had misgivings about the highly unconventional nature of the activity in which [Peter] was engaged," and that "[a]s time went on, [he] deliberately ignored obvious indications that these monies were, in fact, the proceeds of illicit drug transactions, and eventually [he] was fully aware of this fact."[14] Petitioner further admitted:

> Notwithstanding my knowledge, belief and conscious avoidance of the obvious, I participated to the extent that I was asked in the facilitation of wire transfers of these funds. I eagerly and greedily shared in the proceeds of the transactions which were allocated as commissions, including a substantial portion of money that was withheld from the client.

Regarding the misprision of felony offense, petitioner admitted that although he had been out of the country from November 9-13, 1994, he learned "[w]ithin the first few days after [his return] to New York . . . that Spence had sent several individuals to seize Mr. Clooney in an effort to compel him to return the money that he had wrongfully taken." Petitioner further acknowledged that on November 16, 1994, he "was advised that Clooney would be coming into [petitioner's] office that afternoon to transfer the artwork and real estate . . . to secure Spence's investment," that he "instructed two of the lawyers in [his] office to prepare the necessary documentation and meet with Mr. Clooney when he arrived at the office," and that the lawyers reported to him what had occurred after the meeting was over. Petitioner also admitted that he did not report the kidnapping and extortion to any law enforcement authority or any court even though he was a practicing attorney at the time and had not been forced by anyone to take these actions.

Between his guilty plea and sentencing, petitioner apparently offered to cooperate with the government, took part in November 1995 in a debriefing session concerning the money laundering operation, and advised prosecutors that Hirsch had violated his own cooperation agreement with prosecutors and had made plans in early 1995 to flee the United States. The

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[14]Among the indicia of illegality of which petitioner admitted he was aware were the following: "The DEA . . . was saying that the money was drug related"; the "highly unconventional manner in which the money was received, often small denominations of cash in plastic bags"; the "highly unconventional locations, . . . [h]otel rooms, street corners and empty cars in parking lots where the money was transferred"; the "fact that [his] office never saw documents that would ordinarily underlie a commercial transaction"; and "the fact that [he] was receiving what [he] perceived to be an unreasonably large amount of money in relation to the business being conducted."

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government, however, had already learned of Hirsch's violations of the cooperation agreement and had moved to revoke his bail in May 1995,[15] well before petitioner's guilty plea. Prior to his scheduled sentencing date, some 52 friends and professional associates of petitioner and his wife, including former state prosecutors, a law professor, and an associate dean of the City University of New York Law School, wrote to the sentencing judge to urge leniency for petitioner, citing his overall good character, his history of kindness to others and generosity in providing money and free legal assistance to persons in need, and his closeness to his family.

On March 22, 1996, petitioner was sentenced to a term of imprisonment of 135 months, at the top of the sentencing range that he had stipulated applied to his conduct.[16] In imposing this sentence, the district judge addressed petitioner and his counsel as follows:

> What you are facing is something that you were conscious or you got yourself into. . . . [Y]ou look on a person to be sentenced, not only as a human being, but as to what he has done to society. The suggestion has been made that you are a very altruistic person, that you are a great guy and maybe you are two people. I don't know.
>
> Let's start with looking from society's viewpoint at the kidnapping. What would you have done, Mr. Weinig, if your son . . . had been kidnapped and some lawyer knew about it, and knew he could get him out of there, and didn't do anything? You didn't think about that, did you?
>
> I insisted on getting the tape and listening to your conversation with Hirsch when you talk about it, very flip, matter of fact. You couldn't care less, but if it had been your son, you would have cared more.
>
> * * * * *
>
> You apparently were able to divide yourself in two, outside the office and inside. Even when Clooney came in, your attorney says you let it happen. Sure you let it happen, because you went, and you stuck two young associates with the job of cleaning it up.

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[15]Hirsch apparently continued to engage in money laundering in 1995 while cooperating with the government. Besides pleading guilty to money laundering, bank fraud, and false statements and forfeiting property in connection with the 1993-94 conspiracy in which petitioner was involved, Hirsch also pled guilty to a second, unrelated charge of money laundering based upon his criminal conduct in 1995. He was sentenced to concurrent prison terms of three years in each case, based upon the government's request for a downward departure due to his substantial assistance. According to the United States Attorney, "[t]he predominant reason the Government re-signed Hirsch as a cooperator was to assist in prosecuting [petitioner's] trial. If [petitioner] had admitted his guilt earlier, Hirsch would not have been re-signed as a cooperating witness."

[16]Through what was apparently a clerical error, the judgment of conviction lists only the money laundering conspiracy and forfeiture charges and omits the misprision of felony charge to which petitioner also pled guilty.

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> What are we talking about? . . . Nineteen million dollars in drugs is a lot of money. That much drugs is a lot of pain. If [your sons] were the ones who were using the drugs, you would be singing a different story, an entirely different song.
>
> Now you ask, [defense counsel], for as much mercy as I can give. You and your client should feel glad that this is a guidelines case and not something more. Not in the old days. Because if it had been in the old days, I would have given him the statutory maximum.[17]

Based upon his conviction, petitioner submitted his resignation to the New York bar. In accepting his resignation, the Appellate Division of the State of New York wrote:

> Our review of the record in this matter reveals that respondent engaged in a course of conduct that can only be described as shocking and reprehensible for anyone, let along a member of the bar. Were it not for respondent's application . . . to resign from the bar on the basis that he is the subject of an investigation or disciplinary proceeding for misconduct against which he cannot successfully defend himself, a "serious crimes" hearing would have been held. We have reviewed the respondent's affidavit submitted in support of his application to resign and find that it complies with the Court's rules. It should be emphasized that, based on the extant record, were this respondent to have proceeded to a "serious crimes" hearing, the only appropriate sanction would have been disbarment.

In re Weinig, 642 N.Y.S.2d 654, 656 (N.Y. App. Div. 1996).

Grounds for clemency:

Now 52 years old and having no other criminal record, petitioner has served 54 months of his prison sentence as of October 2000.[18] He is currently projected for release in February 2006.

Born in Brooklyn, New York, in March 1948, petitioner received his Bachelor of Arts degree in English with honors from Hobart College in June 1969. He married his first wife that same year, but the couple separated in 1971 and divorced in 1975. Petitioner received his Juris

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[17]The money laundering charge carried a statutory maximum of 20 years' imprisonment, while the misprision of felony charge carried a three-year maximum sentence.

[18]Petitioner voluntarily surrendered at the Federal Correctional Institution at Fort Dix, New Jersey, on April 19, 1996, to begin serving his sentence and remains incarcerated at that facility.

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Doctor degree from Hofstra University in June 1974 and was admitted to the New York bar in May 1975. Between law school and 1976, he was employed by the Community Legal Assistance Corporation at Hofstra University providing legal assistance to the indigent. Between 1976 and the time of his arrest, he was engaged in the private practice of law. During the pendency of his prosecution, he performed legal research on a volunteer basis for Legal Services for the Elderly in Manhattan. In 1980, he married his current wife, who is also an attorney. They have two sons, who are now 17 and 13. By all accounts, petitioner's family is very close-knit and he has been deeply involved in the rearing of his children. According to the presentence report, petitioner was diagnosed with dysthymia, a form of chronic depression, in March 1994, at which time he began a course of drug therapy. In December 1995, following the discovery of a cancerous tumor, petitioner underwent successful surgery to remove his thyroid gland, which was itself determined not to be cancerous. The Bureau of Prisons reports that he currently is "assigned to regular duty status, with no medical restrictions" and that he "has not participated in any counseling groups . . . [but] has utilized the services of the Unit Correctional Counselor when needed." He has maintained clear conduct, is presently assigned to the Wellness Program work detail, and has previously been assigned to the tutor work detail.

Petitioner seeks commutation of his 135-month term to 60 months (five years) based upon the following claims: (1) that his sentence is "unconscionably disproportionate to the sentences given to his more culpable co-defendants" as well as to money laundering sentences imposed nationwide; (2) that he has made and will continue to make positive contributions to society and does not require additional punishment or rehabilitation; and (3) that his family, particularly his younger son, needs him at home.

Petitioner supports his assertion of sentencing disparity by pointing to the following sentences imposed upon his "more culpable co-defendants": Robert Hirsch – three years' imprisonment; Richard Spence – three years' imprisonment; Tohmes Peter – 97 months' imprisonment; Gary Salerno – concurrent terms of 108 months' imprisonment, imposed in two separate cases which charged Salerno with conspiring to launder monetary instruments and interfering with commerce by threats of violence;[19] Leon and Rachel Weinmann (the Swiss couple who received the money wired by Hirsch, Spence, and petitioner) – one year of unsupervised probation and a $1,000 fine;[20] and various couriers and assistants for the ring who "were sentenced to terms ranging from probation to a prison term of two years and three months." Characterizing himself as "a belated and minor participant in the conspiracy," petitioner asserts that it is "unconscionable" that he "should serve a term of more than 11 years."

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[19]Both of these sentences were also ordered to run concurrently with a sentence of 25 years' imprisonment, five years' supervised release, and $66,672.15 in restitution imposed in an unrelated case by the federal court in the Eastern District of New York in October 1997 for charges of racketeering and collection of credit by extortionate means.

[20]According to petitioner's presentence report, the Weinmanns pled guilty to a violation of United States monetary transaction reporting requirements while facing pending money laundering charges in Switzerland. After their United States sentencings, the Weinmanns were escorted to a flight to Switzerland and their departure to that country was verified. The United States Attorney's Office agreed to these dispositions at the request of the Swiss government in order to facilitate the Weinmanns' prosecution in what was reported to be the second largest money laundering case in Swiss history.

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while Hirsch, "the leader of the money laundering scheme," and Spence, "a major participant in the scheme who had a prior criminal record[21] and who directed the related kidnapping," were each sentenced to three years' imprisonment because of their cooperation with the government.

He likewise claims that the government "[f]or no apparent reason . . . declined to follow up on" his offer to cooperate and "subsequently denied [him] a 5K1.1 letter which would acknowledge his cooperation."[22] Further, representing that he "learned of Mr. Clooney's detention only after Mr. Clooney had been released" (emphasis in original; footnote omitted), petitioner asserts that he "had an ethical obligation not to disclose confidential knowledge of his client's prior criminal acts," and argues that "[t]he sentencing judge, without justification – and apparently ignoring [petitioner's] ethical obligations to preserve client confidences relating to the prior kidnapping – imposed the maximum sentence permitted by the guidelines." Finally, petitioner also contends that his sentence is "grossly unfair because he has been punished far more severely than convicted money launderers in other cases." In support of this claim, he relies on statistics from the United States Sentencing Commission's 1998 Sourcebook of Federal Sentencing Statistics, reflecting that the median sentence for money laundering convictions in Fiscal Year 1998 was 24 months' imprisonment. He also contends that the "Sentencing Commission itself has recognized the inequities that have arisen in sentencing in the money laundering context" because of alleged inconsistencies in the charging of money laundering offenses and the application of the guidelines.

Citing the numerous letters his supporters sent to the district court prior to sentencing and 13 additional letters from friends and professional associates submitted in support of his clemency application that recount his many good deeds and kindnesses to others, petitioner maintains that commutation is appropriate because of his "extraordinary history of assisting other people in need." He explains that he has continued his good works in prison through his work as a tutor, law librarian, and instructor in the adult continuing education program,[23] that "[u]pon his release, [he] will seek to continue his public service," that he is interested in "counseling youths

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[21]According to a letter from petitioner's trial counsel to the United States Attorney for the Southern District of New York, which was submitted to the Office of the Pardon Attorney as an exhibit in support of the commutation petition, Spence "had an extensive criminal background which was detailed when he testified as a government witness." In the letter, petitioner's counsel represented that in addition to two misdemeanor convictions and various fraud, theft, and extortion schemes for which he was never prosecuted, Spence was also arrested on charges of conspiracy to murder and solicitation of a crime, which were later dismissed.

[22]Although petitioner's counsel in the clemency proceeding complains that "official antagonism" appears to exist toward petitioner, he acknowledges that "[t]here was no prosecutorial misconduct of any kind by anyone in the Southern District of New York that caused the harsh sentence" petitioner received. The United States Attorney represents that the information petitioner proffered after his guilty plea "consisted primarily of allegations against Hirsch as well as innuendo and rumors regarding other persons whom the Government had no reason to suspect of wrongdoing" (footnote omitted). Regarding the former category of information, "the Government had acquired independent knowledge of Hirsch's violations"; as to the latter, "after a preliminary inquiry, the Government did not believe any further investigation was warranted" (footnote omitted).

[23]In support of his commutation request, petitioner has submitted statements from three of his fellow inmates attesting to the positive influence he has had upon them, as well as a memorandum from the counselor of his housing unit complimenting his work performance and his actions "as an intermediary between staff and the inmate population."

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traumatized by crime," and that he will have the assistance of professionals in the field in obtaining such employment. Asserting that the interests of punishment and rehabilitation have already been met, he contends that he has been severely punished for his offenses by his arrest, forced resignation from the bar and loss of his practice, forfeiture of his assets, public humiliation, and the four and one-half years he has served in prison to date. Furthermore, he argues, given his overall history, "there is no basis whatsoever to believe that [he] will ever again commit a crime."

Finally, petitioner seeks clemency on the ground that his absence has had a destructive impact upon his family despite his efforts "to remain a devoted and involved parent." While arguing that his absence has worked hardship on his wife and older son, he asserts in particular that his "arrest and incarceration have caused his youngest son (*sic*) . . . to suffer a major depressive disorder" requiring psychiatric treatment,[24] a six-week commitment to a psychiatric hospital in the spring of 1999, and his current residence away from his mother and brother at a small boarding school in upstate New York. According to the son's on-site therapist and school counselor, this institution is geared "to the needs of children and adolescents with moderate special needs, hopefully preventing the need for more restrictive settings for students like [petitioner's son] who are at significant psychological risk." Noting the close relationship petitioner has always had with the boy and the child's dependence upon him, the school counselor, petitioner's wife, and many of petitioner's supporters urge that his sentence be commuted so that he can assist in his son's recuperation.

Official comments:

The United States Attorney for the Southern District of New York, the Honorable Mary Jo White, opposes petitioner's request for commutation of sentence.[25] As an initial matter, she disputes petitioner's description of his role in the money laundering conspiracy. Citing his own admissions at the guilty plea hearing, see note 14, *supra*, and accompanying text, and in the recorded conversations with Hirsch, see notes 3 and 6, *supra*, Ms. White contends that "the evidence amply demonstrates both Weinig's knowledge of and enthusiasm to participate in this scheme."

The United States Attorney further asserts that petitioner "misstates his role in the extortion scheme," and she challenges the validity of his argument that "he should be exonerated on [the misprision] count because his ethical duties as a lawyer prevented him from disclosing confidential information." Ms. White explains that the "extortion charge . . . stemmed not from Weinig's failure to interfere with the kidnapping, but rather from his affirmative efforts to conceal and further his client's extortion of Clooney" (footnote omitted). Moreover, she

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[24]Petitioner has submitted letters from his son's treating psychiatrist to his defense counsel and the sentencing judge opining that the boy's psychiatric difficulties "were precipitated by the abrupt and harsh arrest of his father, and the extended period of uncertainty regarding his father's fate." The doctor urged that petitioner receive a lenient sentence because his extended absence in prison would have "grave effects" on his son's mental health.

[25]The former Assistant United States Attorneys who prosecuted petitioner likewise oppose clemency.

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continues, "the tapes of Weinig's conversations with Hirsch regarding the kidnapping [see text at page 4, *supra*] provide perhaps the greatest example of Weinig's shocking lack of morality or care for the rule of law." Characterizing as "perverse" petitioner's "suggest[ion] that New York [S]tate's ethics rules either compelled, or at least justified, his conduct," Ms. White notes that

> Spence clearly did not tell Weinig about the kidnapping because he was seeking legal advice; to the contrary, Spence called upon Weinig because he desired Weinig's assistance in obtaining the ransom from Clooney. Nothing in the ethics rules governing attorney conduct in New York State (or any other state for that matter) sanctions one's affirmative participation in a crime, let alone the collection of ransom from a kidnap victim, which is exactly what Weinig directed his law firm's associates to do (emphasis in original).

Furthermore, citing the description of petitioner's conduct in the decision the Appellate Division of the State of New York issued upon accepting his resignation from the bar, see text at page 8, *supra*, the United States Attorney opines that the "whatever Weinig's view of the state's ethics rules, the [court] did not share it . . . ."

Ms. White also contests petitioner's "claim[] that he is entitled to a commutation of his sentence because he received a longer sentence than his other co-conspirators." She points out that several co-conspirators, such as Salerno and Tohmes, "received significant jail sentences for their conduct."[26] See text at page 9 and note 19, *supra*. Moreover, she observes, petitioner

> did not occupy the same position as his co-conspirators. First, unlike most of his co-conspirators, Weinig was an attorney, who had been successful in the past and had no reason to engage in illegal activity other than sheer greed. Second, unlike other co-conspirators such as Hirsch and Spence, Weinig repeatedly rejected the opportunity to cooperate with the Government and admit his guilt until the eve of trial [footnote omitted].
>
> Finally, to the extent a disparity exists between Weinig's sentence and those of his money-laundering co-conspirators, this disparity is justified because Weinig blithely participated in and caused his own law firm to further the extortion of a kidnap victim.

Noting that petitioner's misprision offense did not increase his applicable offense level under the Sentencing Guidelines, Ms. White contends he "now argues that it should not be considered at all for purposes of his commutation request (emphasis in original)." In her view, such a claim is "plainly rebutted" by the provision of U.S.S.G. § 3D1.4 that "explicitly state[s] that even though

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[26] Ms. White also represents that Richard Messina, the intermediary who negotiated the ransom with Clooney's relatives during the abduction and accepted cash from Clooney during the meeting at petitioner's law firm, "was sentenced to a term of over 12 years' imprisonment for his role in the extortion scheme."

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a given charge may not increase the applicable offense level it still may 'provide a reason for sentencing at the higher end of the sentencing range.'" See note 13, *supra*. Furthermore, she continues, if petitioner's clemency application "is premised on the argument that his sentence is overly harsh, then surely a proper analysis of that sentence must include a review of all of Weinig's conduct, such as his callous indifference to Clooney's well-being, and not merely the generosity he allegedly bestowed upon his friends and loved ones (emphasis in original)."

Finally, Ms. White asserts, petitioner's family situation does not justify commutation. She notes that his son had already begun to suffer psychological difficulties before the sentencing hearing occurred, and that petitioner brought this fact to the court's attention. While acknowledging the tragedy of his son's mental and emotional problems, the United States Attorney points out that such problems are not unique to petitioner's loved ones.

> Families of all or most convicted criminals are impacted adversely by their family member's incarceration. It is indeed unfortunate that Harvey Weinig's criminal activities (including the safeguarding of drug proceeds at his residence) and the subsequent legal consequences of those activities [have] resulted in a deterioration in [his son's] mental health. Nevertheless, [the boy's] mental problems (and his presumed need for his father) cannot erase the fact that his father engaged in a scheme to launder millions of dollars from the sale of cocaine and further used his position as a lawyer to assist an associate in extortion . . . .

The sentencing judge, the Honorable Kevin Thomas Duffy, did not comment on petitioner's clemency request "other than to point out that Mr. Weinig was sentenced within the Guidelines' range and that the Commutation Application contains no facts not known to the prosecution and the sentencing court at the time of conviction."

Reasons for denial:

Petitioner was a well-respected lawyer who used his professional skills to assist in laundering millions of dollars that he knew constituted the proceeds of a huge narcotics trafficking enterprise. He was involved in this activity for an extended period of time, and he admits that he engaged in it purely out of greed. While he was involved in that ongoing crime, he and his confederates stole $2.4 million from the drug-trafficker clients they were servicing, again out of greed. Petitioner also aided and abetted the extortion of money from an individual he knew had been kidnapped at the direction of a co-defendant in order to coerce the production of a ransom. Significantly, despite his position as an attorney and his knowledge of the ongoing kidnapping, he apparently made no effort whatsoever to attempt to dissuade his co-defendant from that course of criminal conduct.

The seriousness of petitioner's various crimes and the fact that he committed them while he was a member of the bar weighs heavily against commutation of his 135-month sentence. Although the prison term imposed upon him is long, it is commensurate with the gravity of his misconduct. Indeed, the length of his sentence is directly attributable to the various aggravating

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factors that played a significant role in its calculation – *i.e.*, the extremely large amount of money petitioner helped to launder, the fact that he knew that the money represented the proceeds of narcotics trafficking, and the fact that he used his special skills as an attorney to ensure that the offense would succeed. But for these aggravating factors, over which he had control, petitioner's sentencing range (108-135 months) would have been considerably lower. Accordingly, he cannot legitimately complain that his money laundering sentence falls above the median money laundering sentence of 24 months cited in the Sentencing Commission's 1998 statistics. Furthermore, his argument that his offense has been too severely punished under the money laundering guidelines is unpersuasive, because his misconduct of assisting in the laundering of millions of dollars that he knew were narcotics proceeds unquestionably falls squarely within the heartland of drug-related financial crimes that Congress sought to punish severely through the money laundering statute and its sentencing guidelines.

It is also unavailing for petitioner to complain that the sentencing court improperly considered his involvement in the extortion scheme underlying the misprision offense in deciding to sentence him at the top of the applicable sentencing range. Not only was the court fully entitled to take this fact into account under the sentencing guidelines, see note 13, *supra*, but it would have been remiss in not doing so. Petitioner's actions in that separate offense, to which he had pled guilty, revealed volumes about his attitude toward the law and his obligations as an officer of the court. It therefore was appropriate for the sentencing judge to consider this information in assessing the accuracy of the testimonials petitioner's colleagues and friends presented regarding his good character. It is equally proper to consider this conduct in determining whether petitioner's sentence should be commuted, and it is telling that he now claims that he learned of the kidnapping only after the victim had been released. Given that his contemporaneous recorded telephone conversations flatly disprove that claim, see text at pages 3-4, *supra*, his present assertions suggest that he is unwilling to accept full responsibility for his role in the extortion scheme.

The difference between petitioner's sentence and the three-year prison terms imposed upon his principal co-defendants likewise does not warrant commutation. Just as he seeks to underplay his involvement in the extortion scheme, petitioner significantly minimizes his role in the money laundering offense by characterizing himself – contrary to the evidence – as "a belated and minor participant in the conspiracy." While it is true that petitioner was less frequently involved in the day-to-day business of transferring funds, he participated in the planning and oversight of the operation, wired money when needed, assisted in recovering seized funds, and participated fully in the enterprise's profits. Moreover, unlike his partners in the operation, petitioner elected not to cooperate with the government at the first opportunity. To the contrary, he rejected repeated requests from the prosecutors for assistance and did not enter a plea agreement until the eve of trial, nearly 10 months after his arrest and long after his principal confederates had pled guilty. Petitioner thus has no one but himself to blame for the fact that, unlike his co-defendants, he was not the beneficiary of a government motion for a downward departure at sentencing, since his own choices precluded him from providing the kind of assistance that would have warranted such a request. The very plea bargain he made reflects that fact, for its terms did not contemplate consideration of such a motion by the government. Under these circumstances, commuting petitioner's sentence to the five-year term he proposes would

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significantly undermine the government's legitimate and important policy interests in encouraging early and complete cooperation by criminal defendants.

Petitioner's remaining arguments for clemency do not distinguish him from other convicted felons, many of whom are members of minorities, who have enjoyed fewer advantages than he, have served longer portions of lengthy sentences, and whose clemency requests you have denied. Many such prisoners have maintained favorable records of prison adjustment and have occupied their time with useful pursuits. Many prisoners argue with similar force that they have been adequately punished and rehabilitated, that they are unlikely to commit other crimes, and that their further incarceration serves no purpose. Finally, petitioner's family hardships do not differ from those of thousands of inmates in the federal prison system. A felon's incarceration virtually always has an adverse impact upon his family, especially his children. Each year, hundreds of inmates file commutation petitions in which they describe serious economic, medical, psychological, and other difficulties suffered by family members that have been caused or aggravated by the inmates' absence. In this regard, petitioner's family is far better off than those of most inmates, because his family has resources to address these problems that most other clemency applicants lack. A commutation of his sentence in the face of the denial of clemency to so many others whose family hardships are as grave or graver might well be misinterpreted as suggesting that well-off, white-collar offenders are deserving of special consideration in the clemency context.

In summary, the prison term imposed upon petitioner by the court was within the sentencing range he agreed applied to his conduct, appropriately reflects the very serious nature of his offenses, and is not disproportionate to the sentences imposed upon his differently situated confederates. As of the present time, he has served less than half of this sentence. To commute his prison term to the five years he proposes would denigrate the seriousness of his criminal misconduct, undermine the government's legitimate interest in encouraging prompt guilty pleas and truthful cooperation from criminal defendants, and could give the appearance of granting special consideration to economically advantaged, white-collar offenders. For these reasons and because of the strong opposition of the United States Attorney to clemency, I recommend that you deny the petition.

Respectfully submitted,

Deputy Attorney General

Date:_____

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CHAPTER ONE

"TAKE JACK'S WORD": THE PARDONS OF INTERNATIONAL FUGITIVES MARC RICH AND PINCUS GREEN

FINDINGS OF THE COMMITTEE

Marc Rich and Pincus Green have a history of illegal and corrupt business dealings contrary to the security interests of the United States.

- *Rich and Green have had extensive trade with terrorist states and other enemies of the United States.* Despite clear legal restrictions on such trade, Rich and Green have engaged in commodities trading with Iraq, Iran, Cuba, and other rogue states that have sponsored terrorist acts. By engaging in these activities, Marc Rich and Pincus Green demonstrated contempt for American laws, as well as the well-being of Americans who were harmed or threatened by these states.

- *The Central Intelligence Agency provided the following declassified information about Marc Rich to the Committee:*

> If President Clinton had checked with the CIA, he would have learned that Marc Rich had been the subject of inquiries by various foreign government liaison services and domestic government agencies regarding their ongoing investigations of criminal activity.
>
> In addition, President Clinton would have received information worthy of his consideration in making his decision on the pardon. This information cannot be declassified.

Marc Rich and Pincus Green were guilty of serious crimes and showed contempt for the American justice system.

- *Marc Rich and Pincus Green attempted to obstruct the criminal investigation of them in every way imaginable, including attempting to smuggle subpoenaed documents out of the country.* Rich and Green's tactics resulted in a record-setting contempt fine against them, totaling $21 million. Despite these tactics, the U.S. Attorney for the Southern District of New York was able to indict Marc Rich and Pincus Green on 51 counts of illegal activity, including tax evasion, mail fraud, wire fraud, and racketeering. The evidence against them was overwhelming.

- *Because of the strength of the case against them, Marc Rich and Pincus Green fled the country rather than face trial.* Rich's own lawyer told him that by fleeing the country, Rich had "spit on the American flag" and that "whatever you get, you deserve." For the 17 years leading up to his pardon, Marc Rich was one of America's 10 most wanted international fugitives. Although Jack Quinn, Rich's attorney, argued that Rich did not flee the United States to avoid prosecution, Rich's ex-wife refuted this view, stating that Rich told her that "I'm having tax problems with the government . . . and I think that we are going to have to leave."

- *In order to avoid extradition or apprehension by United States law enforcement, Marc Rich and Pincus Green attempted to renounce their United States citizenship.* While this attempt was rejected by the United States, it demonstrated that Rich and Green had no loyalty to the United States, and viewed their citizenship as a liability to be discarded at will.

Rich and Green's crimes were so serious that for seventeen years, the U.S. government devoted considerable resources to apprehending them and closing down their business activities.

- *Rich and Green were such high-profile fugitives that on a number of occasions in the 1980s and 1990s, the United States Marshals Service attempted to arrest them in various foreign countries.* A number of countries from the United Kingdom to Russia attempted to assist the United States in these efforts. The pardons of Rich and Green have sent a message that individuals can go from the FBI's most wanted list to a Presidential pardon if they spend money and have the proper connections. This message undermines U.S. efforts to apprehend fugitives abroad.

- *Rich and Green were such high-profile fugitives that in 1991 the Government Reform Committee, under Democratic leadership, held a number of hearings and issued two reports about the government's efforts to apprehend Rich and Green.* At that time, Democrats and Republicans in Congress took the Bush Administration to task for not being aggressive enough in hunting down Rich and Green, or shutting down their business interests in the U.S.

- *While Rich and Green were fugitives from justice, the American government took a number of actions against their interests in the U.S.* The federal government seized Rich's assets and shut down his trade in metals and grain with the government.

The United States government repeatedly tried to reach a plea agreement with Rich and Green.

- For a number of years after Rich and Green fled the country, the U.S. government attempted to negotiate a plea bargain to settle the case. The government made a number of concessions in an attempt to reach a deal, but all offers were rebuffed by

Rich and Green, who would not agree to any deal that resulted in jail time. While lobbying for a pardon, Jack Quinn and Rich's other lawyers claimed that the Justice Department had not even negotiated with Rich, and therefore, that a pardon was justified. Quinn and the other lawyers were misleading the White House when they made these claims.

Jack Quinn misled the White House about the Rich case and attempted to mislead the Committee and the public regarding his work for Marc Rich.

- *Marc Rich hired Jack Quinn after a recommendation from Eric Holder.* After numerous failed attempts to have his case settled, Marc Rich hired Jack Quinn to represent him. Quinn was hired after a recommendation from Deputy Attorney General Eric Holder. Gershon Kekst, who worked for Marc Rich on the pardon matter, asked Holder for a recommendation of how to settle a criminal matter with the Justice Department. Holder recommended that he hire a Washington lawyer "who knows the process, he comes to me, and we work it out." Holder then explicitly recommended the hiring of Jack Quinn. While Holder did not know that Kekst was referring to Marc Rich, it suggests that Holder was favorably disposed to Jack Quinn, and would be very receptive to arguments made by Quinn, no matter how baseless they were.

- *Marc Rich was going to pay Jack Quinn for his work on the pardon.* After the Marc Rich pardon was granted, Jack Quinn claimed that he was not being paid by Rich for his work on the pardon, and that he expected no future payment for his work on the pardon. However, the Committee has uncovered evidence that Robert Fink, a lawyer close to Marc Rich, had discussions with Rich and Quinn about paying Quinn for his work on the Rich pardon. Documents which Quinn and Fink withheld from the Committee for over a year, and which were produced only after a federal judge ordered them produced to a grand jury, shed further light on the contemplated payment of Quinn. These documents indicate that Quinn raised the question of his "status" with Rich and asked that Rich pay him a $50,000 per month retainer. The Committee attempted to interview Quinn about these documents, but Quinn refused to meet with Committee staff.

- *Jack Quinn may have been attempting to receive money from Marc Rich after the pardons were granted.* At the Committee's February 8, 2001, hearing, Quinn pledged that "I will not bill [Rich], and I will not accept any further compensation for work done on the pardon." This pledge surprised Rich's lawyer, who expected that Rich would be paying Quinn for his work. Indeed, records just produced to the Committee indicate that Quinn may have been attempting to negotiate some payment from Marc Rich shortly after he pledged that he would not take additional money for his work. A March 5, 2001, e-mail from Quinn to Rich states "If you are agreeable, and I hope you are, I need to fax to you in the next few days a new retainer agreement."

This e-mail raises the possibility that Quinn has been attempting to obtain payments from Rich, in possible violation of his pledge to the Committee. The Committee attempted to interview Quinn about this matter, but he refused.

- *Jack Quinn's work on the Rich pardon was in apparent violation of Executive Order 12834.* That executive order was enacted as part of President Clinton's promise to create "the most ethical administration in history," and it prohibited former executive branch employees from lobbying their former executive branch agencies within five years of their departure. Quinn has claimed that his work on the Rich pardon came within an exception for "communicating . . . with regard to a . . . criminal . . . law enforcement inquiry, investigation or proceeding[.]" However, this exception was clearly intended to apply to appearances before courts, not lobbying the White House for a pardon. The "revolving door" lobbying ban was intended to apply exactly to cases like this, where a former White House Counsel could come back and lobby the President to take an action that had no constitutional limits on it, largely based on the President's personal trust for that former staffer.

- *The pardon petition compiled by Jack Quinn and the other Marc Rich lawyers was highly misleading.* Most of the arguments used by Jack Quinn to justify the Rich and Green pardons were false and misleading. These arguments could have been completely refuted if anyone in the White House had sought out any of the prosecutors familiar with the Rich case.

- *The "letters of support" in the pardon petition were used in a misleading manner.* Another key element of the Rich pardon petition was a number of letters of support for Rich and Green from prominent Americans and Israelis. Rich and Green used these letters to try to show that their humanitarian activities justified their pardons. However, many of these letters were obtained under false pretenses, and the writers of the letters were not told that they were being used to obtain a Presidential pardon. In addition, a number of individuals who wrote in support of Rich and Green received large amounts of money from them.

Marc Rich and Pincus Green used a number of different individuals with close personal relationships with President Clinton and his staff to lobby regarding the pardon.

- *The role of Denise Rich.* Denise Rich played a key role in obtaining the Rich and Green pardons. Denise Rich had a close relationship with President Clinton, which was based in part on her role as a large-scale contributor to Democratic causes and the Clinton library, and in part on her extensive personal contacts with President Clinton. Denise Rich used this relationship with President Clinton to lobby for the Marc Rich pardon on a number of occasions. Denise Rich has refused to cooperate with the Committee, invoking her Fifth Amendment rights rather than answer questions about her role in the pardon.

- *The role of Beth Dozoretz.* Beth Dozoretz, another close friend of President Clinton, played a key role in obtaining the Rich pardon. Like Denise Rich, Beth Dozoretz had a relationship with President Clinton built on personal ties and political fundraising. Dozoretz has raised and contributed millions of dollars for the Democratic party, and has pledged to raise an additional million dollars for the Clinton library. Beth Dozoretz also has close relationships with Denise Rich and Jack Quinn. Dozoretz used her close relationship with President Clinton to lobby for the Rich pardon. Because Dozoretz has invoked her Fifth Amendment rights against self-incrimination, the Committee is unable to conclude whether or not Dozoretz made any linkage between contributions to the DNC or the Clinton library and the granting of the Rich pardon.

- *The role of Prime Minister Ehud Barak.* Israeli Prime Minister Ehud Barak spoke to President Clinton three times about the Rich pardon. In his public statements about the Rich pardon, President Clinton has pointed to these conversations with Prime Minister Barak as one of the primary reasons he granted the pardon. However an examination of the transcripts of the calls shows that Barak did not make a particularly impassioned plea for Rich. Therefore, it appears that the President may be attempting to use Prime Minister Barak's interest in the Rich matter as a cover for his own motivations for granting the Rich pardon.

- *Barak had met with Rich personally and told Clinton that the Rich pardon "could be important . . . not just financially, but he helped Mossad on more than one case."* Barak's statement raises the possibility that either Barak or Clinton acted on the Rich matter because of some promise of future financial return.

Eric Holder and Jack Quinn worked together to cut the Justice Department out of the decisionmaking process. Holder's decision to support the pardon had a critical impact.

- *Jack Quinn and Deputy Attorney General Eric Holder worked together to ensure that the Justice Department, especially the prosecutors of the Southern District of New York, did not have an opportunity to express an opinion on the Rich pardon before it was granted.* The evidence amassed by the Committee indicates that Holder advised Quinn to file the Rich pardon petition with the White House and leave the Justice Department out of the process. One e-mail produced to the Committee suggests that Holder told Quinn to "go straight to wh," and that the "timing is good." The evidence also indicates that Holder failed to inform the prosecutors under him that the Rich pardon was under consideration, despite the fact that he was aware of the pardon effort for almost two months before it was granted.

- *Eric Holder's support of the Rich pardon played a critical role in the success of the pardon effort.* Holder informed the White House that he was "neutral, leaning towards favorable" on the Rich pardon, even though he knew that Rich was a fugitive

from justice, and that Justice Department prosecutors viewed Rich with such contempt that they would no longer meet with his lawyers. Holder has failed to offer any credible justification for his support of the Rich pardon, leading the Committee to believe that Holder had other motivations for his decision, which he has failed to share with the Committee.

- *Eric Holder was seeking Jack Quinn's support to be appointed as Attorney General in a potential Gore Administration, and this may have affected Holder's judgment in the Rich matter.* On several occasions, Holder sought out Quinn's endorsement to be appointed as Attorney General if Al Gore were to win the November 2000 election. Quinn was a Gore confidant whose endorsement would carry great weight. Holder's initial help to Quinn in the Rich matter predated the Supreme Court's decision in *Bush v. Gore*, and accordingly, Holder had some legitimate prospect of being appointed Attorney General when he was helping Quinn keep the Rich matter from the Justice Department's scrutiny. While Holder denies that his desire to be appointed Attorney General had anything to do with his actions in the Rich matter, it provides a much clearer and more believable motivation than any offered by Holder to date.

President Clinton made his decision knowing almost nothing about the Rich case, making a number of mistaken assumptions and reaching false conclusions.

- *The White House never consulted with the prosecutors in the Southern District of New York regarding the Rich case.* As a result, the White House staff was never able to refute the false and misleading arguments made in the Marc Rich pardon petition.

- *Every White House staff member who was working on the Rich pardon opposed it.* However, because they failed to do the necessary background research on the Rich case, they were unable to refute the arguments made by Jack Quinn.

- *President Clinton was misled by Jack Quinn in their negotiations regarding the Rich pardon.* Late in the evening of January 19, 2001, President Clinton and Jack Quinn had a telephone discussion regarding the Rich pardon. During this conversation, Quinn repeated his usual misleading arguments about the Rich case. Quinn also offered to make his clients subject to civil liability for their actions. In furtherance of this offer, Quinn agreed to waive all statute of limitations and other defenses, which Rich and Green would have as a result of their fugitivity. President Clinton has cited this waiver as a key factor in his decision to grant the pardons. However, if President Clinton or his staff had done even cursory legal research, they would have understood that this was a hollow, meaningless deal. First, Quinn agreed to waive defenses that Rich and Green did not have. It is basic legal doctrine that fugitivity tolls the statute of limitations. Second, Rich and Green likely do not face any civil liability for their crimes, since those fines were already paid by their

companies. Third, Rich and Green had been willing to pay $100 million to settle their case for years. A fine, even a large one, would have had no impact on Rich and Green, and it would merely stand for the proposition that the U.S. justice system is for sale.

- *When the White House did finally provide the names of Marc Rich and Pincus Green for a Justice Department background check in the middle of the night on January 19, 2001, the check turned up new, troubling information which was disregarded by President Clinton.* When the White House requested the Justice Department to perform a computer background check on Rich and Green prior to granting the pardons, the check came back with information that they were wanted for "arms trading." This was new information for all of the White House staff, and it raised serious questions among them as to whether the pardons should be granted. However, the only step the White House took to check on this allegation was to call Jack Quinn. Quinn predictably denied that his clients were involved in arms trading. Faced with this conflicting information about Rich and Green, President Clinton instructed his staff to "take Jack's word," and issue the pardons.

President Clinton has failed to offer a full accounting for his decision to issue the Marc Rich and Pincus Green pardons.

- *President Clinton has failed to answer any questions about the Rich and Green pardons.* The few statements that he has issued have been misleading, incomplete, and raised more questions than they answered. Given his complete failure to explain the pardons, the Committee is left with serious unanswered questions regarding President Clinton's motives.

INTRODUCTION

The pardons of Marc Rich and Pincus Green were the most controversial and most outrageous pardons issued by President Clinton, and likely, by any President. Rich and Green were fugitives from justice, and were two of the largest tax cheats in U.S. history. In addition, they had a long and disgraceful record of trading with America's enemies, helping prop up the Ayatollah Khomeini, Saddam Hussein, Muammar Qaddafi, and the Russian mafia, among others. This track record has led even Marc Rich's lawyers to call him a "traitor" and observe that he has "spit on the American flag."

It is beyond any dispute that Marc Rich and Pincus Green did not deserve pardons. Therefore, the inevitable question is why the President granted them. Some believe that the Rich and Green pardons were the product of a pardon process that completely broke down at the end of the Clinton Administration. These individuals would argue that in his rush to create a legacy at the end of his term, President Clinton short-circuited the normal clemency review process, and granted pardons without conducting the due diligence that was required. While this is hardly a charitable view of Presi-

dent Clinton, it is the most innocuous explanation that can be presented for the Rich and Green pardons.

There are a number of reasons to believe that the pardons were not just the product of a sloppy process. After all, even though they did not fully understand the scope of Rich and Green's crimes, the President and White House staff grasped the essentials of the Rich case: Rich and Green were massive tax cheats, fugitives from justice, and had traded with the enemy. Yet, they received the pardons despite these damning facts. Therefore, the Committee has looked at the motives of the key players in the Marc Rich and Pincus Green pardon effort.

The evidence raises many questions regarding the motives of the key players.

- Jack Quinn, for example, used his influence as a former White House Counsel to lobby the President on Rich's behalf. Quinn repeatedly provided misinformation to the White House. At the height of the public's outcry about the Rich case, Quinn claimed that he was representing Rich on a pro bono basis. However, the evidence obtained by the Committee shows that Quinn was attempting to secure a lucrative payment from Rich, and may still be trying to obtain payment from Rich.
- Deputy Attorney General Eric Holder provided critical support for the Rich pardon. While Holder should have ensured that the Justice Department's views were represented in the pardon process, Holder instead advised Jack Quinn on how to cut the Justice Department out of the process. While all of the White House staff was opposing the Rich and Green pardons, Eric Holder provided critical support for it at the eleventh hour. Holder may claim that his actions were the result of misjudgment, but Holder himself admitted that he was seeking Quinn's support to be nominated as Attorney General if Al Gore was elected President. This created a conflict of interest for Holder.
- Denise Rich and Beth Dozoretz were both close friends of President Clinton and major contributors to the Democratic Party. In addition, Denise Rich contributed $450,000 to the Clinton Library, and Dozoretz pledged to raise $1 million for the Clinton Library. Both lobbied the President on the Rich pardon. Both have also invoked their Fifth Amendment rights rather than testify about their discussions with the President.
- President Clinton is ultimately responsible for the pardons, and must ultimately provide an explanation of why he granted them. He has, however, failed to provide any satisfactory rationale for his actions. He has failed to answer any serious questions, and instead, has offered only one self-serving, factually inaccurate newspaper column to justify the pardons. President Clinton's attempted explanations have raised more questions than answers about his motivations for granting two of the most unjustified pardons in U.S. history.

Regardless of the motivations for the Rich and Green pardons, the nation must live with the consequences of them. The pardons have sent two equally destructive messages. First, by granting the pardons, President Clinton undermined the efforts of U.S. law en-

forcement to apprehend fugitives abroad. By pardoning a man who evaded capture by the U.S. Marshals Service for almost two decades, President Clinton sent the message that indeed, crime can pay, and that it may be worthwhile to remain a fugitive rather than face charges. The pardon also could undermine U.S. efforts to obtain extradition of fugitives from foreign countries. When a man like Rich can go from the Justice Department's most wanted to a free man with a stroke of the pen, it is difficult for the U.S. to credibly demand the extradition of wanted fugitives. Finally, the pardons send the message that President Clinton did believe that different rules applied to wealthy criminals. If he did not have the money to hire Jack Quinn and his White House access, Marc Rich never would have obtained a pardon. The President abused one of his most important powers, meant to free the unjustly convicted or provide forgiveness to those who have served their time and changed their lives. Instead, he offered it up to wealthy fugitives whose money had already enabled them to permanently escape American justice. Few other abuses could so thoroughly undermine public trust in government.

I. BACKGROUND OF MARC RICH AND PINCUS GREEN

A. Rich and Green's Business Activities

1. How Rich and Green Became Wealthy

Marc Rich is one of the wealthiest people in the world. His network of business enterprises is estimated to generate upwards of $30 billion annually.[1] Rich's personal net worth is estimated at between $1.5 and $8 billion.[2] Along with his business partner Pincus "Pinky" Green, Rich has made this fortune principally through the commodities trading business.

Rich began his career as a commodities trader in 1954 with the New York office of the trading firm Philipp Brothers.[3] Rich traded in a wide variety of commodities, including precious metals. Throughout his early career he was highly successful, amassing huge profits for the firm. Over time, Rich also developed a niche within the firm as a crude oil trader. He and Green revolutionized international oil trading by creating the "spot market," which is the practice of purchasing oil from producers and immediately selling it to refineries for a large profit.

After more than twenty years of trading for Philipp Brothers, Rich decided that he could make more money on his own. In 1975, while managing Philipp Brothers' Madrid office, Rich called a meeting of the firm's European managers in Zug, Switzerland, during which he demanded an impossibly high bonus.[4] When, as expected, Rich's boss refused, Rich announced that he was leaving the firm to start his own company. He left with Pincus Green, taking six other top traders from the firm, as well as files of informa-

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[1] Josh Getlin, *Clinton Pardons a Billionaire Fugitive, and Questions Abound*, L.A. TIMES, Jan. 24, 2001, at A1.

[2] A. Craig Copetas, *Court TV Chat Transcript* (visited Mar. 10, 2002) http://www.courttv.com/talk/chat—transcripts/2001/0220rich-copetas.html. It should be noted that estimates of Rich's personal fortune are probably lower than the actual amount because of Rich's history of questionable accounting and tax evasion, including that for which he was indicted in 1983.

[3] A. CRAIG COPETAS, METAL MEN: MARC RICH AND THE 10-BILLION-DOLLAR SCAM 65 (1985).

[4] *Id.* at 96.

tion on Philipp Brothers' clients.[5] Rich's new firm was a success, and Rich was well on his way to becoming a billionaire. By 1982, Marc Rich + Co. A.G. had become the second largest commodities firm in the world.[6] However, as Rich's biographer explained, the initial financing for Rich's new company was based largely on "a promise from Iranian Senator Ali Rezai to help set up a series of no-holds-barred oil deals that would, in part, lead to making Marc Rich the most wanted white-collar fugitive in American history."[7]

2. Marc Rich's History of Illegal and Improper Business Dealings

Even before he had departed Philipp Brothers, Marc Rich developed a reputation as a shrewd and unethical manipulator. As fellow Phillip Brothers' trader Bill Spier explained, "What separated our friendship was his belief that you could only make it bigger and better than the next guy by buying people off. Marc was suave and sophisticated and obsessed with power. He was always looking to see who he could buy off."[8] While at Philipp Brothers, Rich also learned to deal with rogue political regimes in order to make a profit. For example, in 1958, Rich was sent to Cuba, and continued to work there after the fall of the Batista regime. As one former associate explained, "Marc cut his teeth in Havana, and the experience shaped his character because it taught him that being illegal was okay under certain conditions[.]"[9]

Once he set up his own business enterprise, Rich's questionable practices appear to have expanded. His trading empire was based largely on systematic bribes and kickbacks to corrupt local officials. For example, in 1977, one of Rich's traders claimed to have deposited $125,000 into the Swiss bank account of Reza Fallah, then-head of the Iranian National Oil Company, in exchange for "services rendered" in securing a shipment of Iranian oil to Spain.[10] In 1978, Rich and Green were caught diverting Nigerian oil shipments to South Africa. When the Nigerians threatened to cut off relations with Rich, he paid a $1 million bribe to the Nigerian transport minister to get the contract back.[11] Rich also reportedly paid former Jamaican President Edward Seaga $45,000 to send the Jamaican track and field team to the 1984 Olympics. In return, Rich signed a ten-year agreement to purchase most of the output of the Jamaican Alcoa plant, which annually produced a significant portion of the world's aluminum.[12] One former Rich trader explained the standard practices of Rich's companies as follows: "[t]o go into places like Iran and do honest business is naive. I'd figure 15 percent of your net in payoffs for every deal made."[13]

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[5] *Id.* at 99.
[6] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform,* 107th Cong. 98 (Feb. 8, 2001) (prepared testimony of Morris "Sandy" Weinberg, Jr., and Martin J. Auerbach, former Assistant U.S. Attorneys for the S.D.N.Y., Department of Justice).
[7] A. CRAIG COPETAS, METAL MEN: MARC RICH AND THE 10-BILLION-DOLLAR SCAM 99 (1985).
[8] *Id.* at 66.
[9] *Id.* at 71.
[10] *Id.* at 115.
[11] *Id.* at 119.
[12] Shawn Tully, *Why Marc Rich is Richer Than Ever*, FORTUNE, Aug. 1, 1988, at 74.
[13] A. CRAIG COPETAS, METAL MEN: MARC RICH AND THE 10-BILLION-DOLLAR SCAM 115 (1985).

As is explained in more detail below in the section discussing Rich's legal troubles in the United States, Rich also laundered funds and hid his profits to protect them from the taxing authorities of various countries. For example, Rich routinely used Panamanian shell companies (Sociedades Anónimas) to launder money and to conceal profits from taxing authorities.[14] As explained by author Craig Copetas:

> Panamanian corporate law is particularly helpful to a trader whose operations extend outside the Central American nation and into several different countries. A Sociedad Anónima is never required to file financial reports or tax returns and may maintain its books in any manner it desires in any part of the world. This permits a procedure generally known as laundering, and for Marc Rich—an expert at sidestepping the politics of nations by acting as a maverick middleman between producers and consumers—it was quite the bargain at $1,650 plus a $50 annual franchise tax.[15]

Rescor Incorporated, (a company that Rich used in his illegal oil scam that led to his legal troubles in the United States) was one such shell company. At one point, according to a former Rich shareholder, Rich had $800 million in cash concealed in his Panamanian shell companies.[16]

Working with corrupt governments was not Marc Rich's only trademark. Much of Rich's fortune was made dealing with countries that no one else would deal with. Rich shrewdly used his multinational status, and his familiarity with unscrupulous business practices, to profit from embargoes and wars by trading with pariah nations. Rich's pattern of dealing with America's enemies, especially Iran, led even one of Rich's own lawyers to admit that Rich could be considered a traitor to his country:

> Mr. WAXMAN. Do you agree with the statement that these gentlemen [Rich and Green] were two traitors to their country?
>
> Mr. LIBBY. I can understand someone using those terms.
>
> Mr. WAXMAN. Do you agree with them?
>
> Mr. LIBBY. Their companies engaged in trades with Iran—
>
> Mr. WAXMAN. Traitors not traders.
>
> Mr. LIBBY. No, sir, I was trying to finish—during a period when trades [sic] were held, and that was an act you could consider an act of a traitor.
>
> Mr. WAXMAN. That someone could consider, but you do not consider it?
>
> Mr. LIBBY. I could consider it. I do not condone it. I didn't advise it. I do not admire it.[17]

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[14] *Id.* at 125.
[15] *Id.*
[16] *Id.*
[17] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform,* 107th Cong. 486 (Mar. 1, 2001) (testimony of I. Lewis "Scooter" Libby).

The following section describes specific business relationships that Rich maintained with regimes or countries with interests adverse to the United States. U.S. intelligence agencies have considerable information about Marc Rich, none of which was reviewed by the White House prior to the pardons. Unfortunately, most of the information remains classified. The CIA, however, did declassify the following statement:

> If President Clinton had checked with the CIA, he would have learned that Marc Rich had been the subject of inquiries by various foreign government liaison services and domestic government agencies regarding their ongoing investigations of criminal activity.
>
> In addition, President Clinton would have received information worthy of his consideration in making his decision on the pardon. This information cannot be declassified.

As described below, though, the public record alone should have been enough to eliminate any possibility of pardons for Marc Rich and Pincus Green.

a. Iran

Marc Rich got his start in the oil trade through business dealings with the Shah of Iran. After the Shah fell from power, many were concerned by Ayatollah Khomeini's violent rise to power. However, Rich saw a new opportunity, and began trading with the Khomeini regime. In the early days of the Iranian revolution, after the new Iranian government seized 51 American hostages, the United States imposed a strict trade embargo on Iran. Nevertheless, Rich directed his staff to meet the new directors of the Iranian state-owned oil company.[18] Shortly thereafter, Marc Rich and Pincus Green reached a deal to purchase Iranian oil through his Swiss company, Marc Rich + Co. A.G. Reportedly, Rich paid for much of this purchase in small arms, automatic rifles, and hand-held rockets.[19] One of Rich's colleagues stated that because of this deal "Rich got more excited than I had ever seen him."[20]

b. South Africa

Rich's companies also dealt extensively with the South African government throughout the apartheid regime. Notwithstanding the United Nations' ban on oil sales to South Africa, throughout the 1980s Rich's company was one of the three main traders of oil between the Middle East and South Africa.[21] Where other companies saw legal peril, Marc Rich saw profit, with South African companies willing to pay a premium of $8 per barrel of oil. According to the Dutch-based Shipping Research Bureau, Rich supplied about 6 percent of all oil imports to South Africa between 1979 and 1986, earning upwards of $1 billion from the transactions.[22] And according to a former Rich shareholder, at the time of their indictment

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[18] A. CRAIG COPETAS, METAL MEN: MARC RICH AND THE 10-BILLION-DOLLAR SCAM 131 (1985).
[19] *Id.*
[20] *Id.* at 132.
[21] Andrew Lycett, *Spectrum: Plain Sailing Through the Sanctions Net*, TIMES (London), Sept. 12, 1986.
[22] Shawn Tully, *Why Marc Rich is Richer Than Ever*, FORTUNE, Aug. 1, 1988, at 74.

in the United States, Rich and Green were trading Soviet and Iranian oil to the apartheid government in South Africa in exchange for Namibian uranium, which Rich and Green in turn sold back to the Soviet Union.[23]

At times, Rich's deals with South Africa were so risky and profitable that Rich would scuttle the oil tanker at the conclusion of the deal and fly the crew home. In one deal, a tanker was loaded with oil from the Soviet Union, was diverted from its intended itinerary, covered its name with tarpaulins, communicated only in code, and then delivered its oil in secret to South Africa.[24]

c. The Soviet Union/Russia

The South African uranium transactions were not the only dealing Rich had with the Soviet Union. In fact, Rich and his companies dealt extensively with the Soviet Union and other Communist countries. His oil trading with the Soviet Union provided Moscow with the hard currency needed to purchase grain during the United States' grain embargo.[25] Rich's dealings with the Soviet Union were so extensive and helpful to the Soviet Union that when he was indicted in the United States in 1983, one Moscow newspaper printed a front page, above-the-fold story defending Marc Rich and attacking the United States.[26] In fact, the Russian newspaper *Izvestia* wrote the following in defense of Rich:

> The United States thinks that all countries, big and small, must subvert their national interests to American measures. . . . Under the pretext of nonpayment of taxes by the Swiss branch of the Marc Rich firm, American authorities have given an ultimatum: either Switzerland changes its internal legislation or its companies will be deprived of admission to American markets. This action by the Reagan Administration is an open threat, an attempt to interfere into the internal affairs of Western European countries through the threat of economic sanctions. The Americans are living under the illusion of a Pax Americana.[27]

The fact that one of the leading propaganda organs of the Soviet state would dedicate itself to the defense of a capitalist commodities trader like Marc Rich shows the importance Rich and his company had in providing hard currency to the Soviet regime.

Marc Rich's influence has only grown in post-Communist Russia. Rich took advantage of widespread privatization in Russia to acquire large supplies of industrial materials at bargain prices. As explained in *The Washington Post*, "[a]fter the Soviet Union fell apart in 1991, these relationships helped Rich become for a time the single most important Western trader in Russia."[28] There is also evidence that Rich has developed deep ties with Russian orga-

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[23] A. CRAIG COPETAS, METAL MEN: MARC RICH AND THE 10-BILLION-DOLLAR SCAM 198 (1985).
[24] Jim Hougan, *King of the World* (Marc Rich), PLAYBOY, Feb. 1, 1994, at 104.
[25] *Id.*
[26] A. CRAIG COPETAS, METAL MEN: MARC RICH AND THE 10-BILLION-DOLLAR SCAM 196–197 (1985).
[27] *Id.* at 197.
[28] Michael Dobbs, *Rich Made His Fortune by Breaking the Rules*, WASH. POST, Mar. 13, 2001, at A1.

nized crime, a powerful force in post-Communist Russia.[29] According to press accounts, law enforcement agencies including the FBI and the CIA had information indicating that Rich had financial ties to the Russian mafia.[30] According to one U.S. intelligence source who spoke to the press, "Clinton would have found out about the relationships if he had asked either the FBI or CIA, [but] [h]e clearly never bothered to ask."[31] Another source told the press that "[t]he FBI has tons of material on the Russian mafia and in particular the Rich-mafia connection."[32]

Reportedly, Rich has been linked specifically by U.S. law enforcement to Mikhail Chernoy, a former agent for Trans-World Metals. Chernoy is a defendant in a civil case in the U.S. District Court for the Southern District of New York. He is named as a controller of two Russian aluminum companies by European companies who claim that the defendants used bribery, money-laundering and extortion in order to illegally seize a large aluminum plant in Russia.[33] Moreover, according to an investigative report commissioned by the World Bank in 1998, Chernoy was arrested by the Swiss police in 1996 during an investigation of Russian gangs.[34] As the report states, Mikhail's brother Lev "is believed to be a major Russian mafia figure by most international police and intelligence organizations."[35] The report further states that Marc Rich provided the seed money necessary to start up Trans-World metals.[36]

Rich has also been linked to Grigori Loutchansky, a Georgian-born Israeli citizen who is considered to be a significant player in Russian mob activities. According to press accounts, Loutchansky worked with Rich in the early 1990s selling Russian oil and aluminum from formerly state-run enterprises.[37] Loutchansky, who was "accused of drug trafficking and smuggling nuclear weapons,"[38] is "listed in a 1995 State Department 'watch list' as a 'suspected criminal,'"[39] and was involved in the 1996 campaign fundraising scandal. *Time* magazine has said that Loutchansky is "considered by many to be the most pernicious unindicted criminal in the world,"[40] yet he dined with Clinton at a White House dinner in 1993 and subsequently channeled money into Clinton's cam-

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[29] ROBERT I. FRIEDMAN, RED MAFIYA: HOW THE RUSSIAN MOB HAS INVADED AMERICA 51 (2000) (indicating that Rich had a relationship with Russian gangster Marat Balagula, now serving time in prison for gasoline price fixing). Rich is also suspected to have been involved in metals trading going in and out of the Estonian port of Tallinn, where Russian copper, nickel and cobalt are often exported. Tallinn is notorious for being controlled by the Russian mafia. Rich's company has denied using the port of Tallinn. *See* Tony Glover, *The EU's Baltic Extension*, EUROBUSINESS, May 1, 1994.

[30] Matthew McAllester, *Rich's Suspect Ties/Sources: Clinton Could Have Learned Russian Mob Links*, NEWSDAY, Mar. 1, 2001, at A5.

[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] *Id.* David Reuben, the Chairman of Trans-World has denied this account. *See Letters*, NEWSDAY, Mar. 7, 2001, at A39.

[37] *The U.S. Connection in Caucasus*, INTELLIGENCE NEWSLETTER, No. 401, Mar. 8, 2001.

[38] Judi Hasson, *Panel Offers Evidence of China Link Beijing Bank Wired Funds to L.A. Man Prior to Donation*, USA TODAY, July 11, 1997, at 6A.

[39] Jerry Seper, *Ukrainian Gained U.S. Entry Because of Spelling Mismatch*, WASH. TIMES, Dec. 13, 1997, at A4.

[40] *Statement by Former CIA Director on Clinton Ties to Loutchansky*, U.S. NEWSWIRE, Nov. 3, 1996.

paign.[41] He was also invited to a fundraising dinner in July 1995 but was unable to attend when his visa was denied and invitation withdrawn.[42]

d. Cuba

In this hemisphere, Rich continued to conduct business with Communist Cuba, notwithstanding the U.S. embargo. Rich's early dealings with Fidel Castro as a trader for Philipp Brothers apparently paid off decades later when he started his own companies. Marc Rich reportedly assisted Cuban efforts to escalate its nuclear power program in 1991.[43] Rich negotiated with Castro's son to develop a uranium deposit in Western Cuba.[44] The highly enriched uranium could be used to fuel Cuba's twin 440-megawatt nuclear power reactors. In addition, U.S. officials were concerned about the weapons potential of the enriched uranium used in the reactor.[45] Also in 1991, Marc Rich & Co., Ltd. arranged a $3.9 million deal for sugar and oil that were transferred through Cuba.[46] Ultimately, these transactions violated the Cuban Assets Control regulations, and the Office of Foreign Assets Control of the U.S. Department of Treasury blocked nearly $3 million of funds from Rich's Cuba transactions.[47]

e. Libya

Marc Rich also apparently traded with Libya under Muammar Qaddafi.[48] Rich's companies purchased oil from Libya beginning in the 1970s.[49] Yet even after the United States bombed Libya in April of 1986 in response to the terrorist attacks originating in that country, Rich reportedly continued to purchase crude oil from Qaddafi's regime.[50] Rich continued to do business with Libya even after U.S. oil companies completely withdrew from the country.[51] Unlike the other American oil companies, Rich ignored the oil embargoes and executive orders of the Reagan Administration designed to punish the terrorist-sponsoring state.

f. Iraq

It has also been reported that Marc Rich attempted to violate the UN embargo against Iraq during the Persian Gulf War.[52] Other reports indicate that U.S. officials have been investigating charges

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[41] Jerry Seper, *Soloman Asks Again for Data on Meetings with Russian*, WASH. TIMES, Feb. 11, 1997, at A4.

[42] Lee Davidson, *Bennett Zeros in on Demo Donations*, DESERET NEWS (Salt Lake City, UT), July 11, 1997, at A1.

[43] John J. Fialka and Jose de Cordoba, *Cuba Speeds Nuclear Project; Marc Rich Is Said to Assist*, WALL ST. J. EUROPE, June 4, 1991, at 2.

[44] *Id.*

[45] *See id.*

[46] Department of Treasury Document Production 000635 (Note to file C–17306 from the Compliance Programs Division) (Exhibit 1).

[47] Department of Treasury Document Production 000652 (Memorandum from R. Richard Newcomb, Director of the Office of Foreign Assets Control, Department of the Treasury, to Ronald K. Noble, Under Secretary for Enforcement, Department of the Treasury (Sept. 16, 1994)) (Exhibit 2).

[48] A. CRAIG COPETAS, METAL MEN: MARC RICH AND THE 10-BILLION-DOLLAR SCAM 118 (1985).

[49] *Id.*

[50] *Strong Tanker Fixtures Seen as Indication of Undiminished Interest in Libyan Oil*, PLATT'S OILGRAM NEWS, July 16, 1986, at 1.

[51] *Id.*

[52] *See* John Hooper, *Oil Traders Get Rich in Global Game of Chess*, THE GUARDIAN (London), Aug. 7, 1990. *See also* Jim Hougan, *King of the World* (Marc Rich), PLAYBOY, Feb. 1, 1994, at 104.

that Rich lent money to Saddam Hussein's government in exchange for future deliveries of cheap oil.[53] In a statement to *The Financial Times of London*, Marc Rich acknowledged that he had communications with Iraq in September of 1991, but denied that it involved oil trading.[54] The fact that Rich would admit to having discussions with Saddam Hussein's government just months after the end of the Gulf War is remarkable. Based on his pattern of shrewd, unethical, and illegal business dealings with other rogue regimes, Rich's claim to be interested only in humanitarian aid for Iraq completely lacks credibility.

g. Angola

In Angola, as in many other countries, Marc Rich and Pincus Green became close to the dictators ruling the country. These relationships gave them exclusive rights to the country's oil. When other Western oil companies wanted Angolan oil, they had to turn to Marc Rich and Pincus Green. This point was made with somewhat comedic effect when, in the late 1970s, a number of western oil executives were called to a meeting with Angola's oil agents. Expecting a group of communist officials, the executives "were visibly stunned when the communist representative who walked into the conference room turned out to be Pinky Green, greeting Exxon executives with a hearty 'How ya doin'?' "[55]

h. Romania

Marc Rich is reported to have traded several commodities, including oil, with the Romanian regime of Nicolae Ceausescu.[56] At the time, Rich reportedly had his own refineries based in Romania.[57] Trade unionists in Romania have accused Rich of cashing in on the fortunes that Ceausescu stole from the Romanian people.[58] It also appears that, based on documents received by the Committee from the U.S. Department of Agriculture, Marc Rich was trading grain with the Ceausescu regime in the late 1980s.[59] As is discussed in detail below, these sales (in addition to sales to countries like China, the Soviet Union, and Saudi Arabia) resulted in Rich's companies receiving $95 million from the Department of Agriculture through a program that provided surplus grain to companies selling subsidized grain abroad.[60] This led to an investigation by then-Congressman, and later Secretary of Agriculture, Dan Glickman. Glickman's investigation would eventually lead the first Bush Administration to direct the Department of Agriculture to bar Rich's companies from receiving any new contracts.

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[53] Paul Klebnikov, *How Rich Got Rich*, FORBES, June 22, 1992, at 41.
[54] Ian Rodger, *Marc Rich Hopes for Resolution of Tax Case*, FINANCIAL TIMES, (London), Mar. 12, 1993, at 26.
[55] A. CRAIG COPETAS, METAL MEN: MARC RICH AND THE 10-BILLION-DOLLAR SCAM 115 (1985).
[56] *Romania: Life After Debt*, INTERNATIONAL TRADE FINANCE, May 18, 1989.
[57] Jim Hougan, *King of the World* (Marc Rich), PLAYBOY, Feb. 1, 1994, at 104.
[58] *Id.*
[59] *See* Department of Agriculture Document Production (Minutes of Richo Grain Board Meeting, Jan. 6, 1987); Department of Agriculture Document Production (Listing of E.E.P. Awards Made to Richco Grain, Sept. 27, 1989) (Exhibit 3).
[60] Bruce Ingersoll, *U.S. Suspends Grain Export Subsidies for Firm Linked to Fugitive Marc Rich*, WALL ST. J., Oct. 12, 1989, at sec. 3, p. 19.

i. Serbia

One document from the Office of Foreign Assets Control produced to the Committee by the U.S. Department of Treasury indicates that Rich was also dealing with Serbia in violation of U.S. and international sanctions.[61] Press accounts indicate that Rich violated the U.N. trade embargo by dealing with Belgrade in a variety of commodities, including copper and oil.[62] According to an article in *The Oil Daily*, at the time of the U.N. embargo, Serbia reportedly had a deal in place with Marc Rich to process crude oil in Romania.[63]

When asked at a Committee hearing about allegations relating to Marc Rich's transactions with rogue states, Rich's lawyer Jack Quinn responded "I don't know the answer to that."[64] When asked about the White House's knowledge and research of these activities, White House Counsel Beth Nolan told the Committee that she never received an intelligence briefing and never explained Rich's shady dealings to the President.[65] While it may be understandable that Jack Quinn would not know—or at least not want to know—about Rich's dealings with so many dictatorships and rogue regimes, it is inexcusable that the White House failed to take the time to learn about these disturbing details.[66]

It is clear that Rich built his fortune doing business without legal, ethical, or even moral restraints. He regularly dealt with corrupt officials, dictators and rogue regimes. U.S. and international embargoes and sanctions were not barriers to Rich, merely hurdles to be climbed over, under, or around. As is discussed in more detail below, it is shameful and an embarrassment to the United States that the Clinton Administration did not take adequate steps to determine the extent of Marc Rich's illegal and unethical business activities before the President granted his pardon. This failure by the Clinton Administration is especially troubling in light of the fact that Marc Rich built his fortune by trading with so many enemies of the United States.

B. The Criminal Charges Against Marc Rich and Pincus Green

1. The Investigation of Rich and Green

Marc Rich's illegal business practices in the United States came under the scrutiny of the United States government in the early 1980s. In the fall of 1981, staff from the Fraud Section of the

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[61] Department of Treasury Document Production 000652 (Memorandum from R. Richard Newcomb, Director of the Office of Foreign Assets Control, Department of the Treasury, to Ronald K. Noble, Under Secretary for Enforcement, Department of the Treasury (Sept. 16, 1994)) (Exhibit 2).

[62] Michael Dobbs, *Rich Made His Fortune by Breaking the Rules*, WASH. POST, Mar. 13, 2001, at A1.

[63] Roger Benedict, *U.N. Oil Cutoff of Serbia Hinges on Russia, China* (Security Council Vote), OIL DAILY, June 1, 1992, at 1.

[64] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 111 (Mar. 1, 2001) (testimony of Jack Quinn).

[65] *Id.* at 374.

[66] The Committee, however, does not take the position that it was "understandable" for Quinn not to have known about Rich's dealings with rogue states. While Quinn's actions may be legally permissible, one must think long and hard about the morality of Quinn's actions. Given Rich's status as a fugitive, common sense and due diligence should have led Quinn to inquire further into Rich's past dealings. However, the power of money is often enough to promote willful ignorance.

Criminal Division of the Department of Justice called Assistant U.S. Attorney Morris "Sandy" Weinberg, Jr. of the Southern District of New York ("SDNY").[67] They told Weinberg of a lead they had received concerning a crude oil reseller named Marc Rich whose company had an office in New York City.[68] As Weinberg and his fellow former prosecutor Martin Auerbach explained to the Committee during the first hearing on the Rich pardon, this initial lead on Marc Rich was developed through oil reseller prosecutions in Abilene, Texas.[69] John Troland and David Ratliff of West Texas Marketing—who had been prosecuted for illegal oil reselling—provided information about the offshore laundering of funds by Rich.[70]

In December of 1981, when Weinberg flew to Texas to investigate, he obtained a furlough for the principals of West Texas Marketing ("WTM"), who took him to their office.[71] Upon reviewing their records of WTM's dealings with Marc Rich, Weinberg confirmed that Rich earned $70 million in illegal oil resale profits in 1980 and 1981 and had funneled the money to his Swiss company in order to evade federal income tax and federal energy oil control regulations.[72] As Weinberg testified to the Committee, it was then apparent to him that he and his office had uncovered "the biggest tax fraud in history."[73] As he further testified:

> The case against Mr. Rich and Mr. Green was very strong. . . . Like any fraud case, the evidence was rife with false documents, inflated invoices, sham transactions and off the books deals. The conspirators kept track of the illegal profits in hand written journals in what was described as the "pot." . . . [T]he evidence included meetings between co-conspirators and Marc Rich regarding the pots and the scheme to funnel the illegal profits out of the country to off-shore accounts.[74]

The illegal scheme that Weinberg uncovered stemmed from Marc Rich's evasion of specific Department of Energy ("DOE") regulations. In September of 1980, pursuant to the Emergency Petroleum Allocation Act of 1973,[75] the DOE promulgated regulations establishing the permissible average markup for oil reselling.[76] The permissible price was different for different regulatory categories of crude oil. The categories contemplated by the regulations included: "old" or "lower tier;" "new" or "upper tier;" and "stripper."[77] Under the regulations, every seller or reseller of domestic crude oil was

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[67] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 97 (Feb. 8, 2001) (prepared testimony of Morris "Sandy" Weinberg, Jr., and Martin J. Auerbach, former Assistant U.S. Attorneys for the S.D.N.Y., Department of Justice).

[68] *Id.*

[69] *Id.* at 97–98.

[70] *Id.*

[71] *Id.* at 98.

[72] *Id.*

[73] *Id.* The eventual indictment accused Marc Rich's companies of evading taxes on over $100 million in unreported income.

[74] *Id.* at 104.

[75] 15 U.S.C. § 751, *et seq.*

[76] Indictment, *U.S. v. Marc Rich, Pincus Green et al.* 8–9 (S.D.N.Y. Mar. 6, 1984) (S 83 Cr. 579) (Exhibit 4).

[77] *Id.* at 6. As the indictment states, "Crude oil coming from a well at or below a designated 1972 level of production was labelled 'old'; 'new' oil referred to crude oil discovered since 1973 or oil obtained from existing wells in excess of the 1972 level of production; 'stripper' oil referred to crude oil produced from a well whose average daily production was less then [sic] ten barrels."

required to certify to the purchaser the respective amounts and prices of old oil, new oil, and stripper oil contained in the crude oil that was being sold.[78] The regulations prohibited markups of more than 20 cents per barrel of oil for a reseller such as Marc Rich's company, Marc Rich + Co. International, Ltd. ("International").[79] International was also required to submit ERA–69 forms to the DOE on a monthly basis that set forth the dollar amount of any permissible average markup overcharges so that they could be immediately refunded to customers.[80]

Beginning in September of 1980, Marc Rich and Pincus Green agreed with the principals of West Texas Marketing that when International was limited to the 20 cents per barrel markup, the huge profits from their crude oil transactions would be retained by WTM rather than being reflected on the books of International.[81] These profits were referred to as the "pot."[82] As the indictment against them would allege, to further conceal the scheme, Rich, Green and the principals at WTM conspired to have WTM prepare and mail invoices to International, which falsely indicated that WTM had sold oil barrels to International "at the high world market price, when in truth and in fact . . . International was paying a far lower price upon WTM's agreement secretly to kickback to [Rich and Green] the huge profits held by WTM for . . . International in the 'pot.'"[83]

The profits in these "pots" were moved out of the U.S. to foreign bank accounts at the direction of Marc Rich and Pincus Green.[84] This would occur through sham foreign loss transactions involving Marc Rich + Co., A.G., ("A.G.").[85] From October 1980 through May 1981, Rich, Green, and their companies moved more than $23 million in income to offshore accounts from WTM "pots."[86] These fraudulent transactions were transmitted through telefaxes and wire transfers.[87]

This scheme by Rich and Green was essentially repeated with another company, Listo Petroleum, for a total of $47 million.[88] Rich and Green also entered into false deduction transactions with Charter Crude Oil Company, as well as ARCO.[89] In the case of Charter, at the direction of Marc Rich, International prepared fraudulent invoices purporting that International had purchased

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[78] *Id.* at 7.
[79] *Id.* at 8–9.
[80] *Id.* at 9.
[81] *Id.* at 10–11.
[82] *Id.* at 11.
[83] *Id.* The manipulation of the oil categories by oil resellers such as Marc Rich and his companies was referred to as "daisy chaining." As is explained in the indictment:

> During the period of price controls, in order to evade the regulations and produce huge profits, controlled oil was on occasion sold through a series of oil resellers known in the crude oil industry as a "daisy chain." The defendant INTERNATIONAL frequently participated as the original reseller of controlled oil into a "daisy chain." The "daisy chain" was utilized by the original reseller to make it extremely difficult to trace the movement of controlled barrels and to facilitate alteration of the certifications on controlled barrels into stripper barrels (uncontrolled) which could then be sold at the much higher world market price.

Id. at 7–8.
[84] *Id.* at 11.
[85] *Id.* at 11–12.
[86] *Id.* at 12.
[87] *Id.* at 12–13.
[88] *Id.* at 13, 15.
[89] *Id.* at 15–18.

foreign crude oil from A.G. at its fair market value and subsequently sold it to a Charter subsidiary at a substantial discount.[90] As a result, International fraudulently reduced its amount of taxable income by more than $31 million dollars.[91] In the ARCO case, in the fall of 1980, Rich and Green's company Rescor invoiced their other company, International, for nearly $3 million. The invoice concerned a non-existent contract for the sale of foreign crude oil to Rescor by International. The fraudulent invoice made it appear that International had failed to provide oil to Rescor which subsequently had to purchase a similar quantity of oil from Arco at five dollars per barrel above the original contract price.[92] As a result, International fraudulently reduced its amount of taxable income for 1980 by nearly $3 million.[93]

Finally, Weinberg uncovered evidence of Marc Rich and Pincus Green trading with Iran during the American hostage crisis. In 1979 and 1980, President Carter issued several executive orders and the Department of Treasury subsequently promulgated regulations that prohibited any American from trading with Iran without a special license from the Department of Treasury.[94] The regulations further required all individuals engaging in trade with Iran to keep records to be available for examination by the Office of Foreign Assets Control.[95] Nevertheless, on April 30, 1980, Marc Rich + Co., A.G. entered into a contract with the National Iranian Oil Company ("NIOC") for the purchase of crude and fuel oil from May 1, 1980 through September 30, 1980.[96] As the indictment indicates, from their offices in New York City, Rich and Green in turn sold 6,250,000 barrels of the Iranian oil to an oil company in Bermuda for a total of more than $200 million. In order to conceal this scheme, Rich and Green did not disclose to their banks in the United States that the ultimate beneficiary of the U.S. dollars was the NIOC.[97] Rich and Green further devised a secret code for their interoffice cable communications to disguise the participation of the Iranian oil company.[98] The scheme was completed through several wire transactions and transmissions, and ultimately caused United States dollars to be illegally transferred to Iran at the same time that Iran was holding American hostages.[99]

In early 1982, the Southern District of New York began subpoenaing millions of documents from oil companies and crude oil resellers in the United States that had done business with Marc Rich.[100] Prosecutors also served subpoenas on Marc Rich's companies in New York.[101] The Southern District decided to subpoena

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[90] *Id.* at 16.
[91] *Id.*
[92] *Id.* at 17–18.
[93] *Id.* at 18.
[94] *Id.* at 44–45. The executive orders issued pursuant to the International Economic Emergency Powers Act of 1977 included Executive Orders No. 12,170, 12,205, and 12,211.
[95] *Id.* at 45.
[96] *Id.*
[97] *Id.* at 46.
[98] *Id.* at 47.
[99] *Id.* at 47, 49. These charges were brought under 31 CFR §§ 535.206(a)(4), 535.208, 535.701, and 50 USC § 1705, and 18 USC § 2.
[100] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 99 (Feb. 8, 2001) (prepared testimony of Morris "Sandy" Weinberg, Jr., and Martin J. Auerbach, former Assistant U.S. Attorneys for the S.D.N.Y., Department of Justice).
[101] *Id.*

Marc Rich + Co. A.G.—even though it was a Swiss company—because there were sufficient contacts through its American subsidiary to give them jurisdiction for enforcing document subpoenas.[102] Rich, who had retained high-powered attorneys such as Edward Bennett Williams, Peter Fleming, and former federal judge Marvin Frankel, sought to quash the grand jury subpoenas.[103] However, United States District Judge Leonard Sand denied the Rich team's motion to quash and ordered A.G. to produce the documents from Switzerland.[104] The Second Circuit Court of Appeals affirmed Judge Sand's decision in May of 1983.[105] When Marc Rich + Co. A.G. refused to produce the documents, Judge Sand held the company in contempt and ordered a $50,000 per day fine in order to compel production of the documents.[106] Nevertheless, Rich and his company refused to produce the documents or pay the fine.[107]

Rich's behavior during the litigation soon became even more confrontational and deceptive. As the Southern District of New York was to learn, on June 29, 1983, Rich quietly sold off his company's only American asset.[108] Judge Sand called the sale a "ploy to frustrate the implementation of the court's order," and thereby ordered a freeze of A.G."s assets in the United States.[109] The Second Circuit Court of Appeals also concluded that the sale was a fraud.[110] As a result of these rulings by the courts, Rich and his lawyers agreed to negotiate a resolution of the contempt issue. A.G. agreed to pay the more than $1 million in contempt fines that had accumulated and to continue paying the contempt fines until all of the documents had been produced from Switzerland.[111]

At first, Rich's company appeared to be complying with the agreement by producing hundreds of thousands of documents from Switzerland. However, on August 9, 1983, four days after the agreement, the Southern District received an anonymous tip that subpoenaed documents were being secreted out of the U.S. by a paralegal of the law firm Milgrim Thomajan & Lee.[112] In responding to the tip, the Southern District seized two steamer trunks full of subpoenaed documents from a Swiss Air flight.[113] As a result of this incident, Judge Sand ordered the production of every document of the Marc Rich companies in the world that had been subpoe-

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[102] *Id.*
[103] *Id.*
[104] *Id.*
[105] *Id.*
[106] *Id.* at 100.
[107] *Id.*
[108] *Id.*
[109] *Id.*
[110] *Id.*
[111] *Id.* at 101.
[112] *Id.* When asked about this episode at the Committee's hearing, Jack Quinn testified "what I have been told is that those documents were going to Switzerland for the purpose of being reviewed for privilege by the lawyers." *Id.* at 113 (testimony of Jack Quinn). In response to this claim, Martin Auerbach testified: "With respect to the documents that were being slipped out of the country, the suggestion was never that those were being reviewed for attorney-client privilege. It was simply that it would be more convenient for counsel to review them in Switzerland then [sic] to review them in New York. Now, we had tons and tons of documents delivered to us. These two steamer trunks were slipping out. We didn't get a call from them saying, you know, we've got some people over in Zug with nothing better to do than to look at documents; would you mind if we took them over there outside of the jurisdiction at the time when we're in contempt for refusing to produce documents from Switzerland?" *Id.* (testimony of Martin J. Auerbach, former Assistant U.S. Attorney for the S.D.N.Y., Department of Justice).
[113] *Id.* at 101 (prepared testimony of Morris "Sandy" Weinberg, Jr., and Martin J. Auerbach, former Assistant U.S. Attorneys for the S.D.N.Y., Department of Justice).

naed.[114] Rich and his legal team argued that the Swiss government had already seized all of the remaining documents, thereby rendering compliance with the agreement they had reached impossible.[115] Judge Sand nevertheless ruled that the contempt fines should continue.[116] In total, Marc Rich + Co. A.G. paid over $21 million in contempt fines over the course of the litigation.[117]

Rich's attorneys made a number of attempts to settle the case before an indictment was issued. When Rich hired Edward Bennett Williams to represent him, Williams assured him that he could settle the case if Rich paid a large fine, telling Rich "I can get rid of it for $30 million."[118] Williams then went to Sandy Weinberg and asked how much the government wanted to settle the case. When Weinberg told Williams he was not interested, Williams asked Weinberg what he had in mind.[119] Weinberg responded "J-A-I-L."[120] Later, Williams would offer as much as $100 million to settle the Rich case.[121] All of these offers were rejected.

2. The Indictment

In September of 1983, a federal grand jury in New York returned a 51-count indictment against Marc Rich, Pincus Green, and their companies.[122] The original indictment was restructured into a 65-count indictment in March of 1984.[123] All of the first 42 counts were charged against Marc Rich, Pincus Green, Clyde Meltzer, A.G., and Marc Rich + Co, International Ltd. The superseding indictment was arranged to include in counts 1 through 23 the scheme to defraud the IRS.[124] These charges were brought pursuant to 18 USC § 1343, the federal statute prohibiting wire fraud.[125] These charges related to the fraudulent transactions among WTM, and Marc Rich's companies discussed above. Counts 24 through 38 included the scheme to defraud the Department of Energy, and were brought pursuant to 18 USC § 1341, prohibiting mail fraud.[126] Count 39 and 40 were racketeering charges brought under the RICO statute, 18 USC § 1962(c).[127] Counts 41 and 42 included two tax evasion counts for Marc Rich + Co. International's 1980 and 1981 tax returns, covering an amount totaling over $100 million in unreported income which was concealed by the efforts of Rich, Green, Meltzer, and Rich's two companies.[128] As stated in the in-

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[114] *Id.*

[115] *Id.* at 101–02. The Committee does not know Rich's precise role in orchestrating this action by the Swiss government. Rich's power in that country makes it reasonable to assume that he might have played a part in creating the condition that made his representations in the United States possible. The Committee is not aware of the Swiss government penalizing Rich or taking any other action against him.

[116] *Id.* at 102.

[117] *Id.*

[118] EVAN THOMAS, THE MAN TO SEE: EDWARD BENNETT WILLIAMS 415 (1991).

[119] *Id.* at 416.

[120] *Id.*

[121] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 103 (Feb. 8, 2001) (prepared testimony of Morris "Sandy" Weinberg, Jr., and Martin J. Auerbach, former Assistant U.S. Attorneys for the S.D.N.Y., Department of Justice).

[122] *Id.*

[123] *See* Indictment, *U.S. v. Marc Rich, Pincus Green et al.* (S.D.N.Y. Mar. 6, 1984) (S 83 Cr. 579) (Exhibit 4).

[124] *Id.* at 19–22.

[125] *Id.* at 22.

[126] *Id.* at 22–25.

[127] *Id.* at 33–34.

[128] *Id.* at 40–42.

dictment, International was able to evade more than $49 million in taxes.[129] These counts were also brought against Marc Rich and Pincus Green personally. The tax and racketeering counts were approved and authorized by the Department of Justice.[130] Counts 43 through 57 alleged that Rich defrauded the Department of Treasury for his transactions with the Iranians during the oil embargo and the American hostage crisis. Finally, counts 57 through 65 charged Rich with "trading with the enemy" for Rich's secret deals with the Iranians.[131] In the superseding indictment, these charges were not leveled against the companies. As a letter accompanying the indictment states, "[t]he primary focus of those counts has always been the activities of the American individuals, Marc Rich and Pincus Green." [132]

3. Rich and Green Flee the Country

Even though their companies eventually pled guilty and paid heavy fines, Rich and Green personally refused to face the U.S. justice system. Rich and Green were out of the country when their indictments were handed down. They refused to return to the United States, even after warrants were issued for their arrest. As Weinberg and Auerbach explained to the Committee, "[b]y the time of the indictment, Marc Rich and Pincus Green had made it clear that they would not return to the United States to face the charges. Apparently, they had quietly left the United States in June 1983 at a time when their lawyers were attempting to negotiate a resolution of the case." [133] Even Rich's own lead attorney, Edward Bennett Williams, was shocked by Rich's conduct:

> Rich responded to the warrant for his arrest by refusing to return from Switzerland. Williams was standing in the office of Marvin Davis in Los Angeles when he heard the news that his client was on the lam. According to Davis, Williams shouted in the phone, "You know something, Marc? You spit on the American flag. You spit on the jury system. Whatever you get, you deserve. We could have gotten the minimum. Now you're going to sink." [134]

Despite the outrage of their own lawyers, as well as the prosecutors, Rich and Green never returned to the country to face the charges. They remained fugitives in Switzerland for more than seventeen years until they received their pardons from President Clinton.

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[129] *Id.*

[130] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 102–03 (Feb. 8, 2001) (prepared testimony of Morris "Sandy" Weinberg, Jr., and Martin J. Auerbach, former Assistant U.S. Attorneys for the S.D.N.Y., Department of Justice).

[131] *U.S. v. Marc Rich, Pincus Green et al.* (S.D.N.Y. Mar. 6, 1984) (S 83 Cr. 579). *See also* 50 U.S.C. § 1705.

[132] Cover letter to superseding indictment, *U.S. v. Marc Rich, Pincus Green et al*. (S.D.N.Y. Mar. 6, 1984) (S 83 Cr. 579) (Exhibit 4).

[133] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 103 (Feb. 8, 2001) (prepared testimony of Morris "Sandy" Weinberg, Jr., and Martin J. Auerbach, former Assistant U.S. Attorneys for the S.D.N.Y., Department of Justice). It should be noted that by this point, Rich and Green had already renounced their U.S. citizenship and become citizens of Spain and perhaps Bolivia.

[134] EVAN THOMAS, THE MAN TO SEE: EDWARD BENNETT WILLIAMS 417 (1991). Rich denied Davis' account of this conversation, saying, "There is not a shred of truth in it."

4. The Corporate Guilty Pleas

Notwithstanding the fact that Rich and Green would not return to face the charges against them, their companies entered plea negotiations with the government. A year after the indictment was handed down, Marc Rich's companies pled guilty to evading $50 million in taxes. In the allocution on October 11, 1984, Peter Fleming, counsel for Marc Rich + Co. International, Ltd. stated to the court:

> Beginning in September 1980 International generated millions of dollars of income from crude oil transactions which International should have disclosed but intentionally did not disclose to the Internal Revenue Service and the Department of Energy.
>
> * * *
>
> In connection with matters within the jurisdiction of agencies of the United States, specifically the Department of Energy and the Internal Revenue Service, International and A.G. knowingly and willfully made those documents and the ERA 69s filed with the Department of Energy which were false in that they failed to disclose material facts regarding the actual income from those crude oil transactions, in violation of Title 18, United States Code, Section 1001, which is the charging statute of counts 1 through 38.
>
> * * *
>
> In addition, by knowingly and willfully failing to report at least $50 million of taxable income generated from these transactions for the years 1980 and 1981, International committed income tax evasion for these years in violation of Title 26, United States Code, Section 7201.[135]

Counsel for Marc Rich + Co. A.G. then stated to the court, "[a]s you know, A.G. is charged only in counts 1 through 38 of this information, and A.G. adopts Mr. Fleming's statements in connection with those counts."[136] As part of their guilty plea, A.G. and International (which by then had been renamed "Clarendon, Ltd."), also agreed to pay the United States $150 million,[137] and agreed to waive any right to recover the $21 million in fines they had already paid the government.[138] The total amount that the companies paid to the government for their crimes was $200 million.[139] As then-United States Attorney Rudolph Giuliani explained in court, this represented the largest amount of money ever recovered by the United States in a criminal tax evasion case.[140]

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[135] Transcript of Allocution, *U.S. v. Marc Rich + Co., A.G. et al.* 18–19 (S.D.N.Y. Oct. 11, 1984) (S 83 Cr. 579) (Exhibit 5).
[136] *Id.* at 20.
[137] *Id.* at 3.
[138] *Id.* at 4.
[139] *Id.*
[140] *Id.* at 5.

The guilty pleas and fines paid by the companies controlled by Marc Rich and Pincus Green clearly demonstrate the guilt of the two principals. Based on the overwhelming evidence against them, it is no wonder Rich and Green fled the country rather than face trial. The evidence, including the admissions by Marc Rich's companies, also explains why Martin Auerbach of the Southern District of New York could confidently respond to Jack Quinn's criticism at the Committee's hearing, stating, "Mr. Quinn has suggested to the Committee and to the Nation that we had a legal house of cards. Well, if we did, it was all aces." [141]

C. Attempts to Bring Rich and Green to Justice

1. Attempts to Extradite Rich and Green

After Rich and Green fled the country in anticipation of their indictment, the Southern District of New York made many attempts to have foreign governments extradite the two fugitives in order to bring them back to the country to stand trial on the numerous charges against them. On July 20, 1984, the United States requested extradition of Rich and Green from Switzerland. That request was rejected by the Swiss government in September of 1984 on the basis that the offenses charged against Rich and Green were "fiscal violations" and violations of "provisions concerning currency, trade policy and economic policy" [142] and that the government of Switzerland did not recognize the charges against Rich and Green as extraditable crimes. In June of 1994, the Justice Department attempted to extradite Rich and Green from Israel, but the Israeli government also turned down the request. Israel's Attorney General, Michael Ben-Ya'ir, told the U.S. Government that the extradition treaty between the two governments did not include fiscal offenses.[143] And even though Rich had become a citizen of Spain, prosecutors could not extradite him from that country because, like Switzerland and Israel, Spain does not extradite its citizens for tax evasion.

2. Marc Rich and Pincus Green's Attempts to Renounce Their Citizenship

After fleeing the United States, Rich and Green attempted to renounce their U.S. citizenship for the specific purpose of avoiding extradition on the charges against them. According to a U.S. government memorandum from the Embassy in Madrid, Rich expatriated himself on September 3, 1982, prior to his indictment, and became a naturalized Spaniard on February 11, 1983.[144] As Rich explained in a letter to the U.S. Consul General in Zurich, "I was naturalized under the laws of Spain, swore an oath of allegiance to the King of Spain, and formally stated that I thereby renounced

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[141] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 106 (Feb. 8, 2001) (testimony of Martin J. Auerbach, former Assistant U.S. Attorney for the S.D.N.Y., Department of Justice).

[142] Unofficial translation of a note delivered on September 25, 1984, by the Office for Police Matters to the Embassy of the United States. *See* "They Went Thataway: The Strange Case of Marc Rich and Pincus Green," *Hearing Before the Comm. on Govt. Operations*, 102d Cong. 3 (May 27, 1992).

[143] Bo'az Ga'on, *Rich as Korach*, MA'ARIV WEEKEND MAGAZINE, Oct. 1, 1999 (Exhibit 6).

[144] Department of State Document Production (Government Memorandum from U.S. Embassy in Madrid to U.S. Department of State, Aug. 25, 1983) (Exhibit 7).

U.S. nationality."[145] On May 27, 1983, Green, and perhaps Rich, were naturalized as Bolivian citizens according to U.S. State Department cables.[146] In the case of Green, a letter from the Ministry of the Interior in Bolivia states that "the privilege of Bolivian nationality has been given to Pincus Green Bergstein, who previously renounced his nationality of origin and complied with the required procedures determined by current legal regulations."[147] According to a letter from the Department of Justice to Congressman Robert Wise in November of 1991, Rich and Green also became citizens of Israel in 1983.[148] The pardon application submitted to the White House by Jack Quinn also lists Green as a citizen of Switzerland, although it does not list Rich as a Swiss citizen, and it appears that Rich is, in fact, not a Swiss citizen.[149]

In 1983, the State Department informed the Southern District of New York that Rich was seeking to renounce his U.S. citizenship. The American embassy attempted to contact Rich to have him fill out a questionnaire to determine his citizenship, but he never responded.[150] Rich and Green also never responded to letters from the American Consul in Bern, Switzerland, attempting to determine their citizenship. On September 29, 1993, the U.S. State Department revoked Rich's American passports because of the "outstanding federal felony warrant of arrest issued by the U.S. District Court for the Southern District of New York."[151] The next day, the State Department also revoked Pincus Green's passport.[152]

The confusion over Marc Rich's citizenship status also became an issue of concern to the U.S. Treasury Department in November of 1991. A letter written by the Office of Foreign Assets Control prompted the State Department to make a determination of Rich's

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[145] Department of State Document Production (Letter from Marc Rich to Ruth H. Van Heuven, U.S. Consul General, Switzerland (Oct. 27, 1992)) (Exhibit 8). In this and other letters, Rich claims that he became a citizen of Spain in July of 1982, earlier than the date indicated by the U.S. government. Spanish government documents appear to confirm this. The Second Circuit Court of Appeals also affirmed a district court ruling that Rich's attempt to renounce his citizenship in Madrid had failed. The Second Circuit held:

> The evidence strongly supports the district court's finding that Rich had no intention whatsoever to relinquish his American citizenship prior to commencement of this action. Despite mouthing words of renunciation before a Spanish official, he refused to acknowledge such renunciation before the United States Consul in Madrid before this action commenced. Instead, he brought a Swiss action as an American national, traveled on his American passport, and publicized himself in a commercial register as a United States citizen.

Action S.A. v. Marc Rich & Co., Inc., 951 F.2d 504, 507 (2d Cir. 1991).

[146] Department of State Document Production (Letter from the American Consul to Pincus Green (Dec. 19, 1983)) (Exhibit 9). The State Department apparently believed that Rich and Green entered Bolivia illegally because of the restrictions on their passports, which would have jeopardized their claim of Bolivian citizenship. *See* U.S. Marshals Service Document Production (Department of State Cable, Oct. 11, 1983) (Exhibit 10).

[147] Department of State Document Production (Letter from Dr. Emilio Perez Barrios, Sub-Secretary of Immigration, Bolivian Ministry of Interior, to the American Consul (Sept. 9, 1983)) (Exhibit 11).

[148] Department of Justice Document Production DOJ/SDNY–MR–00008–09 (Letter from W. Lee Rawls, Assistant Attorney General, Office of Legislative Affairs, Department of Justice, to the Honorable Robert E. Wise, Jr., Chairman, Subcommittee on Govt. Information, Justice, and Agriculture, Comm. on Govt. Operations (Nov. 21, 1991)) (Exhibit 12).

[149] Petition for Pardon for Marc Rich and Pincus Green 1, 3 (Dec. 11, 2000) (Appendix III).

[150] Department of State Document Production (Letter from Julian L. Bartley, Consul, Embassy of the United States of America in Madrid, to Marc Rich (Mar. 25, 1983)) (Exhibit 13).

[151] U.S. Marshals Service Document Production (State Department Cable, Sept. 29, 1983) (Exhibit 14).

[152] U.S. Marshals Service Document Production (State Department Cable, Sept. 30, 1983) (Exhibit 15).

citizenship. In its response of April 14, 1992, the State Department made a final determination that Marc Rich had failed to renounce his citizenship, and was still a U.S. citizen.[153] The conclusion was based on the fact that the Department never approved Rich's Certificate of Loss of Nationality.[154] It was also based on the fact that Rich did not demonstrate the requisite intent to lose his U.S. Citizenship—in part because he used his U.S. passport to travel to the United States after he became a Spanish citizen.[155]

Despite the U.S. Government's official finding that Rich is still a U.S. citizen, Rich and his lawyers claim that he is not a U.S. citizen. When he appeared on television after the Rich pardon, Jack Quinn stated "he is a U.S. citizen."[156] However, when he appeared before the Committee, Quinn stated that he "misspoke" when he was on *Meet the Press*, and took the position that Rich had indeed renounced his citizenship. Sandy Weinberg, testifying with Quinn, observed:

> I suppose when he [Marc Rich] heard on television from Mr. Quinn that he was a citizen, I'm sure it did concern him whether or not he had a problem over the last 20 years. I suspect that . . . Mr. Quinn got a call the next day saying "no, I'm not a citizen" because I believe that there are some very significant tax implications if he's been a citizen all these years.[157]

3. U.S. Attempts to Apprehend Rich and Green

Between 1984 and 1992, the Department of Justice submitted five provisional arrest requests to various countries in an attempt to apprehend Rich and Green.[158] None of these attempts were successful. As early as October 9, 1985, Rich and Green were listed as wanted international criminals by the U.S. National Central Bureau of Interpol.[159] In 1987, Interpol issued an international "red notice" (warrant) that requested the provisional arrest of Rich and Green with the eventual goal of extradition.[160] On several occasions, the FBI and the U.S. Marshals Service appeared ready to apprehend the two fugitives. One operation set up by the Marshals Service to snare Rich, referred to as "the Otford Project," was nearly successful.[161] In the fall of 1987, a U.S. Marshal assigned to the

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[153] Department of Treasury Document Production 000660–61 (Letter from Carmen A. DiPlacido, Director of the Office of Citizens Consular Services, Department of State, to Richard Newcomb, Director of the Office of Foreign Assets Control, Department of the Treasury (Apr. 14, 1992)) (Exhibit 16).

[154] *Id.*

[155] *Id.*

[156] *Meet the Press* (NBC television broadcast, Jan. 28, 2001).

[157] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 167 (Feb. 8, 2001) (testimony of Morris "Sandy" Weinberg, Jr., former Assistant U.S. Attorney for the S.D.N.Y., Department of Justice).

[158] *See* "They Went Thataway: The Strange Case of Marc Rich and Pincus Green," *Comm. on Govt. Operations*, 102d Cong. 10 (May 27, 1992) (quoting Letter from W. Lee Rawls, Assistant Attorney General, Office of Legislative Affairs, Department of Justice, to the Honorable Robert E. Wise, Jr., Chairman, Subcommittee on Govt. Information, Justice, and Agriculture, Comm. on Govt. Operations (received Oct. 11, 1991)).

[159] Interpol Document Production (Wanted International Criminal Request, Oct. 9, 1985) (Exhibit 17). The document itself lists Rich and Green as wanted for the indictments in the Southern District of New York for wire fraud, mail fraud, income tax evasion, racketeering, racketeering conspiracy, and trading with the enemy.

[160] Interpol Document Production (Interpol International Red Notice, June 4, 1992) (Exhibit 18).

[161] Craig Copetas, *The Sovereign Republic of Marc Rich*, REGARDIE'S, Feb. 1, 1990, at 46.

project barely missed apprehending Rich in France after he canceled a meeting with an African oil minister.[162] A few months later, in November of 1987, the U.S. Marshals Service again came close to capturing Rich. They were tipped off by a businessman close to Rich that Rich would be taking a private plane to England for a weekend party. The Marshals set the trap for Rich at the Biggen Hill Airport in Kent. However, thick fog settled in over England, and Rich's plane turned back to Switzerland.[163]

In 1986, prior to the international arrest warrant being issued, Rich had another brush with the law. Rich had been asked by his wife Denise to visit her in London. After the visit, Rich was at Heathrow airport to catch the return Swissair flight to Zurich. As he approached the gate, Rich apparently noticed that the security staff was conducting a complete search of luggage and identification.[164] Rather than submit to the search, Rich apparently went to a public telephone and left three checks payable to him for £1.6 million stuck between the pages of a telephone book.[165] Free of the checks that Rich thought would identify him to the British authorities, Rich then boarded the flight for Zurich.[166]

In September of 1991, the FBI and Interpol attempted to arrest Rich in Finland.[167] According to a Finnish businessman who helped the FBI with the matter, Rich was tipped off that he would be arrested at the Helsinki airport, and he therefore turned his plane around before landing.[168] Other failed attempts to arrest Rich are indicated by several documents produced to the Committee. As an Interpol cable indicates, Rich was expected to be in Moscow both in May and September of 1992. Attempts were made at the Justice Department in September of that year to "insure a provisional arrest warrant is in place should [Rich] appear in Moscow." [169] In March of 1992, the U.S. Attorney for the Southern District of New York, as well as the Office of International Affairs at the Justice Department, made a request for Interpol to assist in apprehending Rich in Dushanbe, Tajikistan, based on information that he would be meeting with the new republic's prime minister.[170] In fact, Interpol sent a senior officer directly to Dushanbe carrying the United States' provisional arrest request.[171] A request for the arrest of Rich was also made in anticipation of his arrival in Czechoslovakia in February of 1992, when Rich was negotiating the purchase of the Slovak Aluminum Company.[172] Yet another document indicates that provisional arrest warrants were also issued for Marc Rich in France, Portugal, and Norway.[173]

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[162] *Id.*
[163] *Id.*
[164] *Id.*
[165] *Id.*
[166] *Id.*
[167] Interpol Document Production (Letter from Darrell W. Mills, Chief, Interpol-USNCB (1991)) (Exhibit 19).
[168] Telephone Interview with Pertti Ruoho, Finnish Oil Trader (Feb. 22, 2001). *See also* Letter from Darrell W. Mills, Chief, Interpol-USNCB (1991)) (Exhibit 19).
[169] Interpol Document Production (Interpol-USNCB transmission, Sept. 1, 1992) (Exhibit 20).
[170] Interpol Document Production (Interpol-USNCB transmission, 1992) (Exhibit 21).
[171] *Id.*
[172] Interpol Document Production (Fax from Donald S. Donovan, Assistant Chief, Interpol-USNCB, to Don Ward, Deputy Chief, U.S. Marshals Service (Feb. 21, 1992)) (Exhibit 22).
[173] Interpol Document Production 000317 (Identifiers on Marc Rich, Nov. 19, 1991) (Exhibit 23).

It is difficult to believe that Marc Rich went from being an international fugitive, sought by teams of Marshals across the world, to a free man with the simple stroke of a pen. The effort to apprehend Marc Rich was the subject of intense law enforcement, diplomatic, and Congressional interest. Beyond the obvious negative effects of the Rich pardon, it also had a demoralizing effect on the individuals who tried for so long to track down Rich. In addition, it undermines U.S. authority to apprehend criminal fugitives. When the United States government attempts to apprehend someone by utilizing Interpol and working with law enforcement in foreign countries, it is reasonable to assume that those persons being sought should have to face trial in the United States. By granting pardons to Rich and Green, international law enforcement efforts on behalf of the United States were seriously undermined.

4. 1992 Congressional Hearings

The Marc Rich matter and the failure of the government to apprehend him was an issue of great interest to this Committee when it was under a Democratic chairmanship in the early 1990s. In particular, Congressman Robert Wise held three days of hearings on the matter when he served as chairman of the Subcommittee on Government Information, Justice, and Agriculture of the Committee on Government Operations.[174] The hearings, entitled "The Strange Case of Marc Rich: Contracting with Tax Fugitives and At Large in the Alps," also resulted in two Committee reports. One of those reports, entitled "They Went Thataway: The Strange Case of Marc Rich and Pincus Green," focused on the efforts of the United States to apprehend the two fugitives.[175]

Congressman Wise and his Subcommittee criticized the Reagan and Bush Administrations for failing to take adequate steps to apprehend Marc Rich. At a hearing on December 4, 1991, Congressman Mike Synar was particularly critical of the Department of Justice for failing to apprehend the fugitives:

> It is unacceptable that the Justice Department has failed to show up today. It is unacceptable that they have failed to enforce the law in this very important matter, and as the chairman pointed out, in the case of the No. 1 tax abuser in our history. Can there be little wonder, can there be little wonder why Americans have lost confidence with respect to this government's ability to enforce the laws? And can there be little wonder why most Americans believe there are two sets of laws in this country, one for the rich, no pun intended, and one for the rest of us? [176]

The Committee reached similar conclusions in its 1992 reports on the Rich matter, stating, for instance, that the U.S. government

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[174] The Government Information, Justice, and Agriculture Subcommittee held three separate Marc Rich hearings on December 4, 1991, February 18, 1992, and March 5, 1992, entitled "The Strange Case of Marc Rich: Contracting with Tax Fugitives and At Large in the Alps."

[175] "They Went Thataway: The Strange Case of Marc Rich and Pincus Green," *Hearing Before the Comm. on Govt. Operations*, 102d Cong. (May 27, 1992).

[176] "The Strange Case of Marc Rich: Contracting with Tax Fugitives and At Large in the Alps," *Hearing Before the Govt. Information, Justice, and Agriculture Subcommittee of the Comm. on Govt. Operations*, 102d Cong. 7 (Dec. 4, 1991) (statement of the Honorable Mike Synar).

"lacked the political will to effect the return of these fugitives[.]" [177] The Subcommittee urged "that the Department of Justice rejuvenate its efforts to apprehend the fugitives Marc Rich and Pincus Green and that it become a high profile matter for the U.S. Government." The report continued to admonish, stating, "[t]he continuing failure to return these fugitives to the United States to stand trial before their fellow citizens only furthers the idea 'that there are . . . two standards of justice in the United States . . . one for accused criminals without money and there's one for accused criminals with money.'" [178]

The second report by the Subcommittee, "Coin, Contracting, and Chicanery: Treasury and Justice Departments Fail to Coordinate," focused on the failure of the U.S. government to keep Rich from receiving government contracts after he fled the U.S.[179] The Subcommittee concluded that Rich's Clarendon firm continued to provide the U.S. Mint with metals despite being debarred from government contracting.[180] The Subcommittee also criticized the Justice and Treasury Departments for failing to take any action against Clarendon for over three years because of a series of missteps and miscommunications.[181]

5. Actions Taken by the U.S. Against Rich's Business Interests

After they fled the country, several federal agencies took actions against Rich and Green's businesses. Notwithstanding their indictment and fugitive status, Rich and Green continued to contract with several agencies within the U.S. government. Companies controlled by Rich and Green held contracts with the U.S. Mint as well as the U.S. Department of Agriculture. These contracts continued for several years until they were eventually reviewed by Congress and relevant agencies. The Department of the Treasury also was forced to block money destined for Rich and Green because of their companies' dealings with Cuba.

a. U.S. Mint Contract Cancellation

In the wake of Rich's indictment, in 1985, one of his companies, Clarendon, Ltd., was debarred from contracting with the federal government by the Defense Logistics Agency. However, the debarment lasted only three years. Soon after that period, in July of 1988, Clarendon, Ltd. began contracting with the U.S. Mint to supply raw metal for producing coins. From 1989 through 1992, Clarendon won numerous contracts to supply the mint with copper, nickel, and zinc.[182]

Clarendon was able to secure the metal contracts because, from mid-1988 on, the company was not listed on the GSA's "Parties Ex-

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[177] "They Went Thataway: The Strange Case of Marc Rich and Pincus Green," *Hearing Before the Comm. on Govt. Operations*, 102d Cong. 37 (May 27, 1992).
[178] *Id.* at 34.
[179] "Coins, Contracting, and Chicanery: Treasury and Justice Departments Fail to Coordinate," *Hearing Before the Comm. on Govt. Operations*, 102d Cong. (May 27, 1992).
[180] *Id.* at 18.
[181] *Id.* at 19.
[182] "The Strange Case of Marc Rich: Contracting with Tax Fugitives and At Large in the Alps," *Hearing Before the Govt. Information, Justice, and Agriculture Subcommittee of the Comm. on Govt. Operations*, 102d Cong. 58 (Dec. 4, 1991) (statement of Kenneth Gubin, Chief Counsel, U.S. Mint).

cluded from Procurement Programs" list. This was possible in part because Marc Rich set up the management of the company so that he was not the majority stockholder. By controlling 49 percent of Clarendon's stock, Rich could claim that he did not have control over the company's business decisions. This move, however, was part of a scheme by Marc Rich in which he purchased back the remaining 51 percent of Clarendon through a wholly owned subsidiary of Marc Rich + Co., A.G.[183] By the time Clarendon was reaping the benefits of the new contract with the Mint, Marc Rich was in full control of the company. The contracts were reported to be worth up to $45.5 million to Marc Rich's company.[184] As discussed above, this prompted congressional hearings and a subsequent report. Congressman Robert Wise of West Virginia, who chaired the hearings, stated to the press, "[e]very time I reach into my pocket for some change, I have to wonder if there's a little bit of Marc Rich in there."[185] This attention by Congress eventually played a part in ending Rich's contracts with the U.S. Mint. In a letter on February 27, 1992, Rich's lawyers announced that, "Clarendon does not intend to participate in bid or contract opportunities with the Mint in the foreseeable future."[186]

b. Suspension of Rich's Grain Dealings

Between July of 1986 and September of 1989, one of Marc Rich's companies, Richco Grain Ltd., participated in the Commodity Credit Corporation's Export Enhancement Program. The Department of Agriculture used the program to sell American grain to overseas customers at prices below U.S. market levels. The companies who won the contracts received subsidies from the department in the form of surplus grains. A tally by the Department showed that Richco received $95 million worth of such U.S. grain through the program.[187] Rich made money through his sales of grain to China, the Soviet Union, Romania, and Saudi Arabia.

After prompting from Congressman Dan Glickman and an investigation by the Inspector General, the Department of Agriculture suspended Richco Grain Ltd. from participating in the program. A letter written on September 29, 1989, by the Vice-President of the Commodity Credit Corporation listed Rich and Green's fugitivity and indictment as reasons for the suspension.[188] Notwithstanding the suspension, Congressman Glickman continued to press the Bush Administration on the matter. On March 4, 1992, Congressman Glickman wrote to President Bush to ask that the Department of Agriculture permanently exclude Rich and Green from partici-

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[183] This scheme also led to a civil action against the company. *See U.S. v. Clarendon, Ltd.* (D.D.C. Apr. 12, 1995) (CA 1:95CV00700). The charges were authorized under the signature of Deputy Attorney General Eric Holder.

[184] Rick Wartzman, *Bid to End Pact to Clarendon Comes Amid Disputes Over Marc Rich's Stake*, WALL ST. J., Feb. 28, 1992, at B2a.

[185] *Id.*

[186] Department of Agriculture Document Production (Letter from David P. Langlois, Partner, Milgrim Thomajan & Lee, to Kenneth Gubin, Chief Counsel, U.S. Mint (Feb. 27, 1992)) (Exhibit 24).

[187] Bruce Ingersoll, *U.S. Suspends Grain Subsidies for Exporter*, WALL ST. J., Oct. 12, 1989, at sec. 3, p. 19.

[188] Department of Agriculture Document Production (Letter from R.E. Anderson, Jr., Vice President of the Commodity Credit Corporation, Department of Agriculture, to Robert Thomajan, Partner, Milgrim Thomajan & Lee (Sept. 29, 1989)) (Exhibit 25).

pating in the program by debarring them.[189] The Bush Administration responded by referring Glickman's letter to the Department of Agriculture, requesting that the department "take action, if warranted, to see that no new contracts are awarded to Richco Grain."[190] It appears that no new contracts were awarded to Marc Rich's company.

It is troubling that a member of President Clinton's own cabinet, who, as a Member of Congress was justifiably concerned over Marc Rich's dealings with the Agriculture Department, was apparently not consulted when the White House was considering the pardons. As Secretary of Agriculture, Glickman could have provided insight into the ways in which the fugitive from American justice continued to profit from the very government that had indicted him.

c. Cuban Asset Forfeiture

Marc Rich has also had Department of Treasury actions taken against his companies because of his disregard for U.S. regulations related to the embargo against Cuba. In late 1991, the Compliance Programs Division of the Office of Foreign Assets Control blocked more than $2.5 million relating to a $3.9 million deal for Cuban sugar brokered by Marc Rich + Co., Ltd. in the United Kingdom.[191] This transaction had run afoul of the Cuban Assets Control regulations.[192] As R. Richard Newcomb, Director of the Office of Foreign Assets Control explained to Rich attorney Robert Fink in a December 27, 1995, letter, these regulations prohibit transactions by persons subject to U.S. jurisdiction involving any property of Cuba or Cuban nationals.[193] According to Newcomb, Rich's Cuban sugar deal was clearly contemplated by the regulations and was therefore illegal.[194]

In September of 1994, Marc Rich + Co., A.G. in Switzerland provoked a similar blocking of nearly $1 million in proceeds from an oil deal with Venezuela going through Cuba. Internal notes of the Compliance Programs Division indicate deep concern with attempts by the Venezuelan state-run oil company to have the funds released. As the Compliance Division wrote in its internal notes, the Venezuelan oil company "also stated that it 'believes' that Marc Rich intended to resell the oil to Cuba, but that this particular transfer did not relate to the sale of the oil to Cuba. If it did not relate to Cuba, why did it reference Cuba?"[195] Ultimately, in February of 1995, the Department of Treasury unblocked the funds because, as it stated in one document, "Cuba does not have a direct

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[189] Department of Agriculture Document Production (Letter from Dan Glickman, Chairman, Subcommittee on Wheat, Soybeans, and Feed Grains, Committee on Agriculture, to President George H.W. Bush (Mar. 4, 1992)) (Exhibit 26).

[190] Department of Agriculture Document Production (Letter from Allan V. Burman, Administrator of the Office of Federal Procurement Policy, the White House, to Charles R. Hilty, Assistant Secretary for Administration, Department of Agriculture (Apr. 20, 1992)) (Exhibit 27).

[191] Department of Treasury Document Production 000022 (Memorandum from R. Richard Newcomb, Director of the Office of Foreign Assets Control, Department of Treasury, to Peter K. Nunez, Assistant Secretary of Enforcement of the Office of Foreign Assets Control, Department of Treasury) (Exhibit 28).

[192] *Id. See* 31 C.F.R. part 515.

[193] Department of Treasury Document Production (Letter from R. Richard Newcomb, Director of the Office of Foreign Assets Control, Department of Treasury, to Robert F. Fink, Partner, Piper and Marbury (Dec. 27, 1995)) (Exhibit 29).

[194] *Id.*

[195] Department of Treasury Document Production 000635 (Note from Compliance Programs Division, Office of Foreign Assets Control) (Exhibit 1).

interest in the blocked transaction, which involves a Venezuelan and a Swiss company[.]" [196]

It does not appear that the Clinton Administration took into consideration the fact that Marc Rich and Pincus Green profited from the United States while flouting its embargoes. Indeed, a review of Rich and Green's business relationships shows a complete disregard for the welfare of the United States and its citizens. Furthermore, Rich's clever and illegal business schemes meant that U.S. taxpayers' money came out of agencies such as the U.S. Mint and the Department of Agriculture and wound up in the pockets of Rich and Green while they evaded the U.S. legal system, and U.S. income taxation. This is one of the many reasons that Republicans and Democrats alike have been so critical of President Clinton's decision to grant these men a pardon.

II. ATTEMPTS TO SETTLE THE MARC RICH AND PINCUS GREEN CASE

A. Attempts to Settle in the 1980s

While living as fugitives in Switzerland, Marc Rich and Pincus Green attempted to negotiate a settlement with the Southern District of New York. In addition to prominent lawyers such as Edward Bennett Williams, Rich and Green hired other well-known and politically connected lawyers.[197] In the Spring of 1985, they hired President Richard Nixon's attorney Leonard Garment.[198] Around this same time, Garment hired Lewis "Scooter" Libby to join his firm.[199] Garment assigned Libby the task of assessing whether or not there were legal defenses to the charges to which Rich and Green's companies had already pled guilty.[200] As Libby testified at the Committee's March 1, 2001, hearing, he worked with Robert Fink and other attorneys in an attempt to demonstrate that Marc Rich's companies "had properly reported their tax obligations and energy transactions and that these criminal charges should be reexamined." [201] Libby and the Rich legal team used their analysis in an effort to negotiate a settlement with the Southern District on the outstanding indictment.[202]

It should be noted that Lewis Libby's involvement in the Rich matter—like that of Garment and former Reagan Justice Department official William Bradford Reynolds—was limited to settlement negotiations and never included work on the pardon matter. Libby, and to a lesser extent, Garment and Reynolds, have been mentioned by President Clinton and others as prominent Republicans who supported the Rich pardon. This representation is inaccurate,

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[196] Department of Treasury Document Production 000636 (License Request by J. Kerrigan, Compliance Programs Division of the Office of Foreign Assets Control, Department of Treasury (Jan. 1, 1995)) (Exhibit 30).

[197] Marc Rich's practice of hiring attorneys who are close to the parties investigating him has continued to this day. In response to this Committee's investigation, Rich and his attorneys have hired an array of prominent Republicans, including the former personal attorneys to Chairman Burton and the Committee's former Chief Investigator.

[198] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 438 (Mar. 1, 2001) (testimony of Lewis Libby, former counsel for Marc Rich, Dechert Price & Rhoads).

[199] *Id.* Libby is currently Chief of Staff to Vice President Dick Cheney.

[200] *Id.*

[201] *Id.*

[202] *Id.*

as Libby, Reynolds and Garment worked only on settlement negotiations, and did not work on the pardon. Libby's efforts included an attempt to negotiate a settlement with the Southern District of New York in the late 1980s until he left to work at the Pentagon in the first Bush Administration in 1989.[203] When he returned to private practice in 1993, Libby again attempted to achieve a settlement for Rich and Green.[204] This attempt again failed by 1995.[205] Libby's final involvement in the Rich case was in 1999 and early 2000, when he briefed the newly-hired Jack Quinn on the legal team's previous efforts to reach a settlement with the Southern District and helped prepare yet another request to the Southern District.[206] Libby was instructed to cease all work on behalf of Rich and Green in the spring of 2000.[207]

Despite the fact that Rich and Green fled the country as a result of their pending indictment, the Southern District of New York continued to negotiate with lawyers like Fink, Libby and Garment to try to achieve the return of Rich and Green to the United States. In their appeals to President Clinton for a pardon, Rich's lawyers often claimed that the SDNY refused to negotiate with Rich. Nothing could be further from the truth. Despite the fact that Rich and Green had fled the country, SDNY prosecutors continued to negotiate with Rich, even offering to reduce the charges against Rich and Green in return for their surrender. For example, in the early 1990s, Otto Obermaier, U.S. Attorney for the Southern District of New York, traveled to Switzerland to meet with Rich and Green. This was a highly unusual step for a United States Attorney to make. In fact, Eric Holder testified at a Committee hearing that he could think of no other instance in which a U.S. Attorney had traveled to a foreign country to negotiate with an indicted fugitive.[208] Despite this accommodation, Rich and Green failed to reach an agreement with the Southern District to return to the United States to stand trial.

The SDNY also offered a number of other accommodations if Rich would return to the U.S. to face the charges. For example, prosecutors offered to agree in advance on bail, so that Rich would not have to be incarcerated pending trial.[209] They also offered to have a full meeting with Rich's attorneys, and conduct a complete

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[203] *Id.*

[204] *Id.* On this occasion he also worked with Laurence Urgenson of Kirkland & Ellis.

[205] *Id.*

[206] *Id.* at 438–39.

[207] *Id.* at 439. It appears that Rich's lawyers considered approaching Libby to help with the pardon effort, but were concerned that he would refuse them. On December 26, 2000, Robert Fink sent the following e-mail to Jack Quinn and Michael Green:

> Marc thought it made sense to call Scooter to see if he could be helpful, knowing he might not be able to be helpful but that he would never do anything that hurt Marc. I agreed and raised it with Mike Green. Mike is concerned that Scooter would want to help but would feel he had to raise the matter with the ethics committee on the transition and it would get caught up there, and we would effectively be bringing it to the attention of a number of people who might not be helpful.

Piper Marbury Rudnick & Wolfe Document Production PMR&W 00398 (E-mail from Robert Fink, Partner, Piper Marbury Rudnick & Wolfe, to Jack Quinn and Michael Green, Partner, Dickstein Shapiro Morin & Oshinsky (Dec. 26, 2000)) (Exhibit 31).

[208] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 268–69 (Feb. 8, 2001) (testimony of Eric Holder, former Deputy Attorney General, Department of Justice).

[209] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00697 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation (Feb. 10, 2000)) (Exhibit 32).

review of the charges against Rich.[210] Most importantly, they offered to drop the RICO charges against Rich and Green.[211] Marc Rich's own lawyer, Robert Fink, confirmed that prosecutors offered to drop the RICO charge as a result of negotiations.[212] Fink wrote about these negotiations in an e-mail he sent to Avner Azulay on February 10, 2000, stating "I was told at one point that they would drop the RICO charge if we wanted if Marc came in."[213] Fink confirmed the substance of this e-mail at the Committee's hearing:

> Mr. LATOURETTE. Looking at [the February 10, 2000, e-mail], or your recollection from the representation of Marc Rich, is it accurate that at one point you were told that the prosecuting authorities would drop the RICO charge if Marc Rich returned to this country?
>
> Mr. FINK. That was something that was discussed with me in at least one meeting I had with the prosecutors.[214]

Given the fact that the SDNY had offered to drop the RICO charges if Rich and Green returned to the U.S., it is interesting that Quinn continued to cite the RICO charges as one reason the pardon was necessary. Throughout the pardon petition, his contacts with White House officials, and even his attempts to justify the pardon after the fact, Quinn cited the RICO charges as a reason Rich and Green fled the country rather than face trial. However, the SDNY's offer makes it clear that Quinn's RICO argument, like most of his other arguments, was false and misleading.

Finally, in addition to the offer to drop the RICO charges, prosecutors also offered another accommodation to Rich and Green. The SDNY indicated it would agree to bail so that Rich and Green would not have to be incarcerated while they stood trial. The only condition of this offer was that they give up their passports.[215] Even after the offers to drop RICO and allow bail was presented to them, the two men still chose to remain fugitives and refused to face the American judicial system.

B. Marc Rich's Humanitarian Activities in the 1980s and 1990s

After he fled the United States, Marc Rich began to contribute large sums of money to various humanitarian activities, mainly in Israel and to Jewish communities in Europe and the United States. Marc Rich's contributions, beyond achieving their humanitarian purposes, also served a useful purpose of making Rich a well-known and respected figure in Israeli and Jewish political circles. These contacts would prove useful both in Rich's unsuccessful attempt to settle his indictment and in his successful campaign to win a pardon.

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[210] *Id.*
[211] *Id.*
[212] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 469 (Mar. 1, 2001) (testimony of Robert Fink).
[213] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00697 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation (Feb. 10, 2000)) (Exhibit 32).
[214] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 469 (Mar. 1, 2001) (testimony of Robert Fink).
[215] *Id.* at 470.

Rich also used his wealth to cultivate political contacts. In 1985, after an Egyptian policeman shot and killed a number of Israeli tourists at Ras Burka, Rich contributed $400,000 to a compensation fund which was established for the victims.[216] More recently, in 1995, Rich began to make offers of providing substantial sums of money to help the Israeli-Palestinian peace process.[217] According to internal Marc Rich legal documents, Rich offered to help fund the economic development of Palestinian territories as part of the peace process.[218] As part of his offer, Rich apparently told Israeli officials that his ability to help was limited by his outstanding U.S. indictment. Receptive Israeli officials then went to U.S. officials to see what could be done to settle Rich's case. According to an account of the negotiations prepared by Rich's lawyers, the Israeli government approached the Justice Department to discuss the Rich case.[219] Mark Richard, a Deputy Assistant Attorney General in the Criminal Division, informed the Israelis that while the Justice Department could not act directly on the Israeli request, the Justice Department would "give serious consideration to a statement by the State Department or the White House that the United States had an interest in allowing Israel to obtain the active participation of Rich in a Middle East Initiative." [220]

Following Mark Richard's suggestion, the Israeli Foreign Ministry took the Rich case to the State Department. In July 1995, Uri Savir, the Director General of the Foreign Ministry, presented Ambassador Dennis Ross with a briefing paper on the Rich case.[221] Several months later, Ross informed Savir that the Rich case was a "hot potato" and should not be pursued.[222] Despite Ross' rebuff, then-Foreign Minister Shimon Peres instructed the Israeli Ambassador to the U.S., Itamar Rabinovich, to press the Rich matter with the State Department.[223] Peres himself also raised the Rich case with Ross and the U.S. Ambassador to Israel, Martin Indyk.[224] While Ross did not respond to Peres, Indyk suggested that the Rich case could be discussed at greater length by Israeli officials and the State Department.[225] Ambassador Rabinovich and his staff met with a State Department official in October 1995 and discussed the Rich case.[226] In follow-up meetings with the State Department, Israeli officials learned that they were not likely to win support from the State Department for settling the Rich case.[227] According to the Israeli officials, State Department officials were concerned about allegations that the Administration was interfering with law enforcement for political purposes, and the potential embarrass-

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[216] Petition for Pardon for Marc Rich and Pincus Green 8 (Dec. 11, 2000) (Appendix III); LEONARD GARMENT, CRAZY RHYTHM 375 (1997).
[217] *Id.* at 9; Jack Quinn Document Production (Background Memorandum to the Marc Rich Case, Dec. 1997) at 5 (Exhibit 33).
[218] *Id.*
[219] *Id.*
[220] *Id.*
[221] *Id.* at 5–6.
[222] *Id.* at 6.
[223] *Id.* Itamar Rabinovich, now President of Tel Aviv University, wrote a letter of support for the Rich pardon to President Clinton.
[224] *Id.*
[225] *Id.*
[226] *Id.*
[227] *Id.*

ment that would follow if the public learned of a deal with Marc Rich.[228]

According to the internal account prepared by the Marc Rich lawyers, Shimon Peres continued his efforts on behalf of Marc Rich even after Yitzhak Rabin was assassinated and Peres became Prime Minister.[229] However, by 1996, as Israeli elections approached, Peres' priorities shifted, and Israeli contacts with the U.S. government on the Rich matter subsided until the pardon effort.

Other than the initial response from Mark Richard, it appears that Justice Department and State Department officials were unified in their resistance to Israeli efforts to have the Rich case settled. The resistance of these government officials should be contrasted with the receptivity displayed by President Clinton and Deputy Attorney General Holder for the much more drastic step of pardoning Rich. Also noteworthy is the fact that this brief effort in 1995 appears to be the only time that Marc Rich's name came up in the context of the Middle East peace talks. To the extent that Rich's name came up, it appears to have been a minor matter that never had any impact on the Middle East peace talks. Dennis Ross, the Clinton Administration's Middle East envoy, has stated that Marc Rich "was not a factor in the Middle East talks."[230] The fact that Marc Rich was never a factor in the peace talks, either in 1995 or in 2000, suggests that President Clinton's key justification for the pardon—that it was important to Israel—is an after-the-fact excuse that the President has put forward to cover up other motivations for the pardon.

C. Rich Hires Jack Quinn

After several years of failed negotiations with the Southern District of New York, Marc Rich and his team tried another approach to resolve his case. Instead of dealing only with the federal prosecutors from New York, Rich began a process of going directly to the Justice Department in Washington. Beginning sometime in 1997, Michael Steinhardt, a prominent hedge-fund investor and friend of Rich, recommended that Rich hire public relations consultant Gershon Kekst to help with his case.[231] Although Kekst was at first reluctant to get involved, he eventually began working with Rich to help resolve his legal troubles in the United States.[232] It was through Kekst's efforts that Jack Quinn was hired to work on the Marc Rich case.

Kekst explained that in late 1998, he attended a dinner celebrating the merger of Daimler Benz and Chrysler.[233] At the dinner, he was seated next to an individual he did not know, who explained that he worked at "Main Justice."[234] It turned out that this indi-

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[228] *Id.*

[229] *Id.* at 7.

[230] James Risen and Alison Leigh Cowan, *U.S. Diplomats Turned Aside Israeli Push on Rich's Behalf*, N.Y. TIMES, Feb. 17, 2001, at A1.

[231] Telephone Interview with Michael Steinhardt (Mar. 12, 2001).

[232] As discussed in Section IV(A)(9) of the report, Kekst tried to disavow his role in helping Marc Rich with negotiations and the pardon effort. It appears, however, that Kekst was deeply involved in the pardon effort.

[233] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001). To the best of Kekst's recollection, the Daimler Chrysler dinner took place in November of 1998.

[234] *Id.*

vidual was Deputy Attorney General Eric Holder.[235] Kekst asked this stranger to whom U.S. Attorneys are accountable.[236] Holder explained that they answer to Main Justice.[237] Kekst had Marc Rich in mind, but did not mention Rich's name at the time.[238] Kekst then asked Holder what someone should do if "they were improperly indicted by an overzealous prosecutor."[239] Holder told Kekst that a person in that situation should try to work it out and resolve it.[240] Holder further stated that, "lawyers know there is a path back to DOJ, to me."[241] Holder told Kekst that such a person should "hire a lawyer who knows the process, he comes to me, and we work it out."[242] Kekst asked who such a lawyer would be, and Holder pointed to an individual sitting at a nearby table and said, "there's Jack Quinn. He's a perfect example."[243] According to Kekst, Quinn was in attendance, but he did not discuss Marc Rich or Eric Holder with Quinn at that dinner.[244]

Shortly after the Daimler Chrysler dinner, Kekst began to explore this new strategy. First, he worked to gather names of lawyers in addition to Jack Quinn who might be able to help Marc Rich.[245] By the time he met with Michael Steinhardt and Robert Fink to discuss the Rich case several weeks later, Kekst recommended that Rich hire a senior Washington lawyer who could intercede with the Justice Department in Washington.[246] Kekst then provided the names of three such lawyers who might be able to help: Warren Christopher, Judah Best, and Jack Quinn.[247] Kekst called each of the three to introduce them to Fink.[248] According to Kekst, Warren Christopher said that taking the job would be inappropriate since he had just come out of government.[249] Fink interviewed Best but did not like him enough to hire him for the job. Rich, Fink, and Kekst eventually settled on Jack Quinn. As Quinn explained to *The New York Times*, he traveled to Switzerland, studied the issues, and met with Marc Rich "not for hours, but for days."[250]

Jack Quinn began working for Marc Rich in the spring of 1999.[251] According to Quinn, he was hired at first, "not to go to the White House, but to work with Main Justice and the Southern District of New York."[252] It is noteworthy that Eric Holder's rec-

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[235] *Id.*
[236] *Id.*
[237] *Id.*
[238] *Id.*
[239] *Id.*
[240] *Id.*
[241] *Id.*
[242] *Id.*
[243] *Id.*
[244] *Id.*
[245] *Id.*
[246] *Id.*
[247] *Id.*
[248] *Id.* At the Committee's March 1, 2001, hearing, Fink testified that he asked Kekst to "recommend someone who [he] called the white-haired man." Fink testified that this expression referred to "someone who understood the entire political process." "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 471 (Mar. 1, 2001) (testimony of Robert Fink).
[249] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).
[250] Alison Leigh Cowan and Raymond Bonner, *Lawyer Tells of His Pursuit of Pardon for His Client, and Conversation With Clinton*, N.Y. TIMES, Jan. 25, 2001, at A21.
[251] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 216 (Feb. 8, 2001) (testimony of Jack Quinn).
[252] *Id.*

ommendation to Gershon Kekst was the impetus for Marc Rich's hiring of Jack Quinn. Quinn had a warm relationship with Holder—Holder even solicited Quinn for support to have Holder nominated as Attorney General. This warm relationship appears to have had a significant role in Holder's support for the Rich pardon.

D. Quinn's Fee Arrangements

Jack Quinn was a partner with the law firm of Arnold & Porter when he began working for Marc Rich. Quinn also worked on the Rich matter with Kathleen Behan, another Arnold & Porter partner. As Behan explained to Committee staff, although they were not officially retained by Marc Rich until July of 1999, from February until July, Quinn and Behan were "engaged in a series of familiarization and preparatory efforts" to learn about the case "in preparation for possible retention on the matter."[253] Quinn and Behan were officially retained after they met with Marc Rich in Zug, Switzerland, in May of 1999 to discuss the representation.[254] As the engagement letter explains, Quinn and Behan were hired for a minimum rate of $55,000 per month for six months, totaling $330,000, with an option to reconsider if their billable hours were to "substantially exceed" $55,000 per month.[255]

1. Was Quinn Expecting Payment for His Work on the Pardon?

In November 1999, just several months after he was hired by Rich, Quinn left Arnold & Porter to form the lobbying firm of Quinn and Gillespie.[256] While Quinn brought Rich as a client to the new firm, he did not sign a new retainer with Rich. Quinn continued to work for Rich at Quinn and Gillespie, both on negotiations with the Justice Department, and on lobbying for the pardon. However, Quinn has taken the incredible position that he did not expect to be paid for any of his work on the Rich case after he left Arnold & Porter. In the first days of the uproar regarding the pardon, Quinn told *The New York Times*, "I have no understanding with Marc Rich about future payments. If Marc Rich sent me a box of Godiva chocolates tomorrow, it would be more than he is obligated to do."[257] He expanded on this position at a Committee hearing:

> Mr. BURTON. You left [Arnold & Porter], and I guess the contract stayed with them; is that right? What happened? They went on just to a fee-for-service with that law firm?
>
> Mr. QUINN. Yes, sir.

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[253] Interview with Kathleen Behan, Partner, Arnold & Porter (Feb. 27, 2001).

[254] *Id.*

[255] Arnold & Porter Document Production A0507–10 (Letter from Kathleen Behan, Partner, Arnold & Porter, to Marc Rich (July 21, 1999)) (Exhibit 34).

[256] According to one magazine article about his departure from Arnold & Porter, Quinn brought $4.5 million in business to Arnold & Porter. The article continued:

> But that's small potatoes to what he can make on his own, because now Quinn is not constrained by the hourly rate structure and will take equity stakes in start-up companies in exchange for his services. That will give him the possibility of making millions on one client when it goes public. Arnold & Porter, like almost all corporate firms, does not allow equity participation with clients.

Kim Eisler, *Old Political Opponents Join Forces for Lucrative Lobbying*, WASHINGTONIAN, Feb. 2000, at 12.

[257] Raymond Bonner and Alison Leigh Cowan, *Notes Show Justice Official Knew of Pardon Application*, N.Y. TIMES, Feb. 2, 2001, at A14.

Mr. BURTON. And you have said that you didn't receive any fees from Mr. Rich. You said something about a box of chocolates. It was all going to be voluntary if you got that. That just seems very unusual to me. Don't most attorneys have some kind of a contractual agreement when they leave a law firm with a new client?

Mr. QUINN. Yeah. Let me try to explain this to you. The fees you just reported were received by Arnold and Porter. And, of course, as a partner, and because I had a contractual relationship with a firm, I benefited to some extent from those fees. To another extent, the fees went to other partners of the firm.

After leaving Arnold and Porter, I did consider and discuss with Mr. Fink whether we should have a new arrangement. I came to the conclusion that, particularly because of the fact that we were unsuccessful in achieving a resolution of this at the Southern District, and because I didn't think, frankly, there would be that much more additional time in it, and because I believed that the earlier payments had been fair and reasonable, that I would see this through to the end simply on the basis of the fees we had been paid earlier.

Mr. BURTON. So you received nothing further from Mr. Rich?

Mr. QUINN. I have not received any further fees from him on this pardon matter.

Mr. BURTON. Have you received any fees from him for anything?

Mr. QUINN. No, sir.

Mr. BURTON. You've received no fees from Marc Rich or his—how about any of his companies or friends or associates?

Mr. QUINN. No, sir.

Mr. BURTON. All that was received was from the—to the law firm that you previously worked with?

Mr. QUINN. Right.

* * *

Mr. BURTON. Do you have any kind of understanding where he is going to give you a lump sum of money or funds down the road for the services you've rendered?

Mr. QUINN. No sir[.][258]

It is impossible to believe that Jack Quinn did his work on the Rich pardon out of the goodness of his heart, on a pro bono basis.

[258] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 242 (Feb. 8, 2001) (testimony of Jack Quinn).

Quinn apparently spent hundreds of hours[259] on the Rich matter, calling and e-mailing his colleagues on the Rich legal team in the middle of the night, on vacation, on Christmas Day, and New Year's Eve.[260] While Quinn's dedication to his client was admirable, it suggests that Quinn anticipated some satisfaction beyond seeing Marc Rich and Pincus Green pardoned.

In addition to the common sense rejection of Quinn proceeding on a pro bono basis, e-mails between Jack Quinn, Robert Fink, and Marc Rich indicate that Rich was specifically contemplating entering into a large-dollar retainer agreement with Quinn after Quinn left Arnold & Porter. These documents were withheld from the Committee for over a year on the basis of a claim of attorney-client privilege which was rejected by federal Judge Denny Chin. Once provided to the Committee, the documents seriously undermined Quinn's claims that he never expected any payment from Rich. On February 3, 2000, the day after the Southern District of New York rejected Quinn's request for a meeting to discuss the Rich case, Quinn asked Fink about his status with Marc Rich, asking "not that I'm concerned, but did marc decide to renew the retainer? I've not heard anything."[261] Two weeks later, Fink addressed Quinn's status in an e-mail to Marc Rich, suggesting that Quinn could still be useful, despite his failure to date:

> Separately, I have been thinking about your reaction to Jack. When we meet [sic], he felt (and made it clear that he believed this, but was not sure) that he could convince Eric that it made sense to listen to the professors and that he could convince Eric to encourage Mary Jo to do the same. In this he was correct. Moreover, in the preparation process, it became clear that Jack was not just a pretty face but had thoughtful ideas and questions and was not simply relying on his past contacts to make this happen. So, I would not give up on him, at least not yet, as he is still a knowledgeable guy who has a clear understanding of relationships and what may be doable. While we may get more than that, we should not have enlarged expectations.[262]

On February 29, 2000, Fink sent another message to Rich suggesting that he enter into a retainer agreement with Quinn while their negotiations with the Justice Department were still pending:

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[259] In media accounts Quinn claimed that he spent 60–100 hours on the Rich pardon. These claims simply are not credible. Kitty Behan, who was considerably less involved in the Rich pardon than Quinn spent 126 hours on the Rich pardon. Arnold & Porter Document Production A0513–15, A1128 (Arnold & Porter billing records for Marc Rich (Jan. 16, 2001 and Feb. 23, 2001)) (Exhibit 35). It is likely that Quinn was underestimating his hours to the media to try to support his claims that he was not expecting to be paid.

[260] *See* Arnold & Porter Document Production A0844 (E-mail from Jack Quinn to Avner Azulay, Director, Rich Foundation *et al.* (Dec. 25, 2000)); Arnold & Porter Document Production A0850 (E-mail from Jack Quinn to Avner Azulay, Director, Rich Foundation *et al.* (Dec. 27, 2000)); Arnold & Porter Document Production A0861 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation *et al.* (Jan. 2, 2001)); Piper Marbury Rudnick & Wolfe Document Production PMR&W 00091 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation, and Marc Rich (Dec. 28, 2000)); Piper Marbury Rudnick & Wolfe Document Production PMR&W 00097–98 (E-mail from Jack Quinn to Robert Fink (Dec. 31, 2000)) (Exhibit 36).

[261] Jack Quinn Document Production JQ 02847 (E-mail from Jack Quinn to Robert Fink (Feb. 3, 2000)) (Exhibit 37).

[262] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00720–21 (E-mail from Robert Fink to Marc Rich (Feb. 17, 2000)) (Exhibit 38).

> All in all, while he has been very busy and sometime hard to get to, he has not separated himself from the matter and has fully participated. He has not pushed me for the retainer, though, and realizes that he does not have an agreement with you. I think it makes sense to compensate him for what he has done and may continue to do. Just give it some more thought and we can come back to it soon. We can wait, if you want, to see what Eric says, although it may pay to respond now, before Eric response [sic] to the last message from Jack, so it does not look like you were only willing to pay because of a positive response, as that was not the agreement. Even if we stop everything we are doing, and decide not to investigate the pardon, etc., at this time, we should fold this down in a friendly way.[263]

After the effort to settle the criminal case with the Justice Department failed, Fink continued to recommend that Rich enter into a retainer agreement with Quinn, who was continuing to raise the issue. On June 6, 2000, Fink sent the following e-mail to Rich:

> Jack raised the question of his status. I told him that I felt that you would feel that he had been compensated for the past, even though the retainer had run out before he stopped work, but that you would not want or expect him to work without compensation going forward—indeed, you appreciated that it was important to compensate people who asked you to perform for you; although I thought you would not want to get involved in another one of those six month retainers.
>
> Jack said he did not want to make a proposal that you might find objectionable, but felt some clear arrangement for the future was appropriate. I told him I hoped to see you soon, and that I would raise it with you when I see you and come back with a suggestion. He was happy with that and we agreed to catch up with each other on this issue in the beginning of July.[264]

At the beginning of July 2000, Fink e-mailed the figures for a proposed retainer agreement to Marc Rich:

> Here is my proposal on Jack Quinn, consistent with your advice to me.
>
> Jack originally proposed a $50,000 per month retainer and additional hourly charges for Kitty Behan. We settled at $55,000 per month, including Kitty, which was a better deal because at her hourly rate her billings would have averaged over $10,000 per month. Moreover, we continued to consult with Jack (and Kitty) after the retainer period had ended so that the average blended rate for Jack was well below $45,000. (OK, enough with making you feel better.)

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[263] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00722 (E-mail from Robert Fink to Marc Rich (Feb. 29, 2000)) (Exhibit 39).

[264] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00731 (E-mail from Robert Fink to Marc Rich (June 6, 2000)) (Exhibit 40).

> At the moment the issue raised by you and Michael is how to keep Jack on a "retainer" so that he is available for questions that might arise and, more importantly, available in the Fall, if we want him to be. Since the Fall is not far away, and you will know whether you want him to gear up again within four months or so, I suggest that we offer Jack $10,000 per month as a retainer to keep his eyes, ears and brain open to events and thoughts that may be helpful, with the understanding that if a decision is made to proceed that we will renegotiate the monthly retainer to reflect the changed circumstances.
>
> This arrangement could start mid-July or August 1st. He has not pushed me for this and, indeed, we are the ones who raised the idea of keeping him on a retainer. Still, if we do go back to Jack and offer a package, we should not schedule it to begin weeks after the proposal. So, if I were to call him next week, I would want to suggest a July 15th start date.[265]

Despite the clear and detailed indications that Rich and Quinn were negotiating a lucrative retainer agreement, Quinn testified that he never received any money from Marc Rich between the time that he left Arnold & Porter and the time that the pardon was granted. The Committee requested interviews with Jack Quinn and Robert Fink so that they could provide further explanation regarding these e-mails. Both refused to participate in an interview.

2. Has Quinn Received Payments from Marc Rich Since the Pardon Was Granted?

Because he spent so much time and effort on the Marc Rich pardon effort, and was successful, many believe that Quinn may have expected some large payment from Rich after the pardon was granted. Quinn has always denied these allegations. However, among the documents withheld by Quinn, and which were forced out by the decision of Judge Denny Chin in December 2001, were documents which undermined Quinn's denials. Shortly after the pardon was granted, Quinn was asked by a reporter if he received a fee for his work on the Rich matter. Rather than just saying "no," it appears that Quinn did not know what to say. On January 23, Quinn told Gershon Kekst that "Debra [sic] Orin wants to know if I received a fee. My instinct is to either not respond or say that I have never, in 25 yrs, thought it propoer [sic] to discuss a client fee arrangement or even if there was one. What say you?"[266] Kekst suggested a response that "[t]he privacy of my personal and professional relationships is inviolate and so I would not, as a lifelong practice, discuss such a question. Suffice to say that in this case my motivation was quite simple: an injustice needed to be corrected and I determined to do what I could to help accomplish that."[267] Quinn then fueled further speculation about his fee arrangement when he told the press that he was handling the Rich pardon as

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[265] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00732 (E-mail from Robert Fink to Marc Rich (July 7, 2000)) (Exhibit 41).

[266] Jack Quinn Document Production JQ 02973 (E-mail from Jack Quinn to Gershon Kekst, President, Kekst and Co. (Jan. 23, 2001)) (Exhibit 42).

[267] *Id.*

a "personal matter," indicating he would not share the profits with his partners at Quinn & Gillespie.[268]

E-mails between Marc Rich and Jack Quinn after January 20, 2001, suggest that Rich was seeking some way to show his thanks to Quinn, perhaps alluding to a payment to Quinn. On January 23, 2001, Rich told Quinn that "As time goes by it's sinking in more and more and I once again want to thank you for all you've done. I still want to thank you personally and properly on a separate occasion when we meet."[269] After Quinn's appearance before the Committee, and on a number of television programs, Rich e-mailed Quinn to congratulate him.[270] Quinn responded with his own thanks, and an assurance that he would continue to fight to point out the flaws in Rich's indictment.[271]

The most conclusive piece of evidence that Quinn fully intended to be paid by Marc Rich for his work on the pardon came from Rich lawyer Robert Fink at the Committee's March 1 hearing. Fink confirmed that Rich fully intended to pay Quinn for his work. Fink's testimony also strongly suggests that Quinn was lying when he stated that he had no expectation of being paid for his work on the pardon:

> COUNSEL. When Mr. Quinn began pursuing the pardon, the prospect of a pardon, did you anticipate compensating him for that work?
>
> Mr. FINK. I anticipated that he would be compensated for that work by Mr. Rich.
>
> COUNSEL. And if you could, tell us what you were thinking.
>
> Mr. FINK. Actually, I—I don't know that I was thinking anything other than he was entitled to some fair fee, the exact parameters of which I did not have in mind. I believe I told Mr. Quinn when we started to discuss the pardon that we would find a fair fee arrangement for him consistent with whatever his fee arrangements were. I did not know how he was handling his fee arrangements.
>
> COUNSEL. Did you discuss with Mr. Rich compensating Mr. Quinn?
>
> Mr. FINK. Could you excuse me just one moment?
>
> COUNSEL. Certainly.
>
> [Mr. Fink confers with counsel.]
>
> Mr. FINK. The answer is yes, I did. I communicated thoughts I had to Mr. Rich, with which he did not disagree.
>
> COUNSEL. And what did you communicate to him?

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[268] Alison Leigh Cowan and Raymond Bonner, *Lawyer Tells of His Pursuit of Pardon for His Client, and Conversation With Clinton*, N.Y. TIMES, Jan. 25, 2001, at A21.

[269] Jack Quinn Document Production JQ 02924 (E-mail from Marc Rich to Jack Quinn (Jan. 23, 2001)) (Exhibit 43).

[270] Jack Quinn Document Production JQ 02916 (E-mail from Marc Rich to Jack Quinn (Feb. 9, 2001)) (Exhibit 44).

[271] Jack Quinn Document Production JQ 02930 (E-mail from Jack Quinn to Marc Rich (Feb. 9, 2001)) (Exhibit 45).

> Mr. FINK. I actually communicated to him what I told to Mr. Quinn.
>
> COUNSEL. And what was that?
>
> Mr. FINK. That we would come to a fair fee arrangement that was consistent with his normal fee arrangements.
>
> COUNSEL. So you had communicated to Mr. Quinn that you would come to an arrangement with him to compensate him?
>
> Mr. FINK. Yes.
>
> COUNSEL. And when was that?
>
> Mr. FINK. The precise date I do not know, but it was most likely early November 2000.
>
> COUNSEL. And when did you stop thinking that was going to be the case?
>
> Mr. FINK. I stopped thinking that was going to be the case during the first hearings of this committee.
>
> COUNSEL. When I was asking Mr. Quinn about his compensation?
>
> Mr. FINK. I believe you were the questioner.
>
> COUNSEL. I'm not quite sure where to go after that. But you had not had a conversation with Mr. Quinn during which you had discussed the prospect of him not being compensated up until at least the time of our last hearing; is that correct?
>
> Mr. FINK. It was always my contemplation, I mean, not that I reflected on this frequently, but if you had stopped me at any point in time and said would you expect that Mr. Quinn would be compensated for this work, I would have thought that he would be.[272]

Fink's testimony, in addition to the circumstantial evidence, establishes that Quinn expected to receive payment for his work on the Rich pardon. It is likely that Quinn attempted to mislead the public and the Committee on this point to try to improve the public perception of his actions in this case. That is, if Quinn could say he did all of his work on the Rich pardon out of his belief in the merits, rather than his belief in a large payday, it would show the strength of the Rich case.

Knowing now that Quinn did do his work on the Rich pardon with an expectation of payment, the question is—how large of a payment would Quinn receive? Fink loosely characterized it as "consistent with his normal fee arrangements." However, given the enormous sums at Rich's disposal, and the vast amounts Rich had spent, unsuccessfully, to resolve his case, it is not unreasonable that Rich would pay Quinn a large sum of money. However, at the Committee's February 8, 2001, hearing, Quinn pledged not to accept any future payment on the Rich case:

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[272] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 505–06 (Mar. 1, 2001) (testimony of Robert Fink).

COUNSEL. Mr. Quinn, the Chair asked you some questions about compensation. Apart from your attorney's fees, will you accept any money from Mr. Rich in the future?

Mr. QUINN. Well, look, I don't think it would be fair to ask me to commit never to accept moneys from him. As I've said to you, if I do work that justifies my billing him for it, I will do so. I expect to be reimbursed for the expenses I'm put to in connection with this. Those are the only moneys I anticipate receiving from him.

COUNSEL. But as far as your work done in pursuit of obtaining a pardon for him, you do not anticipate him—you're not going to ask him to pay you any money?

Mr. QUINN. That's correct.

COUNSEL. You're not going to accept any money if he did offer it to you; is that correct?

Mr. QUINN. I only anticipate receiving from him moneys in connection with work I may do.

COUNSEL. My question was, will you accept any money if he offers it to you for the work you did in obtaining the pardon?

Mr. QUINN. I have no idea what he might offer. It's a hypothetical question. I don't think I should be required to say—

COUNSEL. It's not a hypothetical question. It's a very clear question. If Mr. Rich offers to pay you money in the future for work you did in pursuit of obtaining his pardon, will you accept it or will you not accept it?

Mr. QUINN. I will not bill him, and I will not accept any further compensation for work done on the pardon.[273]

However, in February 2002, as a result of Judge Chin's decision in the Southern District of New York, the Committee received a number of documents which had been earlier withheld from the Committee on the basis of attorney-client privilege. One of the e-mails provided to the Committee indicated that on March 5, 2001, after the Committee's second and final hearing on the Marc Rich pardon, Quinn asked Rich to enter into a new retainer agreement to pay Quinn. Quinn's e-mail reads as follows:

Greetings. Quite a month we have had! If you are agreeable, and I hope you are, I need to fax to you in the next few days a new retainer agreement. I cannot, under the D.C. Bar rules continue to work without a written agreement, and I have been crafting one which I will forward shortly. I hope that, in recent days, the public has begun to see your pardon in a different light. I particularly thought that our hearing last Thursday brought to the fore

[273] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 266 (Feb. 8, 2001) (testimony of Jack Quinn).

> aspects not previously appreciated. About all this I hope we shall speak soon. Best to you.[274]

Rich responded to Quinn by telling him: "[w]ith reference to your email of March 5, please go ahead and send me the new retainer agreement."[275] Neither Quinn nor Robert Fink provided the Committee with a copy of any retainer agreement, or any further e-mails regarding payments from Rich to Quinn after March 5, 2001. However, the March 5 e-mail raises the possibility that Quinn is receiving payment from Rich, despite his express promise to the contrary at the Committee's February 8 hearing. The Committee requested an interview with both Quinn and Fink to provide further explanation for these e-mail messages, but both declined to participate. While Quinn has refused to provide an explanation to the Committee, his spokesman has told the press that Quinn has signed a new retainer with Rich to "cover new legal matters."[276] The Committee will continue to investigate this matter to determine the nature of Quinn's work for Rich and the amounts that Quinn is being paid.

E. Quinn's Attempts to Settle the Case

In October 1999, Quinn followed the advice offered by Eric Holder to Gershon Kekst and approached Main Justice in an effort to settle the Rich case. He started by drafting a presentation for the Justice Department. Quinn also hired Neal Katyal, a lawyer who interned for Quinn when he was Counsel to Vice President Gore.[277] Katyal had also worked as National Security Advisor to Deputy Attorney General Eric Holder. According to Katyal, he was hired more as a consultant than as a lawyer.[278] Katyal characterized the presentation he helped prepare as more marketing than legal.[279] Katyal helped draft documents that were presented to Eric Holder. He denied contacting Holder directly, or using his access to Holder to benefit the Rich lawyers. However, he did acknowledge that on several occasions Jack Quinn told him, "you know, I want to talk to Eric about this."[280]

Quinn had a number of contacts with Holder about settling the Rich case. It appears that Quinn's main request to Holder was that he intercede with the Southern District of New York and have the Southern District's prosecutors meet with the members of the Marc Rich legal team. On October 22, 1999, Quinn met with Holder for the first time regarding the Rich case. Quinn reviewed a number of points about the Rich case with Holder, and asked that Holder intervene with the Southern District of New York, to encourage the Southern District to meet with Marc Rich's lawyers and reach a

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[274] Jack Quinn Document Production JQ 02916 (E-mail from Jack Quinn to Marc Rich (Mar. 5, 2001)) (Exhibit 44).

[275] Jack Quinn Document Production JQ 02974 (E-mail from Marc Rich to Jack Quinn (Mar. 6, 2001)) (Exhibit 46).

[276] Michael Isikoff, *Secret E-Mail*, NEWSWEEK, Mar. 10, 2002.

[277] Telephone Interview with Neal Katyal, Associate Professor, Georgetown University Law Center (Mar. 26, 2001).

[278] *Id.*

[279] *Id.*

[280] *Id.* Katyal further explained that Quinn already had an independent relationship with Holder and would not have needed Katyal's assistance in setting up any meetings between them.

settlement of the criminal case.[281] On November 8, 1999, Holder called Quinn and told him that he and other senior staff at the Justice Department believed that the refusal of the Southern District to meet with Rich's lawyers was "ridiculous."[282] Holder recommended that Quinn send a letter requesting a meeting to U.S. Attorney Mary Jo White, with copies to Holder and Assistant Attorneys General James Robinson and Loretta Collins Argrett.[283] Holder told Quinn that once he got the letter, he would call White and suggest that she should meet with Quinn.[284] Holder also told Quinn that he was assigning one of his top deputies, David Margolis, to look at the Rich matter.[285]

After Holder spoke with Mary Jo White about a meeting with Quinn and members of the Rich legal team, Quinn made a direct appeal to Mary Jo White, writing her on December 1, 1999:

> We would like to begin by asking that you or your representative, along with representatives of the Tax and Criminal Divisions of the Department of Justice, meet with Professors Wolfman and Ginsburg, and members of our legal team, to personally evaluate their conclusions. We urge this approach because the tax allegations underlie so much of the indictment, and because the merits of our tax position can be quickly evaluated. We believe that such a meeting will advance a resolution of this matter. We further believe that we can persuade you that neither the law nor the policies of the Department of Justice support the RICO charges and that, in this regard, too, the indictment as currently drafted should not stand.[286]

On January 18, 2000, Quinn spoke to Holder to see how Mary Jo White had received his letter. Holder told Quinn that he had spoken to White, and that she was reviewing the matter personally. Holder told Quinn that he would "do what he can,"[287] and also provided encouragement to Quinn, telling him that White "didn't sound like her guard was up."[288] On February 2, 2000, the Southern District responded to Quinn and Behan's letter by turning down their request to meet in order to modify the indictment.[289] As Mary Jo White further explained in her letter to Quinn, "I have communicated with representatives of the Deputy Attorney General and Assistant Attorney General, Criminal Division, and with the Acting Assistant Attorney General of the Tax Division. They all concur that this is a matter within the discretion of the United States Attorney for the Southern District of New York."[290] White's letter was a complete rejection of the overtures

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[281] Jack Quinn Document Production (Note of Jack Quinn) (Exhibit 47).
[282] Jack Quinn Document Production (Note of Jack Quinn (Nov. 8, 1999)) (Exhibit 48).
[283] *Id.*
[284] *Id.*
[285] *Id.*
[286] Jack Quinn Document Production (Letter from Jack Quinn and Kathleen Behan, Partner, Arnold & Porter, to Mary Jo White, U.S. Attorney for the S.D.N.Y., Department of Justice (Dec. 1, 1999)) (Exhibit 49).
[287] Jack Quinn Document Production (Note of Jack Quinn) (Exhibit 50).
[288] *Id.*
[289] Jack Quinn Document Production (Letter from Mary Jo White, U.S. Attorney for the S.D.N.Y., to Jack Quinn and Kathleen Behan, Partner, Arnold & Porter (Feb. 2, 2000)) (Exhibit 51).
[290] *Id.*

made by Quinn and Holder, and was a significant setback for the Marc Rich legal team. Robert Fink sent an e-mail to Avner Azulay explaining that "[w]e received a negative response to our overture from [Deputy U.S. Attorney] Shira[h Neiman]. She said her office will not negotiate while Marc is away, and that the DoJ agrees. JQ was surprised and disappointed that the DoJ had agreed even though he had not heard from Eric."[291] Azulay responded that "I am not exactly surprised. I foresaw this answer from the moment I read JQ's ltr. I hate to say that 'I told you so.' I was surprised by JQ's optimistic report."[292]

After this rejection, Quinn turned his efforts to Eric Holder, asking him to review the Rich case, despite White's refusal to do so. Robert Fink laid out Quinn's proposed plan of action in a February 17, 2000, e-mail to Marc Rich:

> [Jack] agrees (subject to further discussion) with trying to have Eric help us meet with the tax lawyers in Main Justice (and maybe the head of the criminal division) to see if the professors can convince the chief government tax lawyers that this was a bad tax case. He also agrees that such a conclusion would be useful for many purposes including going back to the SDNY. Similarly, he agrees we should make something of the fact that the office was dealing with fugitives (who surrendered this week) in connection with the Russian money laundering case, while insisting that they can't deal with fugitives. Still, he wants to give Eric a short list of what is wrong with the indictment as he agreed to do that. He feels we can do both.[293]

On February 28, 2000, Quinn sent Holder a short memorandum entitled "Why DOJ Should Review the Marc Rich Indictment."[294] In this memorandum, Quinn stated that "[t]he refusal of the SDNY to participate in a discussion of the Marc Rich case is sorely disappointing. That office (and DOJ) should not sit on a defective indictment."[295] Quinn then explained why he believed that the RICO, mail fraud, wire fraud, tax evasion, and energy charges against Rich were faulty.[296] Quinn also claimed that the SDNY had recently negotiated with fugitive Russian money launderers, despite their policy against negotiating with fugitives. Quinn also stated that "[t]he DOJ website lists Marc Rich on its International Fugitive page. This involves USG resources and is a potential embarrassment for DOJ."[297] Quinn did not provide any explanation, though, of why listing Rich as a fugitive would be an embarrassment for DOJ, given the fact that the Justice Department had been trying to extradite or apprehend him for almost 20 years. Holder apparently reviewed Quinn's arguments, but failed to help Quinn.

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[291] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00697 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation (Feb. 10, 2001)) (Exhibit 32).
[292] *Id.*
[293] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00701 (E-mail from Robert Fink to Marc Rich (Feb. 17, 2001)) (Exhibit 52).
[294] Jack Quinn Document Production (Memorandum entitled "Why DOJ Should Review the Marc Rich Indictment" (Feb. 28, 2000)) (Exhibit 53).
[295] *Id.*
[296] *Id.*
[297] *Id.*

Quinn spoke to Holder on March 14, 2000, and reported back to Fink, Behan, and Kekst:

> [W]e spoke briefly today. it started out badly—"we've gone as far as we can go, can't figure out a way around Shira[h Neiman], etc."—but I pushed back hard on the russian money laundering culprits and the uneven treatment of marc. he wants to talk further about that with his people, said he'd call me back tomorrow. it's time to move on the GOI [Government of Israel] front.[298]

Holder did speak to Quinn almost a month later, on March 25, 2000, and told him that "we're all sympathetic" and that the "equities [are] on your side."[299] However, Holder apparently informed Quinn that he could not force a meeting on the Rich case.

At the Committee's February 8, 2001, hearing, Jack Quinn confirmed that Holder was sympathetic to his cause:

> I certainly formed the impression that there was, as one of my notes reflect, a view among some senior people in Main Justice that the equities were on our side in some senses.
>
> Again, I'm not trying to overstate this. I'm not trying to say that I believed that senior people at Main Justice thought the indictment was meritless, but I did absolutely believe that Main Justice thought that the Southern District was being unreasonable in being unwilling to talk to us. I thought that there was a more sympathetic audience at Main Justice.[300]

However, Eric Holder attempted to qualify his support of Jack Quinn's arguments:

> With regard to question of equities and whether or not we thought the Southern District was being unreasonable, I think Mr. Quinn was just a little confused. What we were talking about there was them being unreasonable and not having the meeting. The equities were on their side, as Mr. Quinn's side, with regard to the meeting. No one at Main Justice thought that, with regard to the substance, the equities were on Mr. Quinn's side.[301]

Even assuming, though, that Holder's support was limited to his request for a meeting with Mary Jo White, it is still unclear why he thought the "equities were on Quinn's side," even with respect to a meeting. The SDNY had a number of meetings and negotia-

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[298] Jack Quinn Document Production (E-mail from Jack Quinn to Robert Fink (Mar. 14, 2000)) (Exhibit 54). Quinn's suggestion to "move on the GOI front" was rebuffed by Avner Azulay, who stated that "there is no way the MOJ [Israeli Minister of Justice] is going to initiate a call to EH—a minister calling a second level bureaucrat who has proved to be a weak link." Piper Marbury Rudnick & Wolfe Document Production PMR&W 00728 (E-mail from Avner Azulay, Director, Rich Foundation, to Robert Fink (Mar. 18, 2000)) (Exhibit 55).

[299] Jack Quinn Document Production (Note of Jack Quinn) (Exhibit 56). In this conversation, Holder also answered Quinn's arguments regarding the SDNY's negotiations with the fugitive Russian money launderers, pointing out that they, unlike Rich, agreed to cooperate with the government.

[300] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 230 (Feb. 8, 2001) (testimony of Jack Quinn).

[301] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 231 (Feb. 8, 2001) (testimony of Eric Holder, former Deputy Attorney General, Department of Justice).

tions with Rich's attorneys, both before and after Rich's flight from the U.S. The SDNY had made a number of reasonable offers to settle the case, and U.S. Attorney Otto Obermaier and one of his senior aides even met with Rich in Switzerland. Rich's lawyers, however, took an inflexible position that they would not agree to any plea that required jail time. Given this position, the SDNY decided further negotiations would not be productive. For Holder to characterize the SDNY's position as "ridiculous," suggests that Eric Holder supported Quinn's efforts to settle the Rich case from the beginning.

III. THE MARC RICH AND PINCUS GREEN PARDON PETITION

A. Rich Contemplated a Pardon Early in 2000

Jack Quinn and others on the Marc Rich legal team have maintained that they did not decide to seek pardons for Rich and Green until October 2000.[302] However, there is extensive evidence that Marc Rich and his lawyers were contemplating a pardon as early as February 2000, while they were still attempting to settle Rich's criminal case with the Southern District of New York. It appears that Rich and his legal team viewed the Presidential pardon effort as a fall-back in case they were unable to settle the criminal case. Moreover, it appears that although they were considering petitioning for a pardon as early as February 2000, Rich and his legal team waited until November 2000 to submit their petition.

As discussed previously, on February 2, 2000, Mary Jo White, the U.S. Attorney for the Southern District of New York, rejected Jack Quinn's offer to meet regarding the Marc Rich case. After White's rejection, Jack Quinn turned again to Deputy Attorney General Eric Holder, and asked him to intervene and force a reconsideration of the Marc Rich indictment. By late March 2000, it became clear to Quinn that Holder was sympathetic to Quinn's requests, but would not force the Southern District to meet with Quinn. However, during the time that Quinn was discussing his request for a meeting with Eric Holder, the Marc Rich legal team was already considering a Presidential pardon.

A privilege log submitted to the Committee by Arnold & Porter suggests that attorneys working for Marc Rich had been researching Presidential pardons as early as March 1999.[303] It appears, though that serious consideration of a pardon began in February 2000, while Quinn was still attempting to settle the criminal case through Eric Holder. February 9, 2000, Robert Fink sent an e-mail to Jack Quinn and Kathleen Behan, which referred to the pardon effort cryptically as the "second option:"

> I briefed Marc and he is awaiting word on your call. (I have also sent Avner a briefed [sic] email letting him know of the current status.) I also told Marc that I would discuss with you and Kitty your views on the second option

[302] *See, e.g.*, "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 45 (Feb. 8, 2001) (testimony of Jack Quinn).

[303] Arnold & Porter Document Production (Privilege Log, Mar. 27, 2001) (Exhibit 57). The privilege log notes that a memorandum regarding the pardon power was prepared on March 12, 1999, and withheld from the Committee on the basis of the attorney work product privilege.

> (whether there is any reason to consider it, or whether what happened here made it so unlikely that you did not think it worthwhile, as I told him that you would not work on it unless you thought there was some possibility of success). He was curious as to your thinking. I told him I would also check on your thinking on what Avner was doing. but let's see what Eric says.[304]

On February 14, 2000, Fink had a telephone discussion with Quinn regarding the efforts to settle Rich's criminal case in New York. Quinn apparently mentioned the possibility of seeking a Presidential pardon, as Fink's notes of the call state in part, "Pardon—mid to late Nov." [305] Two weeks later, Robert Fink sent another e-mail to Marc Rich explaining Quinn's role in the negotiations with the Justice Department, and his potential role in seeking a Presidential pardon. Fink concluded his e-mail to Rich by suggesting that Rich enter into a retainer agreement with Quinn before they heard back from Eric Holder:

> I think it makes sense to compensate him for what he has done and may continue to do. Just give it some more thought and we can come back to it soon. We can wait, if you want, to see what Eric says, although it may pay to respond now, before Eric response [sic] to the last message from Jack, so it does not look like you were only willing to pay because of a positive response, as that was not the agreement. Even if we stop everything we are doing, and decide not to investigate the pardon, etc., at this time, we should fold this down in a friendly way.[306]

On March 18, 2000, Avner Azulay sent Fink an e-mail which again alluded to the possibility of seeking a pardon in November 2000. More importantly, this e-mail also raised the possibility of capitalizing on Denise Rich's relationship with President Clinton:

> I had a long talk with JQ and Michael. I explained why there is no way the MOJ [Israeli Minister of Justice] is going to initiate a call to E[ric] H[older]—a minister calling a second level bureaucrat who has proved to be a weak link. We are reverting to the idea discussed with Abe—which is to send D[enise] R[ich] on a "personal" mission to N01. with a well prepared script. IF it works we didin't [sic] lose the present opportunity—until nov—which shall not repat [sic] itself. If it doesn't—then probably Gershon's course of acion [sic] shall be the one left option [sic] to start all over again.[307]

At the March 1, 2001, hearing on the Rich pardon, Jack Quinn and Robert Fink were asked to explain their understanding of this communication. Fink stated that he understood "N01" to mean Presi-

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[304] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00695 (E-mail from Robert Fink to Jack Quinn and Kathleen Behan, Partner, Arnold & Porter (Feb. 9, 2000)) (Exhibit 58).
[305] Piper Marbury Rudnick & Wolfe Document Production PMR&W 01202–03 (Notes of Robert Fink, Feb. 14, 2000) (Exhibit 59).
[306] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00722 (E-mail from Robert Fink to Marc Rich (Feb. 29, 2000)) (Exhibit 39).
[307] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00729 (E-mail from Avner Azulay, Director, Rich Foundation, to Robert Fink (Mar. 18, 2000)) (Exhibit 60).

dent Clinton.[308] However, neither of the two attorneys could provide a definitive answer as to whether Denise Rich actually undertook the "'personal' mission" to the President contemplated in the e-mail. For example, Quinn provided the following response:

> Now, I'm telling you, I did not speak to the President in the year 2000 about the Marc Rich matter. I was not a recipient of this [e-mail]. I have no reason to believe that anyone asked Denise Rich to speak to him about this matter, and I have no reason to believe that she did so. But my firsthand knowledge of this is limited to the facts I'm able to testify to.[309]

When asked what Denise Rich's involvement was around this time, Robert Fink provided an even more lawyerly response: "I have an imperfect memory, so I'll be careful. I believe as I sit here that there was no involvement by Denise Rich in Mr. Rich's problems during that period of time. I have absolutely no recollection that she became involved in any way."[310]

Furthermore, neither attorney could give a definitive answer as to whether this "well prepared script" for Denise Rich related to the pardon, or to negotiations with the Department of Justice. During questioning about the March 18, 2000, e-mail, Quinn testified that it was possible that "every one of us involved in this thought out loud with each other, is there any way to persuade the President to tell Justice, to tell the southern district to do something."[311] Quinn continued, however, stating, "It's also entirely possible that Mr. Azulay, others, myself included, were involved in a conversation where someone said you know we are going to try to pardon one of these days."[312] Robert Fink's testimony, while also not definitive, suggests that the script related to negotiations with the Department of Justice. When asked about the last sentence of Azulay's e-mail that discusses reverting to "Gershon's course of action" if Denise Rich's script were to fail, Fink stated, "I suspect that he's talking about an application for a pardon here."[313] Assuming Fink's supposition is correct, then the script for Denise would have related to Department of Justice negotiations.[314]

In June 2000, Robert Fink had further communications with Marc Rich indicating that they were intentionally waiting until after the November 2000 election to petition for a Presidential pardon:

> Jack Quinn and I traded calls until today. He is well and doing well. He has not forgotten you or what we set out to do, but has pretty much concluded that there is nothing to do until we get closer to (or even passed) [sic] the elec-

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[308] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 515 (Mar. 1, 2001) (testimony of Robert Fink).
[309] *Id.* at 396 (testimony of Jack Quinn).
[310] *Id.* at 515 (testimony of Robert Fink).
[311] *Id.* at 396 (testimony of Jack Quinn).
[312] *Id.*
[313] *Id.* at 516 (testimony of Robert Fink).
[314] This also tends to suggest that while the attorneys were not working on a pardon effort in March of 2000, the idea had already been discussed.

> tion, or as he put it, the closing days of the current administration.[315]

In July 2000, Fink again e-mailed Rich suggesting that Rich sign a retainer agreement with Quinn so that he would be available to work in the Fall of 2000:

> At the moment the issue raised by you and Michael is how to keep Jack on a "retainer" so that he is available for questions that might arise and, more importantly, available in the Fall, if we want him to be. Since the Fall is not far away, and you will know whether you want him to gear up again within four months or so, I suggest that we offer Jack $10,000 per month as a retainer to keep his eyes, ears and brain open to events and thoughts that may be helpful, with the understanding that if a decision is made to proceed that we will renegotiate the monthly retainer to reflect the changed circumstances.[316]

This documentary evidence is supported by the information provided by two witnesses who indicate that they were aware of pardon discussions well before the Fall of 2000. Abraham Foxman, the National Director of the Anti-Defamation League, informed the Committee that he recommended that Rich seek a Presidential pardon as early as February 2000. Foxman first met Marc Rich fifteen years ago through mutual friend Max Maxin who was President of B'nai B'rith.[317] According to Foxman, Maxin asked Foxman to meet with Rich "because Rich felt that there may have been anti-Semitism involved in his prosecution."[318] According to Foxman, he met Rich in Europe sometime in late 1998 or early 1999.[319] Foxman told Rich at that meeting that he did not see any evidence to support a charge of anti-Semitism.[320] Later, in February of 2000, Foxman was contacted by Zvi Rafiah, who was then congressional liaison for the Israeli Embassy in Washington.[321] Rafiah suggested that Foxman go to Paris to meet with Avner Azulay, the former Mossad agent who managed Marc Rich's philanthropic organizations.[322] At that meeting in Paris, Foxman allegedly told Azulay that if the attorneys for Rich continued to be unsuccessful in their negotiations with the prosecutors in New York, a pardon might be a "long-shot" possibility to consider.[323] Foxman told Azulay that, to

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[315] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00731 (E-mail from Robert Fink to Marc Rich (June 6, 2000)) (Exhibit 40).

[316] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00732 (E-mail from Robert Fink to Marc Rich (July 7, 2000)) (Exhibit 41).

[317] Interview with Abraham Foxman, National Director, Anti-Defamation League (Mar. 19, 2001).

[318] *Id.* Marc Rich has charged on a number of occasions that he was singled out for prosecution because he was Jewish. There is no support for Mr. Rich's assertion. Mr. Rich's decision to play the race card emphasizes the extent to which he has failed to accept responsibility for his crimes. Rather than recognizing the extent of his criminal acts, of which violation of Department of Energy regulations and the Tax Code were among the least, Rich has made baseless accusations against federal prosecutors.

[319] *Id.*

[320] *Id.*

[321] *Id.* According to Foxman, Rafiah is now a lobbyist for "commercial interests." *Id.* Lobbying registration materials from the FEC indicate that Rafiah's main client is Elisra Electronic Systems Ltd., a company that develops and manufactures electronic warfare systems. Lobbying Registration of Zvi Rafiah (visited Feb. 16, 2001) <http://www.tray.com/cgi-win/bna—mach.exe> (Exhibit 61).

[322] *Id.*

[323] *Id.*

the best of his knowledge, Denise Rich "hated Marc Rich's guts," but that if someone could convince her to speak to the President, "then you have the beginning of a pardon situation."[324] Foxman later learned that, "as it turns out, that is what happened."[325]

Publicist Gershon Kekst claims that he mentioned the possibility of a Presidential pardon to Rich's lawyers as early as 1999. Kekst had been hired by Rich to assist with strategy and public relations relating to his criminal case.[326] In 1999, the same time period in which Kekst was looking for a Washington lawyer to represent Rich, Kekst was giving general thought to the Rich case, including his basic conclusion that a public relations campaign could not help Rich. Seeking to conduct a "sanity check" on his conclusion, Kekst turned to former Attorney General William P. Barr, the Senior Vice President and General Counsel for Verizon Communications. Kekst met Barr through public relations work he did for Verizon Communications.[327] Kekst claimed that he was unaware at that time that Barr had been U.S. Attorney General.[328] However, Kekst was impressed with Barr's legal acumen, and thought that he could offer some insight into the Rich case. Kekst called Barr, and asked him whether he thought that a public relations campaign would be useful in trying to resolve the Rich case.[329] Kekst claims that Barr told him that a public relations campaign was the worst thing he could do. According to Kekst, Barr told Kekst that, assuming the Rich case was a bad case, the most that Rich could do was wait until the end of the Administration and seek a pardon from President Clinton.[330] Kekst stated that before Barr's suggestion, he had never heard any discussion of Rich seeking a Presidential pardon. Kekst also believes that Barr told him that even if the case against Rich was not justified, as long as Mary Jo White was U.S. Attorney and Rudolph Giuliani was Mayor, there was nothing to be done.[331] The latter point appears to have been the main thing taken away from the conversation by Kekst and those on the Rich team who he informed about the conversation with Barr. In December 2000, Robert Fink e-mailed Jack Quinn and reminded him that Kekst had spoken to Barr in 1999, and that Barr believed "it paid to wait for the new administration and the retiring of several of the then-current players."[332] Fink then suggested that they ask Barr to assist with the pardon effort, but apparently, Quinn and Fink decided not to include a prominent Republican in their efforts.[333]

For his part, Barr recalls that he told Kekst that political pressure would be a "waste of time."[334] Barr explained to Kekst that the Justice Department supported the Southern District of New York prosecutors because it was a matter of significant principle

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[324] *Id.*
[325] *Id.*
[326] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).
[327] *Id.*
[328] *Id.*
[329] *Id.*
[330] *Id.*
[331] *Id.*
[332] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00073 (E-mail from Robert Fink to Jack Quinn (Dec. 26, 2000)) (Exhibit 62).
[333] *Id.*
[334] Telephone interview with William P. Barr (Mar. 10, 2002).

for the Department.[335] He also told Kekst that it was inconceivable that any relief was possible as long as Rich remained a fugitive.[336] In short, Barr believed that the White House would never do anything for Rich unless Rich were willing to surrender himself and accept responsibility for what he had done.[337]

In the days immediately following the Rich pardon, Jack Quinn and the other lawyers for Marc Rich emphasized that they did not decide to seek a pardon for Rich until October 2000. What they did not make clear, however, was that they were actively considering a pardon much earlier. They decided to wait until the closing days of the Clinton Administration to apply for the pardon. While the reasons for the delay are not clear, there are two likely reasons: first, by waiting until December to apply, opponents of the pardon would have a limited amount of time to learn of and resist the pardon effort; second, the Clinton White House would have limited time to conduct a detailed review of the petition and learn of its numerous flaws.

B. The Preparation of the Pardon Petition

The centerpiece of Marc Rich's effort to obtain a Presidential pardon was the pardon petition, which was put together by the Marc Rich legal team in October and November 2000. The main attorneys involved in preparing the pardon petition were Jack Quinn; Kathleen Behan; Robert Fink; Christopher Man, an associate at Arnold & Porter; Michael Hepworth, Of Counsel at Piper Marbury Rudnick & Wolfe; and G. Michael Green of Dickstein Shapiro Morin & Oshinsky. These lawyers spent dozens, if not hundreds, of hours compiling the petition.

The resulting document, which had a number of misrepresentations and factual inaccuracies, was a surprisingly poor effort, considering the amount of time and money that went into it. The argument section of the petition, the only portion that was actually drafted anew in October and November 2000, totaled 31 double-spaced pages. The first 20 of those pages were dedicated to biographical sketches of Rich and Green. These pages attempted to cast Rich and Green in a favorable, even likable light. These statements seem almost laughable given what the world knows now about Marc Rich and Pincus Green:

> Mr. Rich and Mr. Green have lived exemplary, indeed, remarkable lives. Although they have suffered terrible hardships as the result of their exile from the United States, they have continued to work productively and contribute to society.[338]

Although it is true that the work of Rich and Green assisted the governments of countries like Iraq, Iran, and Libya, it is difficult to argue that they contributed to the United States once they fled their country and attempted to renounce their citizenship.

Included in the attempt to make Marc Rich seem like the victim was a reference to the tragic death of his daughter Gabrielle while

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[335] *Id.*
[336] *Id.*
[337] *Id.*
[338] Petition for Pardon for Marc Rich and Pincus Green, Memorandum in Support of Petitioners' Application for Pardon 4 (Dec. 11, 2000) (Appendix III).

Marc Rich was a fugitive from justice: "Because Gabrielle lived and died in the United States, Mr. Rich felt the extra weight of being unable to personally visit with her during her final months."[339] This claim, which was repeated by Denise Rich in her appeals to the President, made it sound as if the prosecutors in the Southern District of New York denied Rich the opportunity to visit with his dying daughter. Nothing could be further from the truth. Rich knew that if he returned he would receive bail, and that he would not be incarcerated unless convicted of the crimes he had been accused of committing. He was prevented from returning to visit his dying daughter only if he refused to face the U.S. justice system. Rich's desire to both have his cake and eat it too, makes it difficult to generate any sympathy for him in this matter. In fact, the only possible conclusion is that Marc Rich placed his own needs over those of his daughter.

The petition also made it sound as if Rich was providing the world with an economic benefit through his dealings:

> In building this business, Mr. Rich and Mr. Green made substantial contributions to the world economy by increasing competition—and even breaking cartels—in the physical commodities industries.[340]

Of course, the petition did not mention that Marc Rich's business was built by supporting corrupt and dictatorial regimes across the world, ranging from Communist Cuba to apartheid South Africa. Nor did the petition mention that Rich's deals with third world countries meant that Rich himself gained monopolies over commodities that often paid developing nations less than fair-market prices for their commodities. Nor did the petition point out that Rich provided opportunities to those regimes the United States was actively attempting to penalize, including Iran during the period when 54 Americans were held hostage at the U.S. Embassy in Tehran.

The petition also made the claim that Rich and Green's lives were exemplary, setting aside the 65-count indictment:

> Other than the allegations for which clemency is sought, Mr. Rich and Mr. Green never have been charged with a crime. Indeed, Mr. Rich's and Mr. Green's lives both before and after the accusations have been ones of hard-working, resourceful businessmen who have become remarkably successful and have devoted much time and money to philanthropy and statesmanship.[341]

Again, the pardon petition made no mention of other less-than-savory aspects of Marc Rich's business dealings, for which he was never prosecuted, but which remain of questionable legality and morality, including supporting the Khomeini regime while it held U.S. hostages, selling weapons and missile parts to Khomeini, and trying to do business with Saddam Hussein during the Gulf War.

The petition then takes six pages to argue that the indictment of Rich and Green was flawed and unfair, and the appropriate subject of a Presidential pardon. As described below, these arguments

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[339] *Id.* at 7 n.1.
[340] *Id.* at 6.
[341] *Id.* at 20.

were largely a rehash of the same arguments that Rich and his lawyers had been making since the indictment was handed down. The final four pages of the petition were used to explain that it was permissible for the President to issue a pardon before a conviction. Also attached to the petition were the "letters of support," as well as other attachments, including the tax analysis by Professors Ginsburg and Wolfman, as well as other varied materials related to negotiations with the Southern District of New York and the President's pardon power in general.

C. The Misleading Legal Arguments in the Petition

The pardon petition crafted by Jack Quinn and the other attorneys on the Rich legal team is filled with numerous misleading and disingenuous legal arguments. Many commentators have stated that Quinn was merely being a good lawyer providing zealous representation to Marc Rich. However, many of the points made by Quinn and others go beyond zealous representation to the point of deception. Quinn had a responsibility to be honest in the pardon petition, and he failed. Normally, such dishonesty would not have a tremendous effect, but when it was combined with the total failure of the Clinton White House to examine the Rich case, the result was disastrous.

1. The Indictment of Rich Was Not Flawed

The first charge leveled by Quinn and the Rich legal team is that Rich and Green and their companies, Marc Rich + Co. A.G. ("A.G.") and Marc Rich + Co. International, Ltd. ("International"), were subjected to an "unprecedented criminal investigation" and "a unique indictment based on now-discarded and rejected theories."[342] Notwithstanding the fact that this is an argument made by almost all individuals and companies accused of white collar crime, this claim is especially specious here.

a. The Department of Energy Regulations Were Fair

In his pardon petition, Rich claimed to have been the victim of overly complex and unfair Department of Energy regulations. One element of this line of defense is that the regulations governing the conduct for which Rich and Green were indicted were too confusing. According to the pardon petition, the Department of Energy regulations limiting prices in oil reselling were "extremely complicated," and were therefore rescinded in January 1981 because they were "unworkable."[343] Such an argument is completely disingenuous. Rich and Green were able to understand the regulations well enough to exploit them for millions of dollars in profit. Regardless of whether they outlived their usefulness, they were deemed appropriate at the time when the United States was seriously concerned about fuel shortages. More important, they were the law at that time, and Rich and Green therefore had a duty to play by the rules or face the consequences. Indeed, other companies were able to obey the law and were not subject to prosecution.

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[342] *Id.*
[343] *Id.* at 21.

Quinn also argued that the Department of Energy indicated that Rich and his company "properly . . . accounted for the transactions."[344] This argument is irrelevant because Rich's accounting was not the central issue. Rather, Rich's companies falsified reports in order to hide profits over the legal limits in violation of law. Marc Rich's own companies admitted as much when they pled guilty and paid $200 million in taxes, penalties, and interest. As the lawyers for Rich's companies stated in federal court:

> Beginning in September 1980 International generated millions of dollars of income from crude oil transactions which International should have disclosed but intentionally did not disclose to the Internal Revenue Service and the Department of Energy.
>
> * * *
>
> In connection with matters within the jurisdiction of agencies of the United States, specifically the Department of Energy and the Internal Revenue Service, International and A.G. knowingly and wilfully made those documents and the ERA 69s filed with the Department of Energy which were false in that they failed to disclose material facts regarding the actual income from those crude oil transactions[.][345]

This language from the allocution clearly demonstrates not only that the Department of Energy in no way exonerated Rich and Green's activities, but also that Rich and Green and their companies clearly understood the nature of the supposedly complicated regulations well enough to violate them "knowingly and wilfully." Their arrangement with West Texas Marketing was clearly intended to contravene the regulations and perpetrate tax fraud against the United States.

b. Rich and Green Were Not Singled Out

Another element of Quinn's attack on the indictment is that Rich and Green were unfairly singled out because "others engaging in similar activity" were pursued only in civil regulatory actions.[346] This argument is simply false, and a minimally competent lawyer would have known that it was false. Even Rich's own lawyers had earlier determined this in their research, which was also in Jack Quinn's possession. According to a 1988 memo drafted by Rich's lawyers, there were 48 criminal cases nationwide brought against crude oil resellers.[347] In 14 cases, the defendants spent some time in prison.[348] Texas resellers John Troland and David Ratliff of West Texas Marketing were prosecuted for "daisy chain" oil transactions and for falsely classifying different types of crude oil to

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[344] *Id.* at 27.

[345] Transcript of Allocution, *U.S. v. Marc Rich + Co., A.G. et al.* 18–19 (S.D.N.Y. Oct. 11, 1984) (S 83 Cr. 579) (Exhibit 5).

[346] Petition for Pardon for Marc Rich and Pincus Green, Memorandum in Support of Petitioners' Application for Pardon 22 (Dec. 11, 2000) (Appendix III).

[347] Jack Quinn Document Production (Memorandum from Mark Ehlers to Scooter Libby 1 n.1 (June 10, 1988)) (Exhibit 63).

[348] *Id.* at 1–2 n.2.

skirt DOE regulations. It was while serving 10 months in prison that they first alerted prosecutors to the activities of Rich and Green.

Rich's lawyers have also argued that, unlike Rich and Green, the few violators who were pursued criminally were involved in "daisy chaining" or miscertification (falsely labeling controlled oil as uncontrolled oil).[349] However, Rich and Green were not alone in facing criminal penalties even though they were not accused of miscertification. Oscar Wyatt, David Chalmers, and Sam Wilson, Jr. pled guilty to a willful violation of the price control enforcement provision that involved no accusation of miscertification.[350] These cases are consistent with the relevant statute, which distinguishes between civil and criminal violations on the basis of whether the conduct was willful—not whether it involved miscertification.[351]

More important, Rich and Green were also involved in illegal conduct that was unique in the context of the commodity they were trading. In September 1980, DOE clarified its oil reseller regulations to make it plain that resellers were not permitted to profit more than $0.20 per barrel.[352] Rich and Green made profits far in excess of that limitation but created fraudulent invoices and filed false reports to hide about $100 million in illegal profits from both the DOE and the IRS. In other words, Rich and Green were engaged in classic criminal financial fraud. The grand jury in New York had ample evidence from documents and witnesses that Rich and Green were willfully violating the price controls and, as discussed above, their companies later pled guilty to doing so.[353]

Quinn further tried to advance the argument that Rich and Green's entire case was *sui generis* by stating in the petition that similarly situated individuals and corporations such as ARCO were never criminally charged.[354] However, ARCO was not a similarly situated corporation because it was never involved in attempting to hide illegal profits as was Rich's company. In fact, in looking at the more analogous case of the corporations (West Texas Marketing and Listo Petroleum) that helped Rich hide illegal profits, the executives of those companies were prosecuted. Two executives from West Texas Marketing served 10 months in prison and one from Listo pled guilty to felony charges of making false statements and was sentenced to five years probation and fined $5,000.[355]

Beyond being completely false, the argument that Marc Rich was "singled out" for prosecution also draws upon the preposterous claims, made by Marc Rich himself, that the prosecution was the result of anti-Semitism.[356] In an interview with the Israeli Ma'ariv

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[349] Quinn made this argument before the Senate Judiciary Committee. *See* "President Clinton's Eleventh Hour Pardons," *Hearing Before the Senate Judiciary Comm*., 107th Cong. 78 (Feb. 14, 2001) (testimony of Jack Quinn).

[350] Jack Quinn Document Production (Memorandum from Mark Ehlers to Scooter Libby 2–3 n.4 (June 10, 1988)) (Exhibit 63).

[351] 15 U.S.C. § 754 (1982 ed.)

[352] *U.S. v. Marc Rich, Pincus Green et al*. 9 (S.D.N.Y. Mar. 6, 1984)(S 83 Cr. 579).

[353] Telephone Interview with Morris "Sandy" Weinberg, Jr., former Assistant U.S. Attorney for the S.D.N.Y., Department of Justice (Feb. 7, 2001).

[354] Petition for Pardon for Marc Rich and Pincus Green, Memorandum in Support of Petitioners' Application for Pardon 26 (Dec. 11, 2000) (Appendix III).

[355] *See* Patrick E. Tyler, *U.S. Grand Jury Probing Shift of Oil Profits*, WASH. POST, Oct. 18, 1982, at A1. *See also Rich Associate Gets Probation*, ASSOCIATED PRESS, Dec. 17, 1984.

[356] While these arguments were not made explicitly in the pardon petition, Rich made them in the media, and Jack Quinn may have made them to President Clinton. *See* Section IV(G)(4).

Weekend Magazine, Rich stated, "I'm convinced that the fact that I was a foreigner and a relative newcomer on the oil-trading market and Jewish influenced the manner in which my case was handled."[357] Rich has never provided any support for this outlandish claim. Rich's clumsy attempt to play the race card was rejected even by associates like Abraham Foxman, who found no evidence to support it. Rich's attorneys did not make any overt reference to anti-Semitism in the pardon petition, but did repeatedly claim that Marc Rich had been "singled out" by prosecutors, never explaining why they believed that to be the case. Furthermore, Quinn's own notes make it appear possible that he raised the specter of anti-Semitism in his last-minute appeal to the President on January 19, 2001.[358] It is unfortunate that the President found Rich's arguments believable—when in fact, they were completely inaccurate—a fact the President could have discovered with minimal due diligence.

c. Rich and Green Did Trade with the Enemy

The pardon petition claims that "the Iranian [trading with the enemy] counts were added to the indictment to incite public opinion against the defendants."[359] The petition further claims that "[t]he prosecutors quietly dropped the Iranian claims against the companies, but never dealt with the claims against the individuals."[360] By making this claim, Rich suggested that the charges had no merit. In fact, the charges appear to have been accurate, and were only dropped from the indictment for technical reasons. The trading with the enemy charges against the Marc Rich companies were dropped because Clyde Meltzer—the Listo petroleum executive who, unlike Rich and Green, did not flee the United States—was not involved in trading with Iran. Since Rich and Green fled and were unavailable for trial, the only charges of conspiracy against the remaining defendants were unrelated to Iran.

The charges against Rich and Green personally for trading with Iran during the hostage crisis were never dropped or dismissed. They remained in effect at the time of the pardon.[361] Indeed, there is voluminous evidence that Rich and Green traded with Iran, in addition to a number of other prominent enemies of the United States. While a foreign company may have been allowed to trade with Iran, Rich and Green were American citizens and it was illegal for them to engage in trade with Iran regardless of whether they did so on foreign soil or through the use of a foreign corporation. In fact, the evidence showed that Rich and Green negotiated the deals from the Manhattan offices of Marc Rich International, an American firm.[362] It was the height of irresponsibility for Marc Rich and his lawyers to suggest that prosecutors charged Rich with

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[357] Bo'az Ga'on, *Rich as Korach*, MA'ARIV WEEKEND MAGAZINE, Oct. 1, 1999 (Exhibit 6).

[358] For a detailed discussion, *see* Section IV(G)(4) below.

[359] Petition for Pardon for Marc Rich and Pincus Green, Memorandum in Support of Petitioners' Application for Pardon 22 (Dec. 11, 2000) (Appendix III).

[360] *Id.*

[361] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 110 (Feb. 8, 2001) (testimony of Morris "Sandy" Weinberg, Jr., former Assistant U.S. Attorney for the S.D.N.Y., Department of Justice).

[362] *Id.*

trading with the enemy only to "incite public opinion" against Rich when Rich was, in fact, trading with Iran.

Jack Quinn, who signed the pardon petition, admitted in the Committee's February 8, 2001, hearing that Rich had indeed traded with Iran:

> Mr. SHAYS. Did Mr. Rich trade with Iran when U.S. hostages were being held captive?
>
> Mr. QUINN. I do not know the precise answer to that question. It is my belief that he traded with Iran. I can't tell you right now when that occurred.
>
> Mr. SHAYS. Should it make any difference to you if it did?
>
> Mr. QUINN. Again, I approached this as a lawyer concerned with the indictment that was before me and whether or not it should stand. I was not here to be a character witness. I was here to take on four points—
>
> Mr. SHAYS. It didn't make any difference to you. Should it have made a difference to the President of the United States?
>
> Mr. QUINN. It is something he well may have taken into consideration, certainly.[363]

While Quinn admitted that he knew that Rich did indeed trade with Iran, he failed to address how he could state in the pardon petition that "the prosecutors quietly dropped the Iranian charges against the companies, but never dealt with the claims against the individuals." Quinn likely failed to address this statement because he knew the implication that the charges were "quietly" dropped for lack of evidence is misleading.

d. Rich and Green Did Evade Federal Taxes

Quinn and the Rich legal team also attacked the core tax evasion counts in the indictment against Rich and Green. As they argued in the petition, "The tax treatment of the transactions in the indictment, however, is governed by a U.S.-Swiss tax treaty, which was ignored by the prosecution. . . . The transactions in issue were consistently reported in accordance with the tax treaty."[364] In making these arguments, Rich's lawyers relied on what they called the "independent" analyses of law professors Bernard Wolfman and Martin Ginsburg.[365] However, the language from the pardon application is misleading in its use of the word "independent." First of all, the professors were paid handsomely by Marc Rich for their work on his behalf. Professor Ginsburg, husband of Supreme Court Justice Ruth Bader Ginsburg, was paid $66,199 for his work on the Rich case.[366] Professor Wolfman was paid $30,754 for his analy-

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[363] *Id.* at 111.

[364] Petition for Pardon for Marc Rich and Pincus Green, Memorandum in Support of Petitioners' Application for Pardon 23 (Dec. 11, 2000) (Appendix III).

[365] *Id.*

[366] Letter from Professor Martin D. Ginsburg, Professor, Georgetown University Law Center, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 12, 2001) (Exhibit 64). Ginsburg is also of Counsel at Fried, Frank, Harris, Shriver & Jacobson. Of the $66,199 received by his firm on the Rich matter, $43,980 reflected work by Ginsburg personally. The remainder reflects work by other attorneys assisting Ginsburg. Ginsburg billed his time at rates of $300 to $400 per hour. *Id.*

sis.[367] Wolfman was hired as a consultant by one of Rich's firms, and was paid between $250 and $300 per hour.[368] Hence, the analysis was not "independent" of Marc Rich. Second, the professors did not come to the same conclusion "independently" of each other, but rather worked jointly. Third, they emphasized that their analysis made "no independent verification of the facts," and that they were merely "accepting the statements thereof made to us by" Marc Rich's attorneys.[369] As Rich prosecutor Martin Auerbach stated:

> The transmittal letter that came with that analysis says it all and betrays the problem, the fundamental flaw in the pardon application as it was applied to Mr. Rich and Mr. Green, and that is a complete absence of a knowledge of the facts, the true facts of this case, the facts that led the companies to plead guilty.
>
> When that analysis was sent 10 years ago, the professors who wrote it said, . . . quote, making no independent verification of the facts but accepting the statements thereof made to us by Mr. Rich and Mr. Green's lawyers.
>
> And that is the problem. The President relied on the facts as described to him by Mr. Rich and Mr. Green's lawyers, making no independent investigation.[370]

In the end the analysis by the two professors cannot, and does not, attempt to explain the necessity for double accounting, phony invoices, and false reports to the Department of Energy. Nor do the professors discuss the double accounting, phony invoices, and false reports employed by Rich and Green to hide their illegal profits. The only rational explanation for the artifices employed by Rich is that he was fraudulently attempting to hide profits from the DOE and the IRS. In the final analysis, it is hard to avoid the conclusion that Professors Ginsburg and Wolfman sold their names to the highest bidder, thereby turning their backs on the accounting and legal considerations that were necessary for a meaningful professional opinion.

Quinn further attempted to justify the granting of a pardon by explaining that Rich's companies reached a settlement with the government and "paid a total of approximately 200 million dollars in back taxes, interest, fines and foregone tax deductions, an amount far in excess of any taxes, penalties or interest which might have been assessed in a civil tax proceeding."[371] Far from being a reason to grant a pardon, this fact only proves the point that Rich and Green fled from justice because they were caught red-handed and most likely would have gone to prison if they stood trial in the United States. Marc Rich + Co., A.G. and Marc Rich + Co. International, Ltd. each pled guilty to making false state-

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[367] Letter from Bernard Wolfman, Professor, Harvard Law School, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 8, 2001) (Exhibit 65).

[368] *Id.*

[369] Jack Quinn Document Production (Letter from Bernard Wolfman, Professor, Harvard Law School, to Gerard E. Lynch, Criminal Division Chief of the Office of the U.S. Attorney for the S.D.N.Y., Department of Justice (Dec. 7, 1990)) (Exhibit 66).

[370] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 106 (Feb. 8, 2001) (testimony of Martin J. Auerbach, former Assistant U.S. Attorney for the S.D.N.Y., Department of Justice).

[371] Petition for Pardon for Marc Rich and Pincus Green, Memorandum in Support of Petitioners' Application for Pardon 24–25 (Dec. 11, 2000) (Appendix III).

ments and evading about $48 million in taxes because the strength of the case against them was overwhelming.[372] Rich's companies pled guilty to a criminal scheme to conceal "in excess of $100 million in taxable income . . . most of which income was illegally generated through the defendants' violations of federal energy laws and regulations."[373] Rich's companies further admitted that they had engaged in this criminal scheme "together with Marc Rich, Pincus Green . . . and others . . . unlawfully, wilfully and knowingly[.]"[374] That Rich's companies paid these moneys and made these admissions of guilt squarely contradicts Quinn's claim that the indictment was without merit.

2. The Prosecutors Were Not "Overzealous"

A second theme in the pardon application is that the investigation and indictment of Rich and Green was flawed because the prosecutors were overzealous and overly ambitious. Quinn attacked not only Weinberg and Auerbach on this basis, but also Rudolph Giuliani who was at the time the United States Attorney for the Southern District of New York. As with the claims of the flawed indictment, however, these claims were also misleading.

a. The Prosecutors Negotiated with Rich and Green

The pardon petition claims that the federal prosecutors refused to negotiate with Rich and Green. Quinn repeated this claim before the Committee, as well as in the press. However, as is discussed in detail above, Rich and Green were fugitives. The Southern District of New York had (and continues to have) a longstanding policy of not negotiating with fugitives from justice. As was explained by the SDNY in its February 2, 2000, letter to Quinn, negotiating with fugitives "would give defendants an incentive to flee," providing them "the inappropriate leverage and luxury of remaining absent unless and until the Government agrees to their terms."[375] The particular history of the office's dealings with Rich counseled against negotiations. As is discussed in detail above, Rich had a history of acting in bad faith during the grand jury investigation. From refusal to obey grand jury subpoenas to attempting to fly two steamer trunks full of subpoenaed documents to Switzerland, Rich showed that he was not the type of defendant with whom to negotiate.

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[372] The case against Rich and Green individually was just as strong as the case against the companies. As noted above, Edward Bennett Williams offered to have Rich pay $100 million to settle the charges against him individually. Prosecutor Sandy Weinberg told Williams that the government would not reach any settlement that did not result in jail time for Rich. *See* "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the House Comm. on Govt. Reform*, 107th Cong. 176 (Feb. 8, 2001) (testimony of Morris "Sandy" Weinberg, Jr., former Assistant U.S. Attorney for the S.D.N.Y., Department of Justice). *See also* EVAN THOMAS, THE MAN TO SEE: EDWARD BENNETT WILLIAMS 415–16 (1991).

[373] Indictment, *U.S. v. Marc Rich, Pincus Green et al*. at 3–4 (Mar. 6, 1984) (S 83 Cr. 579) (Exhibit 4). *See* Transcript of Allocution, *U.S. v. Marc Rich + Co., A.G., Marc Rich Int'l, Ltd. et al*. at 11 (Oct. 11, 1984) (SS 83 Cr. 579) (Exhibit 5).

[374] Indictment, *U.S. v. Marc Rich, Pincus Green et al*. at 3 (Mar. 6, 1984) (S 83 Cr. 579) (Exhibit 4). *See* Transcript of Allocution, *U.S. v. Marc Rich + Co., A.G., Marc Rich Int'l, Ltd. et al*. at 11 (Oct. 11, 1984) (SS 83 Cr. 579) (Exhibit 5).

[375] Jack Quinn Document Production (Letter from Mary Jo White, U.S. Attorney for the S.D.N.Y., Department of Justice, to Jack Quinn and Kathleen Behan, Partner, Arnold & Porter (Feb. 2, 2000)) (Exhibit 51).

Yet even with such outrageous conduct, the Southern District of New York made many good faith efforts to reach an accommodation with Rich. During the investigation of Rich and his companies, prosecutors undertook numerous negotiations with Rich's lawyers, which resulted in the guilty pleas by Rich's companies. Even after Rich fled the country, prosecutors attempted to negotiate terms for Rich's return. In the early 1990s, U.S. Attorney Otto Obermaier and a top prosecutor in his office took the extraordinary step of flying to Switzerland and meeting with Marc Rich in an attempt to negotiate a resolution to the case. Moreover, the Southern District made numerous accommodations for Rich, including offering to drop the RICO charges as well as allowing him and Green to stand trial without spending any time in jail prior to trial. Despite these efforts, Rich and Green refused to return to the United States to stand trial. Rather, they would only return as part of a settlement that guaranteed they would not serve jail time unless convicted. It is therefore misleading for Quinn to simply state that the Southern District of New York "takes the position that it will not even discuss the matter while Mr. Rich and Mr. Green continue to live outside of the United States."[376] By itself, this statement fails to account for the numerous good faith efforts of the prosecutors in spite of their well-founded reluctance to negotiate with fugitives.

Quinn also argued in the petition that the Southern District had "negotiated with numerous other absent defendants over the years, and the Department of Justice has no such policy against such negotiations."[377] However, as the Southern District noted in its February 2, 2000, letter to Quinn, Department of Justice policy places the decision to negotiate with a fugitive within the discretion of the office responsible for the prosecution.[378] The Southern District of New York was well within the reasonable exercise of its discretion to require Rich to return to the United States before engaging in further negotiation, especially given Marc Rich's history of bad faith behavior and brazen legal tactics.

Finally, Quinn argued that the Southern District refused to negotiate with his legal team by failing to agree to a meeting between Professors Wolfman and Ginsburg and tax experts in the Department of Justice.[379] This, too, is misleading. As the Southern District explained in the February 2, 2000, letter to Quinn, "in 1987, an Assistant in this Office met with Mr. Rich's counsel and listened to the same presentation by Professor Martin D. Ginsburg referenced in your letter regarding the merits of the tax charges."[380] Prosecutors had rejected the Wolfman/Ginsburg analysis because it was based on an inaccurate and incomplete representation of the facts of this case. Its legal conclusions were, therefore, irrelevant.

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[376] Petition for Pardon for Marc Rich and Pincus Green, Memorandum in Support of Petitioners' Application for Pardon 25 (Dec. 11, 2000) (Appendix III).

[377] *Id.*

[378] Jack Quinn Document Production (Letter from Mary Jo White, U.S. Attorney for the S.D.N.Y., Department of Justice, to Jack Quinn and Kathleen Behan, Partner, Arnold & Porter (Feb. 2, 2000)) (Exhibit 51).

[379] Petition for Pardon for Marc Rich and Pincus Green, Memorandum in Support of Petitioners' Application for Pardon 26 (Dec. 11, 2000) (Appendix III).

[380] Jack Quinn Document Production (Letter from Mary Jo White, U.S. Attorney for the S.D.N.Y., Department of Justice, to Jack Quinn and Kathleen Behan, Partner, Arnold & Porter (Feb. 2, 2000)) (Exhibit 51).

For the Southern District to meet with the professors again would have been redundant and fruitless.

b. The Rich Prosecution Was Not Tainted with Media Attention

Quinn and the Rich legal team further tried to discredit the prosecution by claiming that United States Attorney Rudolph Giuliani was unfairly bringing the glare of the media to the case. According to the pardon petition, Giuliani "aggressively" pursued Rich and Green in court as well as in the press: "Not only did Mr. Giuliani and other prosecutors from his office speak frequently to the media in off and on record conversations, the office held formal press conferences where purported 'evidence' against Mr. Rich and Mr. Green was showcased to the press."[381] Responding to this charge, Mayor Giuliani said on *Meet the Press*,

> First of all, the indictment was actually just about put together before I even became United States Attorney. It's been pursued by at least three Democratic appointees, who were United States attorney and the Justice Department, that had him number six on the fugitive list, was President Clinton's Democratic Justice Department. And the United States attorney of the Southern District in New York, an appointee of President Clinton, is as outraged as I am by the pardon that was given here. . . . You've been covering me a long time, right, running for office? Did you ever hear me mention Marc Rich? So this was hardly used by me in any way in any of my political campaigns. . . . And the fact that he was a fugitive—it was not something [about which I would] say, "Gee, look what a good job I did as United States attorney." So that's kind of a silly thing to [s]ay.[382]

Rudolph Giuliani was one of dozens of prosecutors, Republican and Democrat, who worked on the Rich case. Robert Litt and Gerald Lynch were prominent Democrats who were also involved in the case. It would be strange for Quinn also to accuse them of overcharging. Litt was one of Attorney General Janet Reno's closest advisors, and Lynch, currently a professor at Columbia University Law School, was appointed to the federal bench by President Clinton. The two main prosecutors who brought the Rich case, Morris Weinberg and Martin Auerbach, were Democrats as well. The attempt to cast the Rich indictment as the result of partisan prosecutorial overreaching by Rudolph Giuliani is simply one more fabrication by Marc Rich's legal team. This argument had no basis in reality, and likely was invented to appeal to President Clinton's partisan instincts, as well as his dislike for aggressive prosecutors. As many have observed, by the end of his term, President Clinton was very sensitive to issues of prosecutorial overreaching, as a result of his perceptions of the Independent Counsel investigations.[383]

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[381] Petition for Pardon for Marc Rich and Pincus Green, Memorandum in Support of Petitioners' Application for Pardon 23 (Dec. 11, 2000) (Appendix III).

[382] *Meet the Press* (NBC television broadcast, Jan. 28, 2001).

[383] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 341 (Feb. 8, 2001) (statement of the Honorable Henry Waxman).

Quinn exploited these sentiments masterfully by fabricating claims regarding prosecutorial conduct in the Rich case.

c. RICO Charges Were Fairly Brought

The pardon application also accuses the federal prosecutors of unfairly bringing a racketeering charge against Rich and Green. According to Quinn, RICO was misused because the underlying allegation involved tax fraud.[384] The petition points to a Department of Justice policy that was adopted in 1989, stating that, "[f]ollowing the indictment, the United States government recognized the misuse of RICO in tax fraud cases and issued guidance in the United States Attorney's Manual explicitly stating that tax offenses are not predicates for RICO offenses."[385] Jack Quinn suggested at the Committee's February 8, 2001, hearing that the decision to bring RICO charges against Marc Rich and Pincus Green was the key factor that led to their flight from the United States:

> It's the position of my client that he remained outside the United States because what Mr. Weinberg earlier described to you as, in essence, a simple tax evasion case was also made into a RICO case. And he may choose to say it was only one count in the indictment, but it was the sledgehammer that brought about the current impasse.[386]

Quinn's argument is flawed for a number of reasons. First, at the time of the indictment, there was no policy against bringing RICO charges predicated on tax offenses. To the contrary, the RICO charges were brought consistent with Justice Department policy and the RICO charges were reviewed and approved by the RICO section of the Department of Justice—as were the tax charges by the tax section.[387] As prosecutor Sandy Weinberg observed:

> If you're away for 20 years and you're fortunate enough to be able to persuade two foreign States not to extradite you, the gloss of time is always going to change the interpretation of the law. You can look at indictments that were brought in 1980, and if you examine them in 2000, the gloss of time is—you're going to find that the courts interpret the laws different in 2000 than they did in 1980.
>
> But you've got to look at the guts of what the case was about and these people. And when you look at the guts of what the case was about and the people, it doesn't make any difference whether or not we would bring a RICO charge today. It is whether or not we would bring a criminal charge today and whether or not it is acceptable to be pardoning folks who have done things like renouncing their citizenship, becoming fugitives, not coming back and making these arguments that they say are so clear. I mean it—was it justified? And you can't come in and say, well,

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[384] Petition for Pardon for Marc Rich and Pincus Green, Memorandum in Support of Petitioners' Application for Pardon 22 (Dec. 11, 2000) (Appendix III).

[385] *Id.*

[386] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 161 (Feb. 8, 2001) (testimony of Jack Quinn).

[387] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 187 (Feb. 8, 2001) (testimony of Morris "Sandy" Weinberg, Jr., former Assistant U.S. Attorney for the S.D.N.Y., Department of Justice).

> 20 years have passed and, you know, the courts now interpret or the Justice Department interprets the RICO statute differently.[388]

Along similar lines, even former Clinton White House Counsel Abner Mikva has stated:

> Clearly, a defendant would rather negotiate the unfairness of RICO charges from a comfortable abode in Switzerland than from a hardback chair in the U.S. attorney's office in Manhattan. This is especially true when defendants have been trying, unsuccessfully, to make the same "unfair" point about RICO for the last 30 years.[389]

Second, Quinn's argument also fails to address the non-tax RICO predicates in the case or the fact that there are money laundering statutes available today that were not available in 1980. As prosecutor Martin Auerbach observed:

> I'm afraid that the argument with respect to the change in RICO policy is as disingenuous as I find the argument with respect to fugitivity. While it is true that the Justice Department changed its view with respect to tax counts as a predicate for RICO, it has not changed its view with respect to mail and wire fraud as a predicate to RICO. And as Mr. Quinn knows, as the indictment reflects, there are both mail and wire fraud counts which are predicates for RICO.
>
> So I believe that the Justice Department might well approve this indictment today. And I, in fact, believe that, were they to review this indictment today, and of course they did review it before it was brought, there would be money laundering charges in this case.[390]

Therefore, it is likely that if he was charged today, Rich would be facing stiffer, not lighter penalties.

Third, and most importantly, Quinn conveniently ignored the fact that the prosecutors tried to reach an accommodation with the two fugitives by offering to drop the RICO charges. As Robert Fink himself testified to the Committee, he was in discussions with prosecutors during which they offered to drop the RICO charges if Rich and Green would simply stand trial in the United States.[391] These discussions are reflected in a February 10, 2000, e-mail from Robert Fink to Avner Azulay: "[a]t those times the office [Southern District of New York] offered to do a variety of things, none of which are necessarily still on the table. First, I was told at one point that they would drop the RICO charge if we wanted if Marc came in."[392] Given the willingness of the SDNY to drop the RICO charges, Quinn's claim that the RICO charge was "the sledge-

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[388] *Id.* at 156.

[389] *Coming in from the Cold*, THE RECORDER, Mar. 28, 2001, at 5.

[390] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 156 (Feb. 8, 2001) (testimony of Martin J. Auerbach, former Assistant U.S. Attorney for the S.D.N.Y., Department of Justice).

[391] *Id.* at 469 (testimony of Robert Fink).

[392] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00697 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation (Feb. 10, 2000)) (Exhibit 32).

hammer that brought about the current impasse," is completely inaccurate and misleading.

It appears that even Jack Quinn realized that the arguments in the petition were deeply flawed. On December 29, 2000, he sent the following e-mail to Kathleen Behan:

> What do you think our chances really are for Marc? the hardest question, i think, is "if you're right about the weakness of the govts case, why not go to ct and win?" the answr, i guess is that we couldn't have gotten a fair trial, but that was 18 years ago. couldn't he get one now? isn't that the way this shd go? these are tough questions, but I guess we have decent answers.[393]

It is unclear what "decent answers" Quinn had to that argument or to any of the multiple arguments against the Rich pardon.

D. The "Letters of Support" in the Petition

The legal arguments contained in the petition are not the only problematic section of the Rich and Green pardon petition. The "letters of support" in the petition also raise several troubling issues. Most of the letters were collected by Avner Azulay.[394] Those letters were a crucial part of the pardon petition, as they helped create the impression that Marc Rich was a humanitarian who had made a minor mistake but who had a positive impact on countless lives. The significance and import of the letters presented to President Clinton was compromised by several factors, including: (1) many of those who wrote the letters in support of the pardon were either themselves, or their organizations, given money by Rich; (2) many who wrote the letters were misled about the purpose of the letter; and (3) their letters were misrepresented to the President. Given these facts, the letters of support in the Rich pardon petition represent just one more dishonest ploy in Marc Rich's overall scheme to obtain a pardon.

1. Rich Paid a Number of Individuals Who Wrote in His Support

The letter written by Abraham Foxman is one of the most prominently displayed letters in the petition. As National Director of the Anti-Defamation League (ADL), his support of clemency for Marc Rich was of obvious importance to the application. However, the ADL received $100,000 from Marc Rich shortly after Foxman became involved in the pardon effort.[395] In fact, this money was received a few weeks after Foxman flew to Paris to meet with Rich aide Avner Azulay.[396] Moreover, Rich has given the ADL a total of $250,000 since he fled the country in 1983.[397] Foxman has publicly denied that Rich's contributions to the ADL had anything to do with his help in the pardon effort. He stated to a group of report-

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[393] Arnold & Porter Document Production KB00037 (E-mail from Jack Quinn to Kathleen Behan, Partner, Arnold & Porter (Dec. 29, 2000)) (Exhibit 67).

[394] Interview with Kathleen Behan, Partner, Arnold & Porter (Feb. 27, 2001).

[395] Michael Isikoff, *"I Made a Mistake"; The ADL's Abe Foxman Admits the Jewish Organization Received a $100,000 Grant from Marc Rich but Maintains He Wasn't "Bought,"* NEWSWEEK, Mar. 23, 2001, at 2001 WL 24138340.

[396] *Id.*

[397] *Id.*

ers, "I really find offensive the idea that Abe Foxman was bought for a check for $100,000. If he gave me nothing—or he gave me $10 million—I would have made the same decision, for which I now say I made a mistake."[398]

Notwithstanding Foxman's denial of a quid pro quo, the payment to the ADL raises the general question of Marc Rich's tactics in drumming up support for his pardon application. The ADL was not the only organization to which Marc Rich paid money or attempted to pay money. In another instance, Marc Rich attempted to secure the assistance of the American Jewish Congress (AJC) with the promise of a large contribution. A week after Foxman's admission, Phil Baum, executive director of the AJC revealed that his organization had been approached by a representative of Marc Rich who told them, "that if we were to speak favorably of Mr. Rich, we would be the beneficiary of a gift."[399] Baum denied that there was any direct quid pro quo.[400] However, Baum went on to state that, "there was an understanding communicated to us[.]" Baum further stated, "It was not a contract. But these things are communicated in more subtle ways. We had reason to hope or expect that if we did this thing, we could probably be the recipient of Mr. Rich's generous recognition of our importance."[401] The AJC ultimately turned down Rich's request.[402] Committee staff attempted to contact Baum to corroborate this account and learn other details of the offer from the Rich team. Unfortunately, Baum failed to cooperate with the Committee's investigation, refusing on three separate occasions to return phone calls from Committee staff.

Another example of Rich's efforts includes Birthright Israel, an organization that pays for young American Jews to travel to Israel. Marc Rich has pledged $5 million to Birthright Israel.[403] The organization was founded by Michael Steinhardt, a longtime friend of Rich's who was heavily involved in the pardon effort. Steinhardt wrote a letter that was included in the petition. In addition, Birthright Israel's current North American Chairperson, Marlene Post, also wrote a letter supporting Rich's request for clemency.[404] This letter was prominently displayed in the petition. As with the public statements of the ADL and the AJC, a spokesman for Birthright Israel denied any quid pro quo relating to the $5 million pledge to the organization and the organization's support for the Rich pardon.[405]

Yet another person with a connection to Birthright Israel also wrote a letter on behalf of Marc Rich. Rabbi Irving Greenberg, Chairman of the U.S. Holocaust Memorial Museum Council, wrote a letter on Holocaust Museum Council letterhead in favor of clem-

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[398] *Id.*

[399] Beth J. Harpaz, *Jewish Group Says Rich Reps Sought Pardon Help for Money*, ASSOCIATED PRESS STATE AND LOCAL WIRE, Mar. 28, 2001. *See also* Brian Blomquist, *Rich Tried to Tempt Jewish Group*, N.Y. POST, Mar. 29, 2001, at 14.

[400] Beth J. Harpaz, *Jewish Group Says Rich Reps Sought Pardon Help for Money*, ASSOCIATED PRESS STATE AND LOCAL WIRE, Mar. 28, 2001.

[401] *Id.*

[402] *Id.*

[403] Beth J. Harpaz, *Jews Divided Over Rich Pardon*, ASSOCIATED PRESS, Mar. 29, 2001, at 2001 WL 17989287.

[404] Letter from Marlene E. Post, North American Chairperson, Birthright Israel, to President William J. Clinton (Dec. 7, 2000) (Exhibit 68). The original letter was part of Rich and Green's pardon petition.

[405] Brian Blomquist, *Rich Tried to Tempt Jewish Group*, N.Y. POST, Mar. 29, 2001, at 14.

ency for Rich. Rabbi Greenberg is also President of the Jewish Life Network, an organization that is a partner with Birthright Israel.[406] However, when Committee staff asked Greenberg's lawyer about press accounts of Rich's contributions, he stated that Rich had never given any contributions to any organization or entity controlled or operated by Greenberg.[407] Greenberg's letter and Rich's contributions to Birthright Israel caused seventeen former and current members of the Holocaust Museum Council to send a letter demanding Greenberg's resignation.[408] Rabbi Greenberg apologized for his letter on behalf of Rich, and ultimately, the Council voted to keep him as Chairman.[409]

There are other cases of Rich contributing or attempting to contribute to individuals (and their organizations) who wrote letters on his behalf. One prominent example is Jerusalem Mayor Ehud Olmert, who wrote a letter to President Clinton on November 27, 2000, that was included in the petition. According to *The New York Times*, Rich contributed $25,000 to Olmert's first mayoral campaign in 1993.[410] The Committee has not been able to determine whether Rich made financial contributions to other foreign political officials who supported his pardon. However, the Marc Rich team was clearly concerned about inquiries along these lines. Shortly after the pardon was granted, Avner Azulay sent an e-mail to others on the Rich team stating that:

> Pse [sic] keep barak [sic] out of the media. We have enough names on the list other than his. Important to keep all politicians out of the story. Pse [sic] share with me the inclusion of any one on the list. This is election time here and has a potential of blowup. A newsweek reporter here has already asked if there were any political contributions.[411]

Some of the other letter writers have also mentioned Rich's generosity and philanthropy as the reason for agreeing to write their letters. For example, several of the letter writers in Switzerland have ties to the Doron Foundation, an organization of Rich's that gives awards of $63,000 to Swiss groups and individuals.[412] Zurich Mayor Josef Estermann was among that group.[413] Estermann did not return calls from Committee staff. He has, however, spoken on the matter in his home country, saying, "I think every person has a right to a pardon."[414] To this, one Swiss paper responded, "Yes, but does this right have to be one you can buy?"[415] Others with connections to the Doron Foundation who wrote letters on Rich's behalf include: Pierre de Weck, of UBS Bank; Michael de Picciotto,

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[406] Jacqueline Trescott, *Holocaust Council Head Urged to Resign*, WASH. POST, Apr. 5, 2001, at C9.

[407] Telephone Interview with Andrew Levander, Partner, Swidler Berlin Shereff Friedman (representing Rabbi Greenberg) (May 2, 2001).

[408] Jacqueline Trescott, *Holocaust Council Head Urged to Resign*, WASH. POST, Apr. 5, 2001, at C9. Kitty Dukakis also signed the letter.

[409] *Id.*

[410] William A. Orme, Jr., *Marc Rich Aided Israeli Official*, N.Y. TIMES, Feb. 22, 2001, at A21.

[411] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00191 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Jan. 22, 2001)) (Exhibit 69).

[412] Elizabeth Olson, *Pardon in U.S. for Marc Rich Creates Storm in Switzerland*, N.Y. TIMES, Feb. 4, 2001, at 11. The Doron Foundation has now been folded into the Marc Rich Foundation.

[413] *Id.*

[414] *Id.*

[415] *Id.*

a director of Union Bancaire Privée in Geneva; Kurt R. Bollinger, of the Swiss Air Rescue Foundation; and Professor Verena Meyer of Zurich University. Michael de Picciotto spoke with Committee staff over the phone. When asked if Marc Rich or any of his associates had ever given anything of value to him or his company in exchange for his letter, de Picciotto responded, "an important man like Mr. Rich does not need to do anything like this."[416] The others with connections to the Doron Foundation failed to return Committee calls. Kurt Bollinger, whose rescue service received an award from Rich's foundation in 1992 failed to return the Committee's calls.[417]

Committee staff contacted or attempted to contact almost all of those whose letters were included in the section of the pardon petition entitled, "Letters Addressed to the Honorable President William J. Clinton Expressing Support for the Pardon of Mr. Marc Rich." While the Committee does not have sufficient evidence to conclude that all of the letters were written on a quid pro quo basis, it cannot completely rule out the possibility. This is largely because a number of the letter writers and intended letter writers failed to cooperate with the Committee by not returning phone calls. Nevertheless, there does appear to be a pattern of receiving contributions or pledges from Marc Rich among many of those who wrote letters. The fact that a number of the most prominent letters of support for the Rich pardon were tainted with allegations of linkage to large financial contributions diminishes Rich's claims to have been a great humanitarian. Rather, it appears that many of Rich's humanitarian activities were just one part of a lengthy strategy to escape criminal prosecution in the U.S.

2. Some Who Wrote Letters Were Misled About the Purpose

The significance and import of several of the letters is further weakened by the lack of candor of the Rich team in soliciting them. Rich's own lawyer, Robert Fink, admitted that during the solicitation of the letters, "[n]ot everyone was necessarily told it was going to be for a pardon."[418] Professor Verena Meyer, who serves on the board of the Doron Foundation, stated that she did not know that her letter would be included in a pardon petition.[419] She thought the letters were "routine" and "assume[d] other members of the foundation also wrote letters."[420]

Several others who wrote letters on behalf of Rich felt even more deceived. Professor Jonathan Halevy, CEO of the Shaare Zedek Medical Center in Jerusalem, wrote a letter on November 30, 2000, acknowledging contributions from Marc Rich's Doron Foundation. Halevy was contacted by Avner Azulay and asked to write a letter

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[416] Telephone Interview with Michael D. de Picciotto, Managing Director, Union Bancaire Privée, Geneva, Switzerland (Apr. 26, 2001).
[417] Elizabeth Olson, *Pardon in U.S. for Marc Rich Creates Storm in Switzerland*, N.Y. TIMES, Feb. 4, 2001, at 11.
[418] Alison Leigh Cowan, *Some Used in Pardon Effort Were Unaware of Purpose*, N.Y. TIMES, Jan. 26, 2001, at A15.
[419] Elizabeth Olson, *Pardon in U.S. for Marc Rich Creates Storm in Switzerland*, N.Y. TIMES, Feb. 4, 2001, at 11.
[420] *Id.*

acknowledging the contribution.[421] According to Halevy, Azulay told him that the letter would be used in a "book in honor of Mr. Rich and the foundation."[422] When interviewed about his letter being used in Rich's pardon application, Halevy stated, "I'm obliged, if I got a donation from someone, to confirm that I got it in writing. But I think it would be very fair to tell me this was the purpose."[423] Anthony J. Cernera, President of Sacred Heart University, in Fairfield, Connecticut, was similarly misled about his letter. Cernera wrote Rich to "express my deepest appreciation for your on-going support for our program of Christian-Jewish understanding."[424] When the director of public relations for the University discovered that Cernera's letter was included in the pardon petition, he was astonished, responding, "Wow. So these letters were used as part of the petition for his pardon?"[425]

The fact that Avner Azulay and others on the Marc Rich team misled individuals to obtain letters of support from them suggests a level of dishonesty that calls into question all representations made by the Rich pardon team. It also suggests that a number of people affiliated with Marc Rich, many of whom received his money, would not have written in his support if they had known that their letter was being used to get a pardon.

3. Many of the Letters were Misrepresented to the President

Finally, the letters included in the pardon petition are further compromised by the way in which they were presented to President Clinton. The second section of the petition containing these letters was divided into two parts, one entitled "Letters Addressed to the Honorable President William J. Clinton Expressing Support for the Pardon of Mr. Marc Rich," and another entitled "Letters Expressing Support for the Pardon of Marc Rich." Both of these titles are misleading.

All of the twenty-one letters in the first part of this section were addressed to President Clinton. However, several of these letters made no mention of Marc Rich's request for a pardon or executive clemency. Among the letters that included no reference to the pardon issue were those written by Nobel Laureate Camilio Jose Cela, Chief Rabbi of France; Rene-Samuel Sirat, President of the Jewish Community of Madrid; Issac Querub Caro; and President of the Association of Spanish Business Enterprises Fernando Fernandez Tapias. These letters all refer to Rich's philanthropic contributions over the years. But none of them makes any reference to the pardon. It is therefore misleading for such letters to be included under the cover page indicating that all of the writers are expressing their support for a pardon.

The cover page for the second part of this section of the petition is even more problematic. There are fifty-two letters included under

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[421] Alison Leigh Cowan, *Some Used in Pardon Effort Were Unaware of Purpose*, N.Y. TIMES, Jan. 26, 2001, at A15.

[422] *Id.*

[423] *Id.*

[424] Letter from Anthony J. Cernera, President, Sacred Heart University, to Marc Rich (Nov. 27, 2000) (Exhibit 70).

[425] Alison Leigh Cowan, *Some Used in Pardon Effort Were Unaware of Purpose*, N.Y. TIMES, Jan. 26, 2001, at A15. In fact, when reached by *The New York Times*, only one of six letter writers were aware that their letters would be used as part of a pardon effort.

the title "Letters Expressing Support for the Pardon of Mr. Marc Rich." Not one of these letters makes any mention of the pardon effort. Almost all of these letters were addressed to Marc Rich or Avner Azulay, thanking them for the generosity of Marc Rich and his foundations. Furthermore, based on the fact that most of these letters were written in late November and early December of 2000, it is clear that they were solicited by the Rich team for use in the pardon. However, as discussed above, their use in the pardon application came as a surprise to many of the letter writers. It stands to reason, therefore, that most of the writers were not informed of the purpose of the letters, let alone that they would be sent to President Clinton in such a misleading format.

There is also disturbing evidence that a more accurate title for these letters was considered, but not used, in the application. Among the materials produced for the Committee was an earlier draft of the same document, containing the same list of names, but with a different header reading "List of Letters of Support for Marc Rich and Foundation."[426] The existence of this more accurate title makes it much less likely that the use of the inaccurate and misleading title was a mere oversight by the Rich team. Lawyers billing many hundreds of dollars an hour certainly should not make such errors, and circumstantial evidence makes it appear that they were simply trying to mislead. Given the rejection of an accurate title, and the fact that it was replaced with an inaccurate title, there can be no other reasonable conclusion. Moreover, when the Committee confronted Jack Quinn about the misleading cover page that was included in the pardon petition, he stated:

> I don't know who made that change. And I accept responsibility for anything filed in my name. I will tell you that, for the most part, I was not involved in the effort to gather these letters. I became aware after the petition had been filed that some of these letters were simply sought as testimonials to his charitable activities and that some of the people from whom they were sought were not told in advance that these letters were going to be used from a pardon application. I very much regret that. And to the extent that, as a result, any of that was misunderstood or was misleading, I certainly apologize for it.[427]

The deceptive tactics used by the Rich team in securing and presenting so many of the letters sent to President Clinton in the pardon application are disturbing. The Committee is also troubled by the fact that the Clinton Administration failed to take the time to review these letters and the misleading way in which they were presented. However, in the context of the rush to grant last-minute pardons, and all of the unfortunate decisions made during the pardon process, the dishonest use of these letters is not surprising. The misleading presentation of the letters is consistent with the

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[426] *Compare* Jack Quinn Document Production (Document entitled "List of Letters of Support for Marc Rich and Foundation") (Exhibit 71), *with* Petition for Pardon for Marc Rich and Pincus Green, Document entitled "Letters Expressing Support for the Pardon of Mr. Marc Rich" (Dec. 11, 2000) (Exhibit 72).

[427] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 172 (Feb. 8, 2001) (testimony of Jack Quinn).

misleading legal arguments that form the basis of the Rich and Green pardon petition.

IV. LOBBYING FOR THE MARC RICH PARDON

A. The Marc Rich Lobbying Team

Marc Rich employed much more than Jack Quinn and a deceptive petition to obtain his Presidential pardon. Just as important to the pardon effort was a carefully orchestrated lobbying campaign that used a number of individuals with unique access to the Clinton White House. Rich employed private attorneys with personal relationships with White House staff, personal friends of the President, and foreign leaders to press his case with the White House. The key players in the lobbying effort included Denise Rich, Beth Dozoretz, Israeli Prime Minister Ehud Barak, as well as other Israeli leaders, King Juan Carlos of Spain, Michael Steinhardt, Peter Kadzik, and a number of other individuals, all working for the same goal, the pardon of Marc Rich and Pincus Green.

1. Denise Rich

Denise Rich was in many ways the key figure in the effort to obtain a pardon for Marc Rich. She enjoyed a close relationship with President Clinton, which gave the Rich team the access they needed to make their case directly to the President. She used this access as much as she could, sending two letters to the President, and making her case to him personally on at least three occasions. Denise Rich's involvement in the pardon effort has raised three serious questions: (1) why did Denise Rich agree to help Marc Rich; (2) what were the nature of her communications with President Clinton; and (3) did she in any way connect the pardon of Marc Rich to contributions she had made or would make to the DNC or Clinton Library? The Committee has not been able to find definitive answers to these critical questions, largely because Denise Rich has invoked her Fifth Amendment rights against self-incrimination rather than cooperate with the Committee. To attempt to understand Denise Rich's role in helping to obtain Marc Rich's pardon, the Committee has considered documents about the pardon effort, testimony provided by other individuals, and even Denise Rich's self-serving media appearances.

a. Denise Rich's Relationship with Marc Rich

Denise Rich was wealthy before she married Marc Rich. She was the daughter of Emil Eisenberg, who founded Desco Incorporated, one of the largest shoe manufacturers in the United States. In 1966, at the age of 22, Denise married Marc Rich, whom she had met six months earlier. Denise Rich was married to Marc Rich for the next 25 years, having three children. In 1983, when Marc Rich was indicted and fled the country, Denise and her children left the United States with Marc Rich. Despite the fact that she accompanied her husband into exile, and remained with him there for the next eight years, Denise Rich claims to have been ignorant of the reasons for Rich's indictment and flight:

QUESTION. In 1980, were you aware that your husband was reportedly trading with Iran after we had an embargo because of the hostages?

DENISE RICH. I really didn't know much about that at all because I was so involved in my life. It's not like he would come home and he would say, "Hey, I'm trading with the enemy." We didn't talk about it.

* * *

QUESTION. How did you find out [about the indictment] and what was your reaction?

DENISE RICH. All I really knew was that he spoke to me and he said that "I'm having tax problems with the government. And—and I think that we are going to have to leave." And my response was, "I am his wife. These are my children. I'm not going to split up the family." And, so, I did what I think any wife would do. I left the country.

QUESTION. Did you understand that by fleeing to Switzerland and refusing to return to this country, that your husband was considered one of the 10 most wanted fugitives in America?

DENISE RICH. That had nothing to do with me because I was . . .

QUESTION. Yes. It's your husband, Denise. It's the father of your children.

DENISE RICH. Yes, he's the father of my children . . .

QUESTION. He's a fugitive.

DENISE RICH. . . . and he was my husband, but as far as I knew, it was a tax situation. So I really never understood anything else. And I really didn't—that's all that I knew.[428]

While living in exile, Denise began her musical career, becoming a successful songwriter. In approximately 1990, Denise discovered that Marc Rich had taken up with a younger woman, model Gisela Rossi. In 1991, Denise divorced Marc Rich. In the ensuing legal battle, she received a substantial sum of money, which has never been disclosed by Marc Rich, Denise Rich, or their representatives, but is believed to be in the vicinity of $500 million.[429] As a result of the divorce, Denise and Marc Rich were reportedly on very poor terms, rarely speaking.

In 1996, however, the Richs' daughter Gabrielle died of AML leukemia. Denise Rich has often pointed to Gabrielle's death as an important factor in her change of heart regarding her ex-husband. First, she has claimed that Marc Rich was "cruelly denied the opportunity"[430] to return to the U.S. to visit her. She has also

[428] *20/20* (ABC television broadcast, Apr. 27, 2001).

[429] Some estimates list the amount as high as $900 million. *See Debunking the Buzz Over Denise*, N.Y. POST, Feb. 1, 2001, at 10.

[430] Jack Quinn Document Production (Letter from Denise Rich to President William J. Clinton (Dec. 6, 2000)) (Exhibit 73).

claimed that the death of Gabrielle caused her to forgive her ex-husband for his transgressions:

> QUESTION. Here is what a lot of people don't understand. How do you go from almost hating your husband at the time of the divorce to writing a letter pleading for his clemency and his pardon? What changed in your mind?
>
> DENISE RICH. My daughter died. And when you've lost a child, there's nothing more you can say. There are no more questions. When you've lost a child, everything changes, and I felt—I felt in my heart forgiveness.[431]

This explanation, however, fails to address one fundamental issue: should Marc Rich have decided to spend time with his daughter, he could easily have done so. Rather, he placed his legal jeopardy ahead of his concerns for his family and elected to refrain from visiting her. Years later, it appears that he and his ex-wife would cynically use the death of his daughter to gain sympathy for his earlier transgressions.

b. Denise Rich's Relationship with President Clinton

After her divorce from Marc Rich, Denise Rich returned to New York, where she purchased what is reportedly the largest penthouse on Fifth Avenue, a 28-room triplex filled with works of art by Picasso, Miro, Dali, Calder, Warhol, and Chagall, as well as a staff of 20 to serve her needs, including two cooks, a stylist, and a "personal healer."[432] Shortly after arriving in New York, Denise Rich sought to establish herself as a leading figure in New York social circles. Geraldo Rivera, a close friend of Denise Rich, observed that "[t]he people who think she wants to be a kind of Pamela Harriman person are not off the mark. . . . She wanted a salon, she wanted a Gertrude Stein, Paris kind of scene, she wanted to watch the parade of contemporary popular cultural life march through her living room."[433]

An important part of becoming a "kind of Pamela Harriman" was to get involved in political fundraising. Denise Rich began making large political contributions and holding lavish fundraisers shortly after her return to the United States. Denise Rich and her daughters gave over $1.1 million to federal political causes between 1993 and 2000, all but $5,000 of that to Democrats. Denise Rich's political contributions increased as the end of the Clinton Administration neared, with over $625,000 of her contributions coming between 1998 and 2000.

While she was giving and raising vast amounts of money for the Democratic Party, Denise Rich developed a close relationship with President Clinton:

> When I met him there was so much charisma, and I saw a lot of idealism, and eventually I had a very special relationship with the former President and the former First

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[431] *20/20* (ABC television broadcast, Apr. 27, 2001).
[432] Lloyd Grove, *The Reliable Source*, WASH. POST, Apr. 27, 2001, at C3.
[433] Elisabeth Bumiller, *Tossed Into a Tempest Over a Pardon; Friends See Naivete, Critics a Payoff in a Clinton Fund-Raiser's Acts*, N.Y. TIMES, Feb. 2, 2001, at B1.

> Lady because they were so compassionate to me when I lost my daughter. And it—and it was as if he understood and . . . could put himself in my shoes.[434]

This special personal relationship was also manifested in Denise Rich's political fundraising, where she became one of the Democratic Party's largest and most reliable fundraisers. In fact, Denise Rich held the fundraiser that was President Clinton's first public appearance after the publication of the Independent Counsel's referral in 1998. It raised nearly $3 million.[435]

Denise Rich's special relationship with President Clinton was also manifested in her large contributions to the William J. Clinton Presidential Foundation, the charitable foundation responsible for building the Clinton Library. Between 1998 and 2000, Denise Rich gave $450,000 to the Clinton Library.[436] Among these contributions was a $250,000 gift in July 1998, which was one of the earliest large contributions to the Library, made during one of the darkest times in the Clinton presidency.[437] Because she and her friend Beth Dozoretz have used the Fifth Amendment to avoid answering the Committee's questions, little is known about Denise Rich's motivations for contributing to the Clinton Library. However, one document suggests that Denise Rich was seeking "help" from Dozoretz. On a note accompanying her $100,000 library contribution, Denise Rich wrote, "Dear Beth, Thanks for your help, Lots of love, Denise."[438] However, since both Rich and Dozoretz have refused to testify on grounds that their testimony would incriminate them, the Committee has not been able to develop an understanding of this note.

As Denise Rich helped President Clinton with his charity, he helped Denise Rich with hers. In 1998 and 2000, President Clinton attended fundraising galas for the G&P Charitable Foundation, which Denise Rich established to raise funds for cancer research.

c. Denise Rich's Role in the Marc Rich Pardon Effort

Little is known about when Denise Rich decided to assist the Marc Rich pardon effort, or who asked her to help.[439] Avner Azulay has stated that he personally convinced her to write in support of the pardon, telling her that "everyone in the world is supporting

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[434] *20/20* (ABC television broadcast, Apr. 27, 2001).

[435] Elisabeth Bumiller, *Tossed Into a Tempest Over a Pardon; Friends See Naivete, Critics a Payoff in a Clinton Fund-Raiser's Acts*, N.Y. TIMES, Feb. 2, 2001, at B1.

[436] *See* William J. Clinton Presidential Foundation Document Production WJCPF 0002 (Check from Denise Rich to the Clinton Library for $250,000 (July 15, 1998)); William J. Clinton Presidential Foundation Document Production WJCPF 0008 (Check from Denise Rich to the Clinton Library for $100,000 (Aug. 7, 1999)); William J. Clinton Presidential Foundation Document Production WJCPF 0031 (Check from Denise Rich to the Clinton Library for $100,000 (May 11, 2000)) (Exhibit 74).

[437] *Id.*

[438] William J. Clinton Presidential Foundation Document Production WJCPF 0037 (Note from Denise Rich to Beth Dozoretz, former finance chair, Democratic National Committee) (Exhibit 75).

[439] There are reports that Denise Rich may have also assisted the effort to obtain a pardon for ex-boyfriend Niels Lauersen, a prominent New York gynecologist who was convicted of fraudulent billing practices. According to one account, though, Rich was approached to help with Lauersen's pardon effort, and was willing to help, until she was "reminded that she might be spreading herself thin." *See* James Barron with Alison Cowan and Shaila Dewan, *A Second Pardon Front*, N.Y. TIMES, May 15, 2001, at B2.

this and you can't just stand aside, it's embarrassing."[440] The first documentary evidence of her support for the effort to resolve Marc Rich's criminal case appears in the March 2000 e-mail discussing sending her on a "personal mission" to President Clinton.[441] The first specific references to her role in the late 2000 pardon effort come in November 2000, in a meeting agenda prepared by attorney Robert Fink. The agenda for that meeting, which included Jack Quinn, includes an item "Maximizing use of D.R. and her friends."[442] It appears that the first conversation between Denise Rich and the pardon team took place on December 4, 2000, when she spoke to Robert Fink.[443]

The Rich legal team did maximize use of Denise Rich. They started with a December 6, 2000, letter from Denise Rich to the President. This letter was in many ways, the centerpiece of the pardon petition. While it appears to have been a heartfelt plea, in reality, it was drafted by Marc Rich's lawyers. The letter combines inaccurate charges about the indictment with emotional pleas about Rich's "exile:"

> I support his application with all my heart. The pain and suffering caused by that unjust indictment battered more than my husband—it struck his daughters and me. We have lived with it for so many years. We live with it now. There is no reason why it should have gone on so long. Exile for seventeen years is enough. So much of what has been said about Marc as a result of the indictment and exile is just plain wrong, yet it has continued to damage Marc and his family.
>
> * * *
>
> My husband and I could not return to the United Sates [sic] because, while the charges were untrue, no one would listen—all the prosecutors appeared to think about was the prospect of imprisoning Marc for the rest of his life. With a life sentence at stake, and press and media fueled by the U.S. Attorney, we felt he had no choice but to remain out of the country.
>
> Let no one think exile for life is a light burden. The world we cared about was cut off from us. When our daughter was dying from leukemia, Marc was cruelly denied the opportunity to see her by the prosecutors.
>
> What was this exile for? The charges all relate to old energy regulations, where all of the other people and companies involved in the same kinds of transactions were never

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[440] *Rich's Israeli Aide: The Pardon Surprised Us. So Did the Furor*, FORWARD, (Feb. 23, 2001), at 1.

[441] There is some circumstantial evidence of reconciliation between Denise Rich and Marc Rich somewhat earlier, at least in November 1999, when Denise Rich and her daughter Danielle traveled to Israel to attend the dedication of the Gabrielle Rich wing of the Tel Aviv Museum of Art, which was funded by Marc Rich. A photograph of that event shows Denise and Danielle Rich posing with one of Marc Rich's closest aides, Avner Azulay.

[442] Arnold & Porter Document Production A0567–69 (Agenda of Nov. 21, 2000, Meeting) (Exhibit 76).

[443] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00021 (Billing Records for Marc Rich, Dec. 19, 2000) (Exhibit 77).

> charged with a crime. Only my husband was treated differently.[444]

This letter was placed prominently at the front of the stack of testimonials in the Marc Rich pardon petition, and it was quoted extensively in the petition itself. Of course, the arguments in the letter were completely inaccurate.

After including the letter in the pardon petition, Denise Rich took a number of other actions to lobby for the pardon. Another letter from her to President Clinton was prepared by Marc Rich's lawyers on December 20, 2000. This letter was discussed among the Marc Rich legal team, with Robert Fink suggesting the following text: "Because I could not bear it were I to learn that you did not see my letter and at least understand my special person[al] reasons for being a supporter of a pardon, I am sending you an additional copy, and an additional request that you wisely use your power to pardon Marc."[445] Jack Quinn thought that this language was "perfect,"[446] and suggested that Denise Rich should "hand it to him [the President] in [a] sealed envelope and mention that she is aware I intend to discuss the matter with him personally. She shd simply ask him to read it later and let him know how strongly we feel that we have the merits on our side."[447] After Marc Rich's lawyers had finalized the text of the letter, it was presented to Denise Rich for her signature. Denise Rich did see the President on December 20, 2000, at a White House Christmas party. According to one witness at the party, Rich wrested the President away from Barbra Streisand to press her case about the pardon.[448]

Little is known about how many other contacts Denise Rich might have had with President Clinton during the final month of the Clinton Administration. There is evidence that she had at least one, and maybe more, telephone calls with the President about the pardon. E-mails between Jack Quinn and Robert Fink on January 16, 2001, indicate that they wanted Denise Rich to make "another call," indicating there had been other calls before this one. First, Quinn wrote that:

> I am advised that it would be useful if she [Denise] made another call to P. I am in a fannie mae bd mtg, but would like to set this in motion asap. Message shd be simple: "I'm not calling to argue the merits. Jack has done that, and we believe a pardon is defensible and justified. I'm calling to impress upon you that MR and our whole family has paid a dear price over 18 yrs for a prosecution that shd never have been brought and that singled out MR while letting the oil companies he dealt with go scot free.

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[444] Jack Quinn Document Production (Letter from Denise Rich to President William J. Clinton (Dec. 6, 2000)) (Exhibit 73).

[445] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00068 (E-mail from Robert Fink to Kathleen Behan, Partner, Arnold & Porter *et al.* (Dec. 19, 2000)) (Exhibit 78).

[446] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00069 (E-mail from Jack Quinn to Robert Fink *et al.* (Dec. 19, 2000)) (Exhibit 79).

[447] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00397 (E-mail from Jack Quinn to Robert Fink *et al.* (Dec. 19, 2000)) (Exhibit 80).

[448] Alison Leigh Cowan, *Documents Show a Complex Campaign to Win a Pardon*, N.Y. TIMES, Feb. 10, 2001, at A11.

> Please know how important this is to me personally." can you or avner call her this morning?[449]

Fink responded:

> I called at 10:30 AM and she is still asleep (she was at her Dad's yesterday and it was a very full day) but I left a message that I had to talk to her before a noon meeting. I expect I will hear from her and I will give her the message.[450]

In the absence of cooperation from Denise Rich, however, it is impossible to know exactly how many contacts Rich had with President Clinton, and what those contacts were about. An e-mail from Jack Quinn to Robert Fink's assistant shortly after the pardon raises interesting questions. This document was withheld from the Committee for over a year, and was produced only after a decision from a federal district court judge requiring it to be turned over to a grand jury. Quinn wrote the following in response to an e-mail titled "One of the Reporters' Requests:"

> Shd def confirm it didn't. Is this the moment to say that he asked DR for pol support? Or might DR have said something stupid like that when they spoke. God knows, I hope not.[451]

The Committee requested an interview with Jack Quinn after it received this e-mail, but he refused. Without further illumination from Quinn, this e-mail's meaning is not clear. One interpretation suggests that a reporter may have called asking whether the President asked Denise Rich for "political support," perhaps in the context of their discussions about the Rich pardon. It also suggests that Quinn was fearful that Denise Rich might have said something like this to the press. Quinn's question "is this the moment to say that he asked DR for pol support," raises a real question as to whether President Clinton asked Denise Rich for "political support" in the midst of their discussions about the Rich pardon. While Quinn has refused to answer questions from the Committee about this e-mail, his spokesman has informed the press that the "he" in the e-mail refers to former New York Mayor Rudy Giuliani, not President Clinton.[452] While Quinn's explanation is possible, it is troubling that Quinn has refused to provide this explanation to the Committee himself. Absent further information from Quinn, Denise Rich, or President Clinton, the Committee can only speculate as to the meaning of this e-mail.

It is clear that Denise Rich had frequent opportunities to press the pardon case with President Clinton. Rich was scheduled to visit the White House 19 times during the Clinton presidency, with six of those visits scheduled between May 2000 and January 2001.[453] In addition, Rich also called the White House on several occasions

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[449] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00167 (E-mail from Jack Quinn to Robert Fink *et al.* (Jan. 16, 2000)) (Exhibit 81).

[450] *Id.*

[451] Jack Quinn Document Production JQ 02958 (E-mail from Jack Quinn to Rosemary Micciulli, Quinn Gillespie & Associates (Jan. 24, 2001)) (Exhibit 82).

[452] Michael Isikoff, *Secret E-Mail*, NEWSWEEK (Mar. 10, 2002).

[453] National Archives and Records Administration Document Production (WAVES records (1994–2000)).

near the end of the Clinton Administration.[454] However, without cooperation from Denise Rich or President Clinton, the Committee is unable to know what was discussed during those telephone calls or how many of those scheduled White House visits actually occurred.

d. Denise Rich's Motives

Denise Rich's involvement in the Marc Rich pardon effort raises a number of serious questions: (1) why did Denise Rich agree to help Marc Rich; (2) did Denise Rich's extremely large political contributions play any role in the President's decision to grant the pardon of Marc Rich; (3) were additional large contributions envisioned or hoped for; (4) what did the President and Denise Rich discuss; and (5) was Denise Rich making her political contributions with her own money? Due to Denise Rich's decision to invoke her Fifth Amendment rights against self-incrimination, the Committee is not able to answer any of these questions definitively. However, there are a number of factors suggesting that Denise Rich's involvement in the Marc Rich pardon case is far more complicated than she has suggested.

First, Denise Rich's explanation for why she helped Marc Rich obtain the pardon does not withstand full scrutiny. Denise Rich has stated that she helped him because, after her daughter died, she forgave Marc Rich for his transgressions. She also claimed that she helped get the pardon so that her daughters could be with their father again. However, the Committee is unaware of Rich returning to the United States since he has obtained the pardon. Moreover, during Marc Rich's self-imposed "exile," his daughters were free to visit him in Europe and Israel, as they often did. Since Denise Rich's explanations do not fully explain her involvement, it is fair to consider other possible motivations. One comes from the fact that Rich promised to give $1 million a year to the G&P Charitable Foundation, at the precise time that he was trying to get Denise Rich to help with the pardon effort.[455] This sum would have represented a major influx of cash for the G&P Foundation, which raised $2.4 million in 1998 and only $978,000 in 1999.[456] Second, the Committee has attempted to examine whether Denise Rich and her daughters continue to receive financial support from Marc Rich, or would receive enhanced financial support in the future, other factors which could have influenced their decision to support his pardon. While Denise Rich's bank records do not indicate any influx of money from Marc Rich, at least one document received by the Committee suggests that Rich might have established a Swiss bank account for his daughter Ilona. In a December 4, 2000, letter from Robert Fink to Ilona Rich, Fink wrote "here are some banking papers to set up the account with UBS for you that need your sig-

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[454] *See, e.g.*, Verizon Document Production (Telephone calls from Denise Rich to the White House (Dec. 9, 1999)); Qwest Document Production (Telephone call from Denise Rich to the White House (Feb. 16, 2000)).

[455] Alison Leigh Cowan, *Rich Pardon Reportedly Followed Pledge to Charity of Former Wife*, N.Y. TIMES, May 1, 2001, at A1. $500,000 of this sum would have been given by Marc Rich and the other $500,000 would have been given by Pincus Green.

[456] *See* Department of the Treasury Form 990–PF, G&P Charitable Foundation, 1998; Department of Treasury Form 990–PF, G&P Charitable Foundation, 1999 (Exhibit 83). A copy of G&P's tax return for the year 2000 was unavailable because the Foundation may have received a filing deadline extension.

nature. Please execute where indicated and also return these to me so I can send them back to Switzerland."[457] While this reference is certainly capable of multiple interpretations, it at least raises the possibility that Marc Rich was providing untraceable funds to his family through Swiss bank accounts. This could provide another explanation for their support for the pardon.

Similarly, the Committee is unable to reach any firm conclusions regarding the nature of Denise Rich's communications with the President, and specifically whether Denise Rich's political contributions and contributions to the Clinton Library played any role in the pardon. Absent true cooperation from Denise Rich or President Clinton, there is no way of knowing what they discussed, or what they were thinking about the Marc Rich pardon. However, there are a number of pieces of circumstantial evidence that raise the indelible appearance of impropriety in this case, which Denise Rich and President Clinton have done nothing to refute. First, Denise Rich made $1.1 million in political contributions to Democrats, including the Clintons, and the contributions increased dramatically toward the end of the Clinton Administration. Denise Rich also made $450,000 in contributions to the Clinton Library, including one of the earliest large contributions to the Library. Although this sum has been downplayed, it was in fact an appreciable percentage of cash actually advanced to the Library. Given the difficulties generally experienced raising money after a President leaves office, the individuals who are prepared to give large sums—particularly after there are no more elections to finance—assume a particular importance. Second, Denise Rich used the relationship she had with the President, which was built in large part of political contributions, to lobby the President to grant the pardon. Third, Denise Rich and Beth Dozoretz, the two people who were privy to the reasons for Denise Rich's political contributions and her discussions with the President regarding the pardon, were so concerned about their potential criminal exposure that they invoked their Fifth Amendment rights. Were there a benign explanation to the events prior to the pardon, there is little conceivable reason to have invoked the Fifth Amendment. Fourth, the President, Denise Rich, and Beth Dozoretz have offered the weakest of justifications for their actions in the Marc Rich pardon matter. Given these facts, there is an unmistakable appearance of impropriety.

The Committee had the opportunity to grant Denise Rich immunity against prosecution so that it could receive compelled testimony from her, but decided not to proceed with a grant of immunity for several reasons. First, there was no evidence that Denise Rich intended to cooperate with the Committee. After the Committee received notice that the Justice Department had no objection to a grant of immunity, Committee staff contacted counsel for Mrs. Rich, to determine whether they would offer the Committee a proffer before the immunity vote. By receiving a proffer, the Committee hoped to receive an understanding of what Mrs. Rich would testify to if she received immunity. Counsel for Mrs. Rich were unwilling to provide a proffer. By refusing to provide a proffer, counsel for

[457] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00259 (Letter from Robert Fink to Ilona Rich (Dec. 4, 2000)) (Exhibit 84).

Mrs. Rich made it clear that they had no intent of cooperating with the Committee's investigation, and would make obtaining information from Denise Rich as difficult as possible.

Another factor that played a role in the Committee's decision not to grant immunity to Denise Rich were Mrs. Rich's own public statements about her role in the investigation. When Mrs. Rich appeared on the television program 20/20, to the extent she made any statements addressing her role in the pardon, her statements were difficult to believe. This appearance raised real questions as to whether Denise Rich intended to provide honest and complete testimony to the Committee, even if she were immunized.

2. Beth Dozoretz

Together with Denise Rich and Jack Quinn, Beth Dozoretz served a key role in lobbying for the pardon of Marc Rich. Like Denise Rich, Dozoretz enjoyed a close personal relationship with President Clinton that was a mixture of friendship and extremely significant political fundraising. Like Denise Rich, Dozoretz took advantage of this close relationship to press President Clinton about the Rich pardon. Also, much like her friend Denise Rich, Beth Dozoretz has invoked her Fifth Amendment rights rather than testify before the Committee.

a. Beth Dozoretz's Relationship with Bill Clinton

In 1992, Beth Dozoretz attended the Democratic Convention in New York City at the urging of her husband, Ron Dozoretz. Until that point, Dozoretz had never been significantly involved in political events of any type. But at the Democratic convention, Dozoretz had an epiphany of sorts, as Hillary Clinton passed by:

> On her way to the podium she had to walk by where I was sitting. . . . She was looking around, smiling, and I flattered myself to think that our eyes met. And I blurted something out like, "I just think you're fabulous!" And I felt like she looked at me and said, "Thank you!" with her big, beautiful smile.[458]

Beginning with the 1992 convention, Beth Dozoretz began to be deeply involved in Democratic politics. She and her husband moved to Washington from Norfolk, Virginia, in 1993. First at an apartment in Georgetown and then at an estate in Northwest Washington, the Dozoretzes began to host high-profile fundraising events. Through these events, the Dozoretzes had frequent contact with the Clintons, and struck up a warm relationship with both the President and First Lady. During the course of the Clinton presidency, the Dozoretzes were close to the Clintons, vacationing with them, and playing golf with them.[459] Like Denise Rich, Beth

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[458] Lloyd Grove, *The A-List's No. 1 Political Partiers; How Beth and Ron Dozoretz Made Washington Their Very Own*, WASH. POST, Apr. 1, 1999, at C1.

[459] *Id.* The Dozoretzes had their critics, some of whom suggested that their friendship with the Clintons was the result of a deliberate plan:

> Starting from the very beginning, they were having dinners and soirees at their apartment in Washington Harbour. . . . The whole program was geared to rising to the top. She had a staff from the very first day. I mean, how many housewives have staffs? She played golf with the president, and she took golf lessons so she could play

Dozoretz remained close to the President throughout the Monica Lewinsky scandal. In November 1998, the Dozoretzes asked the President to serve as godfather to their infant daughter.[460]

In addition to the close personal relationship she maintained with President Clinton, Beth Dozoretz also developed a fundraising relationship with the President. In 1994, Dozoretz served as co-Chairman of the DNC's large contributor program. By 1999, Dozoretz had raised $5 million for various Democratic causes.[461] As a result, in early 1999 Dozoretz was appointed, with the President's personal blessing, as Finance Chairman of the DNC, the chief fundraiser for the Democratic Party. Dozoretz resigned her post in September 1999, to allow new DNC Chairman Ed Rendell to appoint his own Finance Chairman. However, even after she left her position as Finance Chairman, Dozoretz continued to raise funds for the Democratic Party, and maintain a warm relationship with President Clinton.

In addition to raising funds for the DNC, Beth Dozoretz raised money for President Clinton's personal causes. For example, she raised money for the President's legal defense fund. She also raised money for the Clinton Library. Dozoretz solicited Denise Rich for her first contribution to the Clinton Library, a $250,000 contribution made in July 1998.[462] Apparently, Rich gave the check to Dozoretz, who sent it on to the lawyers for the Library.[463] In connection with this, or one of Denise Rich's other contributions to the Clinton Library, Rich drafted a note to Dozoretz reading "Dear Beth, Thanks for your help, Lots of love, Denise."[464] Apparently, Denise Rich was a person specifically targeted by Dozoretz to solicit for the Clinton Library. Dozoretz gave Peter O'Keefe, the chief fundraiser for the Clinton Library, a list of individuals Dozoretz intended to solicit, and Denise Rich was listed on this document.[465] In addition to the substantial sums she raised from Denise Rich,

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with him. Her husband obviously is very, very wealthy, and this is something they set out to accomplish. And obviously they have.

Id.

[460] *Id.* President Clinton agreed, and he and Hillary Clinton attended a high-profile christening at the Dozoretz estate. The star-studded attendance list for the event also included Jack Quinn. Annie Groer and Ann Gerhart, *The Reliable Source*, WASH. POST, Nov. 12, 1998, at C3.

[461] It was through her fundraising work for the DNC that Beth Dozoretz became enmeshed in her first White House scandal. In September 1997, Dozoretz testified before the Senate Committee on Governmental Affairs regarding a controversial White House fundraising coffee attended by John Huang and Pauline Kanchanalak. Two witnesses at the coffee testified that Huang made an illegal appeal for political contributions at the White House coffee. Dozoretz, who was also attending the coffee with a prospective donor, denied that Huang made the remarks. *See* "Investigation into Fundraising Activities During the 1996 Elections," *Hearings Before the Senate Governmental Affairs Special Investigations Comm.*, 105th Cong. (Sept. 16, 1997).

[462] William J. Clinton Presidential Foundation Document Production WJCPF 0002 (Check from Denise Rich to the William J. Clinton Presidential Foundation Library for $250,000 (July 15, 1998)) (Exhibit 74).

[463] William J. Clinton Presidential Foundation Document Production WJCPF 0004 (Letter from Janine Werkman, Chief of Staff for Beth Dozoretz, to Nicole Seligman (July 17, 1998)) (Exhibit 85).

[464] William J. Clinton Presidential Foundation Document Production WJCPF 0037 (Note from Denise Rich to Beth Dozoretz, former finance chair, Democratic National Committee) (Exhibit 75).

[465] William J. Clinton Presidential Foundation Document Production WJCPF 0048 (List of Potential Contributors to William J. Clinton Presidential Foundation) (Exhibit 86); Interview with Peter O'Keefe, Fundraiser, William J. Clinton Presidential Foundation (Apr. 12, 2001).

on May 23, 2000, Beth Dozoretz pledged to raise $1 million for the Clinton Library.[466]

b. Beth Dozoretz's Involvement in the Marc Rich Pardon Campaign

Around Thanksgiving of 2000, Jack Quinn informed Beth Dozoretz that he would be filing a pardon petition on behalf of Marc Rich. Quinn was close friends with Dozoretz, and also knew that she was close to Denise Rich. Quinn testified that he "encouraged her to help me be sure that the President himself was aware of the fact that the application had been filed with the White House Counsel's office."[467] According to Quinn, Dozoretz did talk to the President, who told her that Quinn should make his case to Bruce Lindsey and the other staff in the White House Counsel's office.[468] Quinn described his motivation for involving Dozoretz at the Committee's March 1 hearing:

> I did so because she was a friend of mine, because she had a relationship with Denise Rich, she was in much more frequent communication with the President than I was. I was motivated by two things principally; one, I was hopeful that she could let the President know that I had or was going to file this so that he would be aware it was there; and two, she was another person who I hoped might be in a position to give me the kind of information that I have, as a lawyer, thought would be useful to me to pursue their efforts on behalf of my client vigorously. Now, I want to also tell you have [sic] that in that conversation I had with her again around Thanksgiving time, I cautioned her that it would be very important to make sure that no such conversation was ever connected in any way with any kind of fundraising activity. She reacted to that by kind of looking at me like how could I even suggest that. She said to me, of course I would never do that to him.[469]

It is apparent that Quinn turned to Dozoretz because of her access to and influence with the President. Precisely how Dozoretz used these skills is a mystery, because of Dozoretz's invocation of her Fifth Amendment rights.[470]

Over the course of the next two months, Beth Dozoretz and Jack Quinn were in frequent contact about the Marc Rich pardon effort.[471] Jack Quinn estimated that they spoke between five and ten

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[466] This information was provided to the Committee in a briefing by David Kendall and Nicole Seligman, counsel for the Clinton Foundation. *See also* William J. Clinton Presidential Foundation Document Production WJCPF 0024 (Letter from Skip Rutherford, President, William J. Clinton Presidential Foundation, to Beth Dozoretz, former finance chair, Democratic National Committee (Jan. 4, 2000)) (Exhibit 87).

[467] "President Clinton's Eleventh Hour Pardons," *Hearing Before the Senate Judiciary Comm.*, 107th Cong. 69 (Feb. 14, 2001) (testimony of Jack Quinn).

[468] *Id.*

[469] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 410–11 (Mar. 1, 2001) (testimony of Jack Quinn).

[470] Irving Sandorf, a former colleague of Dozoretz's from the clothing industry, noted that "She has a way of getting into you a little bit. She knows how to manipulate people. I don't know if you'd call them 'people skills.' It's more like 'I'll use you, you use me' skills." *See* Lloyd Grove, *The A-List's No. 1 Political Partiers; How Beth and Ron Dozoretz Made Washington Their Very Own*, WASH. POST, Apr. 1, 1999, at C1.

[471] Beth Dozoretz left telephone messages for Jack Quinn on: December 8, 2000; January 2, 2001, with the question, "[A]ny news on the matter?"; January 8, 2001; an undated message between January 8 and January 18, 2001; January 18, 2001; and January 19, 2001, leaving her

times about the Marc Rich pardon effort. The real question is, of course, how many times Beth Dozoretz spoke to the President about the Marc Rich pardon, and what they spoke about. Because of the Fifth Amendment claims of Dozoretz and Denise Rich, the Committee knows little about these communications. However, the e-mail discussions of the Marc Rich legal team offer some insight into the matter. On January 10, 2001, Avner Azulay e-mailed Jack Quinn with the following message:

> 2. D[enise] R[ich] called from aspen. Her friend B—who is with her—got a call today from potus—who said he was impressed by J[ack] Q[uinn]'s last letter and that he wants to do it and is doing all possible to turn around the WH counsels. D[enise] R[ich] thinks he sounded very positive but "that we have to keep praying." There shall be no decision this wknd and the other candidate Milik [sic] is not getting it.[472]

When questioned about this e-mail, Quinn confirmed that the "B" referred to by Azulay was indeed Beth Dozoretz.[473] However, Quinn could do little to explain the message, including why the President would by trying to convince the staff of the need for the pardon, rather than vice-versa. Robert Fink responded to this message with an e-mail stating, "I said it before, and I say it again, 'nice letter.' Keep on praying, and, oh, a few phone calls won't hurt."[474]

Dozoretz remained deeply involved in the Marc Rich pardon effort through the granting of the pardon. Three e-mail messages to Jack Quinn make it appear that Dozoretz was urgently trying to reach Quinn on January 17, 2001. At 12:13 p.m., Quinn's assistant informed him that "Beth Dozoretz wants you to call her on her cell if you get a chance."[475] At 1:38 p.m., Quinn's assistant told him that "Beth is very eager to talk to you. She called again and knows that you are at the WH."[476] A mere 24 minutes later, Quinn's assistant sent Quinn an e-mail regarding "BETH" stating "[v]ery sorry to bother you with this but she is insistent. Please call her—she says that it is URGENT."[477] On January 19, 2001, Dozoretz traveled to Beverly Hills, California, with her husband.[478] That

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contact information for the rest of that day. Jack Quinn Document Production (Telephone Messages from Beth Dozoretz, former finance chair, Democratic National Committee, to Jack Quinn) (Exhibit 88).

[472] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00162 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Jan. 10, 2001)) (Exhibit 89).

[473] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 246–48 (Feb. 8, 2001) (testimony of Jack Quinn).

[474] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00162 (E-mail from Robert Fink to Jack Quinn (Jan. 10, 2001)) (Exhibit 89).

[475] Jack Quinn Document Production JQ 03027 (E-mail from April Moore, Secretary to Jack Quinn, Quinn Gillespie & Associates, to Jack Quinn (Jan. 17, 2001)) (Exhibit 90).

[476] Jack Quinn Document Production JQ 03028 (E-mail from April Moore, Secretary to Jack Quinn, Quinn Gillespie & Associates, to Jack Quinn (Jan. 17, 2001)) (Exhibit 91).

[477] Jack Quinn Document Production JQ 03029 (E-mail from April Moore, Secretary to Jack Quinn, Quinn Gillespie & Associates, to Jack Quinn (Jan. 17, 2001)) (Exhibit 92).

[478] WAVES records from the White House indicate that both Dozoretz and Denise Rich visited the White House on January 19, 2001. However, it appears that these records are spurious. White House WAVES records usually show a scheduled time of entry for any scheduled visit to the White House. However, only if a visitor actually shows up at the White House is an actual time of entry entered into the WAVES system. In this case, the WAVES records show actual times of entry for Rich and Dozoretz. The United States Secret Service, has explained, however, that a large group of individuals were scheduled to visit the White House at one time for

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day, she called Jack Quinn to let him know her contact information, both in her private jet, and at the Peninsula Hotel, where she would be staying.[479] At 10:48 p.m., Quinn called Dozoretz at the Peninsula Hotel.[480] Presumably, Quinn informed Dozoretz that he believed Marc Rich was going to receive a pardon. Shortly after that call, Dozoretz called the White House and spoke to President Clinton.[481] According to one press report, Dozoretz thanked President Clinton, but he was so busy that he did not initially understand why Dozoretz was thanking him.[482]

After the pardon was granted, Dozoretz continued her contacts with Jack Quinn. Between January 23, 2001, and February 5, 2001, Dozoretz called Quinn at least nine times, leaving messages of support such as (1) "NY Times was great today!"[483] (2) "You are getting a reputation as the smartest lawyer in America;"[484] (3) "Hearing lots of good things about you especially hearing that you are brilliant;"[485] and (4) "Just had important conversation she would like to share with you."[486]

Beth Dozoretz's efforts to help get Marc Rich's pardon cast yet additional doubt on the motives of President Clinton. Like Denise Rich, Beth Dozoretz was a close personal friend of President Clinton. Also like Denise Rich, and a number of the President's other close friends, her friendship was closely intertwined with her fundraising relationship for the President and Democratic Party.

Dozoretz's involvement in the Marc Rich pardon effort has the indelible appearance of impropriety. Whether or not criminal acts were involved is unknown, and can only be discovered with facts not available to the Committee—namely the truthful testimony of Denise Rich and Beth Dozoretz. However, the appearance of impropriety is substantial:

- Beth Dozoretz was herself a major fundraiser for the DNC as well as President Clinton's personal causes, including his legal defense fund and library. In addition, she was the primary solicitor for Denise Rich's contributions to the Clinton Library. Therefore, at a minimum, Beth Dozoretz's endorsement of a pardon carried particular weight with the President.
- The one communication between Dozoretz and President Clinton of which the Committee is aware raises serious questions.

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a party. Rather than hold up the group of individuals who were actually there, the Secret Service waved through the entire group. Therefore, the WAVES system shows erroneously that everyone who was scheduled for that event actually showed up. Hotel records as well as several eyewitnesses confirm the fact that Dozoretz was in transit and in California on January 19. The fact that the United States Secret Service had no idea of who was actually admitted to the White House is obviously troubling.

[479] Jack Quinn Document Production (Telephone Message from Beth Dozoretz, former finance chair, Democratic National Committee, to Jack Quinn (Jan. 19, 2001)) (Exhibit 88).

[480] Jack Quinn Document Production (Quinn Gillespie telephone bill, Feb. 9, 2001) (Exhibit 93).

[481] Peninsula Hotel Document Production (Dozoretz Invoice from Peninsula Hotel, Jan. 21, 2001) (Exhibit 94).

[482] Corky Siemaszko, *Dem Aide Had Early Word of Pardons*, N.Y. DAILY NEWS, Feb. 26, 2001, at 6.

[483] Jack Quinn Document Production (Telephone Message from Beth Dozoretz, former finance chair, Democratic National Committee, to Jack Quinn (Jan. 25, 2001)) (Exhibit 95).

[484] Jack Quinn Document Production (Telephone Message from Beth Dozoretz, former finance chair, Democratic National Committee, to Jack Quinn (Jan. 29, 2001)) (Exhibit 96).

[485] Jack Quinn Document Production (Telephone Message from Beth Dozoretz, former finance chair, Democratic National Committee, to Jack Quinn (Jan. 31, 2001)) (Exhibit 97).

[486] Jack Quinn Document Production (Telephone Message from Beth Dozoretz, former finance chair, Democratic National Committee, to Jack Quinn (Feb. 1, 2001)) (Exhibit 98).

According to the e-mail describing the call, President Clinton told Dozoretz that he was "doing all possible to turn around the WH counsels." This upside-down construction suggests that the President had made up his mind to grant the pardon, but was hoping to convince the staff so as to improve appearances.

- No acceptable explanation has been made to the Committee of why Beth Dozoretz agreed to become involved in the pardon effort. Obviously, Dozoretz is friendly with both Denise Rich and Jack Quinn. It is possible that she agreed to help Rich and Quinn as part of this friendship.[487] However, given the substantial effort that Dozoretz made, and the excitement that she showed at the President's decision to grant the pardon, the possibility that Dozoretz had some other motivation should be considered.
- Rather than cooperate with the Committee's investigators, Dozoretz invoked her Fifth Amendment right against self-incrimination.

However, absent cooperation from Ms. Dozoretz, the Committee is unable to answer these questions.

c. Jack Quinn's Attempt to Keep Information About Dozoretz from the Committee

It should be noted that Jack Quinn apparently tried to keep the Committee from learning the true nature of Beth Dozoretz's role in the pardon effort. When Quinn was asked about the January 10, 2001, e-mail at the Committee's February 8, 2001, hearing, the Committee did not have any information regarding the role of Dozoretz in the pardon effort. When he was asked about the e-mail, Quinn did acknowledge that it referred to Beth Dozoretz, but he was then quite reticent about explaining Dozoretz's role:

> Mr. BARR. Why would the President be sharing this information with the finance chair of the DNC? What do they have to do with it?
>
> Mr. QUINN. I was on the receiving end of this e-mail, and I don't know the answer to that. I was aware of this e-mail.
>
> Mr. BARR. Work with me, speculate a little bit, why would the DNC finance chair be involved here?
>
> Mr. QUINN. Well, I believe—my impression was that Denise and Beth were—have been friends, and that, in fact, they grew—
>
> Mr. BARR. I suspect so.

[487] Of course, there are questions regarding why Denise Rich and Jack Quinn were making such great efforts to obtain the pardon. As described above, Rich has never adequately explained her motivations, leading to speculation that her motivation may have been financial, not personal. Jack Quinn's explanations have been even more suspect, as he has maintained that he was not expecting any payment for his work on the Marc Rich pardon effort. As described above, this suggestion is contradicted by common sense, as well as by Marc Rich's primary U.S. lawyer, Robert Fink. Fink confirms that Quinn's motivation was likely financial, as he was going to receive handsome financial compensation for his efforts. Because Quinn and Rich have offered weak reasons for their involvement in the Rich pardon effort, the motivations of individuals with even less at stake, like Beth Dozoretz, must be subjected to even greater scrutiny.

Mr. QUINN. That they grew up in the same town in Massachusetts up north.

* * *

Mr. QUINN. But let me be clear, I don't know that he [the President] called her about this.

* * *

Mr. BARR. Clearly it was about this.

Mr. QUINN. I believe that—my impression was that in the course of the conversation they were having she asked him what is happening with these two pardon applications, and apparently was with Denise Rich at the time, which may have motivated her to ask the President in the course of the conversation, but I was not of the impression, I want to be careful to say this accurately, that the call was placed for the purpose of discussing the pardons.[488]

Quinn's initial testimony on this point was misleading. When Representative Barr asked why the President would be calling Beth Dozoretz about the Rich pardon, Quinn answered "I don't know the answer to that." When Representative Barr asked Quinn to speculate about why Dozoretz was involved in this matter, the best Quinn could offer was that Denise Rich and Beth Dozoretz were friends, and had grown up in the same town in Massachusetts. Quinn neglected to mention the more salient point that he had personally asked Dozoretz to become involved in the pardon effort. Therefore, he knew specifically why she was discussing the Rich pardon with the President. However, at no time during the Committee's February 8 hearing did Quinn disclose the fact that he had specifically asked Dozoretz to become involved in the pardon effort, because of her close relationship with President Clinton. If the House Government Reform Committee and Senate Judiciary Committee had not held follow-up hearings on this matter, it is likely that Quinn never would have told the truth about Dozoretz's involvement. The fact that Quinn tried to conceal this information only adds to the appearance that Dozoretz's role in the pardon was improper.

3. Israeli Prime Minister Ehud Barak and Other Israeli Leaders

Key players in the lineup of individuals assisting the Marc Rich pardon effort were Israeli Prime Minister Ehud Barak and a number of other current and former Israeli officials who weighed in with the Clinton Administration. President Clinton has made much of the influence of Prime Minister Barak's appeal in his decision making. This claim can be debated. However, it cannot be debated that the Marc Rich team made a substantial effort to get these Israeli officials involved. However, much like some of the key

[488] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 248 (Feb. 8, 2001) (statement of the Honorable Bob Barr and testimony of Jack Quinn).

American players, it is difficult to gauge whether these officials were involved because they believed in the Rich pardon, or because they received financial support from Marc Rich.

After he fled the United States in 1983, Marc Rich began to make large financial contributions to various charities in Israel, as well as Jewish charities in Europe and the United States. Marc Rich also made political contributions to Israeli political candidates. However, since Israeli law does not require the public disclosure of these contributions, the Committee is not able to determine to whom Rich has contributed. Communications among the Marc Rich legal team make it clear that they were able to call upon a number of prominent Israelis to weigh in on Rich's behalf with President Clinton.

Marc Rich's pardon petition included a number of letters of support from prominent Israelis, including: Shlomo Ben-Ami, the Minister of Foreign Affairs and Minister of Public Security; Itamar Rabinovich, the former Israeli Ambassador to the United States; Yaakov Neeman, the former Minister of Finance and former Minister of Justice; Ehud Olmert, the Mayor of Jerusalem; Isaac Herzog, the Israeli Government Secretary; and Shabtai Shavit, the former Director of the Mossad.[489] A number of these officials received some sort of financial contributions from Marc Rich. Olmert received a $25,000 political contribution from Rich in 1993.[490] A community development organization called Yedid, which was linked to Shlomo Ben-Ami, received $100,000 from Rich.[491] Herzog's wife worked for the Rich Foundation.[492]

More important than the letters of support, though, were telephone calls to President Clinton from some of these Israeli leaders. Most importantly, Marc Rich's supporters were able to have Prime Minister Ehud Barak raise the Marc Rich pardon with President Clinton. Prime Minister Barak described the approach to him by Avner Azulay as follows:

> Few months ago [sic] I was approached by the chairman of the Rich Foundation in Israel. The chairman, Mr. Azoulay is a man I know [sic] for many years, who had contributed a lot to the security of the State of Israel. The Rich Foundation is well known and highly appreciated in Israel for its philanthropic activities in the fields of healthcare, education and culture.
>
> Mr. Azoulay asked me to raise Mr. Rich case with President Clinton. I raised the subject with President Clinton several times (probably three) in the course of routine telephone conversations during the last two or three months of his presidency and made a personal recommendation to him to consider the case.[493]

Avner Azulay's efforts to enlist Israeli officials in the pardon effort were helped dramatically when, in early January 2001, Marc

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[489] *See* Petition for Pardon for Marc Rich and Pincus Green (Dec. 11, 2000) (Appendix III).
[490] Michael Dobbs, *Pardon Smoothed Ties to Israel; Barak, Others Aided Rich's Campaign*, WASH. POST, Feb. 25, 2001, at A1.
[491] *Id.*
[492] *Id.*
[493] Letter from Ehud Barak, Prime Minister, Israel, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (May 13, 2001) (Exhibit 99).

Rich himself flew to Israel to attend a convention for Birthright Israel, a recipient of Rich's largesse. While Rich was in Israel, he took the opportunity to meet senior Israeli political officials as well as Jewish-American leaders. During this trip to Israel, Rich met personally with Prime Minister Barak, and shortly after that meeting, Barak raised the Rich pardon with President Clinton a second time. Azulay referred to Rich's scheduled meetings in a January 4, 2001, e-mail to the Rich legal team:

> As I have already mentioned—during this wknd [sic] M[arc] R[ich] is scheduled to meet the P[rime] M[inister], F[oreign] M[inister] & SH[imon] P[eres]—as well as a main vector to E[lie] W[iesel].
>
> If possible it would be very useful to ask the W[hite] H[ouse] to hold the final decision (unless it is positive!)—until the above have the opportunity to make/repeat their personal appeals.[494]

It also appears that the Rich team attempted to have other Israeli officials call the President or his staff. Former Israeli Prime Minister Shimon Peres called President Clinton about the Marc Rich matter on December 11, 2000,[495] the day that the Rich petition was filed, and the same day that Prime Minister Barak spoke to the President. On December 19, 2000, Avner Azulay suggested that he ask Knesset Speaker Avraham Burg to call the President on Marc Rich's behalf.[496] It is unclear whether Burg actually spoke with President Clinton. Burg apparently did write a letter to President Clinton on January 9, 2001, advocating Rich's pardon.[497]

Azulay also asked Israel Singer, Secretary General of the World Jewish Congress, and Edgar Bronfman, President of the World Jewish Congress, to raise the Marc Rich matter with the President:

> Israel Singer & Edgar Bronfman (CEO & President of the World Jewish Congress) are scheduled to meet potus on Sunday evening in NY (the Israel Policy Forum—not adequate for a private talk) and on Wednesday for a private séance at the WH. In anticipation of Abraham Burg's meeting, I contacted Singer through Rabbi Rizkin. Burg will give his support only if he knows that Singer and Bronfman will . . [sic] I don't know but suspect that this has to do with JPoll.
>
> Now Singer wants to be sure that the MRPG petition is on the agenda of potus. I suggest you contact Israel Singer the soonest possible—either to brief him and answer his

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[494] Arnold & Porter Document Production A0865 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Jan. 4, 2001)) (Exhibit 100).

[495] Arnold & Porter Document Production A0842 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Dec. 25, 2000)) (Exhibit 101).

[496] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00071 (E-mail from Avner Azulay, Director, Rich Foundation, to Kathleen Behan, Partner, Arnold & Porter *et al.* (Dec. 19, 2000)) (Exhibit 102).

[497] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00163–64 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Jan. 11, 2001)) (Exhibit 103). While Burg's letter did expressly advocate Rich's pardon, it was criticized by Gershon Kekst and Bob Fink. Kekst asked Quinn and Fink "is this a helpful letter?" *Id*. Fink responded, "I think Potus will realize that it is intended to be helpful. Frankly, I am a little surprised Avner let it go in this form, as we pulled one like it from the original petition. Maybe he did not see it until after it had gone. I see no reason to rain on anyone's parade." *Id.*

> questions or arrange for a mtg with him before he meets potus.[498]

In his desperation to find prominent Israeli supporters for the Marc Rich petition, Jack Quinn even suggested that the deceased widow of assassinated Israeli Prime Minister Yitzhak Rabin, Leah, call President Clinton. Robert Fink made this request to Avner Azulay in an e-mail: "Oh one more thing. Jack asks if you could get Leah Rabin to call the President; Jack said he was a real big supporter of her husband."[499] Azulay responded the following day: "Bob, having Leah Rabin call is not a bad idea. The problem is how do we contact her? She died last November—on the 5th anniversary of her husband's murder."[500] In the end, the Rich team settled for the Rabins' daughter, who met with Avner Azulay on January 10, 2001, and informed him that she would call President Clinton on Rich's behalf.[501]

One of the tactics used by Azulay to enlist Israeli leaders was to link the Rich pardon to the Jonathan Pollard matter. The Pollard pardon had long been a priority for a number of Israeli officials, and Azulay attempted to use the Pollard matter to Rich's advantage:

> I can also cfm [sic] the info on J[onathan] P[ollard]. It seems that the topic was discussed in telecons with potus—within the framework of the peace agreement. JP's freedom is considered as a public-political "sweet pill" which shall help swallow (or divert public attention from) the more sour pills in the agreement with arafat [sic]. I am sure potus is aware that JP is going to be big trouble with the entire intelligence community and MR could go along with it "less unnoticed". On the other hand if he says no to JP—one more reason to say yes to MR.[502]

Jack Quinn made the same linkage between Rich and Pollard in his appeals to the White House: "Lastly, I told her [Beth Nolan] that, if they pardon JP, then pardoning MR is easy, but that, if they do not pardon JP, then they should pardon MR. In the last connection, she affirmed that they have heard from people in or connected to the GOI [Government of Israel]."[503]

It is difficult to gauge whether the efforts of the Marc Rich team to link their fate to that of Jonathan Pollard helped their cause. Jonathan Pollard certainly feels that the Rich pardon was granted at his expense. Pollard made the following statement after the Rich pardon:

> I've become disillusioned. This is the hardest thing for me. . . . But what has shaken me to my very bones is to fi-

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[498] Arnold & Porter Document Production A0866 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Jan. 5, 2001)) (Exhibit 104).

[499] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00091 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation (Dec. 30, 2000)) (Exhibit 36).

[500] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00094 (E-mail from Avner Azulay, Director, Rich Foundation, to Robert Fink (Dec. 31, 2000)) (Exhibit 105).

[501] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00162 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Jan. 10, 2001)) (Exhibit 89).

[502] Arnold & Porter Document Production A0865 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Jan. 4, 2001)) (Exhibit 100).

[503] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00111 (E-mail from Jack Quinn to Avner Azulay, Director, Rich Foundation *et al.* (Jan. 3, 2001)) (Exhibit 106).

> nally realize, after 16 years, that I made a mistake. For 16 years I have been desperately waving the Israeli flag, crying out for help to the Israeli political establishment. But since the Marc Rich campaign, I realize that I made a mistake. All those years I should have waved something else to get their attention. I should have waved a dollar bill in front of them and convinced them that I had a lot of money. That is the depths to which we have sunk as a nation, that an agent has to bribe his own government to rescue him. That is how low we have sunk.
>
> Esther and I are pinching pennies in order to stay alive. Israel has never assisted us. But this Marc Rich fellow, with all of his millions, he's the one that everyone in Israel is breaking their backs for.
>
> * * *
>
> Barak, the politicians, and all those who were involved, were corrupted and debased by Marc Rich's money. Every one of them was corrupted at some level or another. The corruption and the repulsiveness that characterized the Rich pardon campaign is appalling.[504]

While Pollard clearly did not deserve a pardon of his own, his comments about the Rich pardon may be accurate.

4. Elie Wiesel

The Rich team also attempted to recruit prominent Holocaust survivor and author Elie Wiesel to their cause. As a prominent spokesman for Jewish causes and a close friend to President Clinton, Wiesel was a logical candidate for the Rich team to turn to. It appears that Gershon Kekst initially identified Wiesel as a potential supporter of the Rich pardon. After a meeting with Kekst, Avner Azulay informed Behan, Fink, and Marc Rich that Kekst "proposed Elie Wiesel as the "moral authority" to present the plea. We discussed some ideas how to reach him—and that I shall do in the next few days." [505]

It appears that Azulay followed Kekst's recommendation, and attempted to enlist Wiesel. In an e-mail of November 29, 2000, Azulay suggested that the Rich team might be obtaining a letter of support from Wiesel: "We shall have a few days to get additional letters in New York (Elie Wiesel, Abe Foxman and others). I assume by now you are getting letters from Switzerland and Spain." [506] When he was interviewed over the telephone by Com-

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[504] Eran Tiffenbraun and Mody Kreitman, *Expose: Using Pollard to Get Rich*, Yediot Achronot, Feb. 25, 2001 (Exhibit 107).

[505] Arnold & Porter Document Production A0542 (E-mail from Avner Azulay, Director, Rich Foundation, to Kathleen Behan, Partner, Arnold & Porter *et al.* (Nov. 15, 2000)) (Exhibit 108). When asked about this document, Kekst said, "I would not have proposed Elie Wiesel as a moral authority to anyone on any subject." Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001). Kekst said that he was asked, but refused, to request Wiesel's help. As discussed below, Kekst has repeatedly denied that he made suggestions and recommendations even when they are corroborated by contemporaneous e-mails. Kekst's denials are not credible, and appear to be part of an effort to understate his role in the Marc Rich pardon effort.

[506] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00066 (E-mail from Avner Azulay, Director, Rich Foundation, to Robert Fink and Marc Rich (Nov. 29, 2000)) (Exhibit 109).

mittee staff, Wiesel confirmed that he was asked by Avner Azulay to write a letter on behalf of Rich. At a November or December 2000 meeting at Wiesel's home in New York City, Azulay showed Wiesel other letters written on behalf of Marc Rich.[507] According to Wiesel, although he told Azulay that he was impressed by the list of names, he said he could not write such a letter for someone he did not know.[508] Wiesel told Committee staff that he also told Azulay that he did not believe Rich could legally receive a pardon without standing trial.[509] According to Wiesel, even though Azulay assured him that Rich could receive a pardon, Wiesel told Azulay that he could not write the letter because he had already written a letter requesting a commutation of Jonathan Pollard's sentence. Wiesel felt that he could not make another request.[510]

According to Wiesel, Avner Azulay called him several days later to see if he had changed his mind.[511] Wiesel told him that he had not.[512] While this seemingly would have been the end of Wiesel's involvement in the Rich pardon campaign, there is evidence that it was not. Several e-mails indicate that Wiesel may have lobbied the White House. On December 21, 2000, Jack Quinn wrote to Robert Fink and Azulay, responding to Azulay's question about "having another VIP place an additional call" to President Clinton.[513] As Quinn wrote, "I think another call is fine, but it needs to come from someone who can get POTUS personally on the line. Did Elie Wiesel call?"[514] Azulay responded to Quinn's inquiry by e-mailing, "I don't know positively if he talked directly to potus and if he did what was his reaction. All he told me was that 'he was at the WH the day potus traveled but he couldn't give me any reaction.'"[515] Azulay then spoke with Wiesel again, and on December 25, 2000, Azulay responded to Quinn in an e-mail with the subject line "elie wiesel," stating:

> I talked to him today. He says that he brought up the topic at the WH on Monday Dec 12th, he refused to disclose who he met. He was told of the difficulties lying ahead in dealing with it (he would explain it only in a face to face meeting) and hopes that they can be surmounted[.][516]

On December 27, 2000, Azulay told Quinn, Kekst, Behan, Fink, and Marc Rich that he was looking for some way to have Wiesel express his opinion on the Rich pardon in a clear way to the President: "Elie Wiesel—I am still checking if there is a way to get from

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[507] Telephone Interview with Elie Wiesel (Apr. 2, 2001). Yossi Ciecanover, a banker and former high official in Israel, and Danny Karavan, who lived in both Paris and Israel, arranged this meeting. Wiesel indicated that he was under the impression that Gershon Kekst asked Yossi Ciecanover to contact Wiesel on behalf of Azulay.

[508] *Id.*

[509] *Id.*

[510] *Id.*

[511] *Id.*

[512] *Id.*

[513] Arnold & Porter Document Production A0831 (E-mail from Jack Quinn to Robert Fink *et al.* (Dec. 21, 2000)) (Exhibit 110).

[514] *Id.*

[515] Arnold & Porter Document Production A0836 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Dec. 22, 2000)) (Exhibit 111).

[516] Arnold & Porter Document Production A0845 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Dec. 25, 2000)) (Exhibit 112).

him a straight forward support statement—direct call to potus."[517] Azulay followed up with another e-mail on December 31, 2000, stating that:

> I was informed today that EW visited the WH last Dec 12th. He didn't meet or speak directly with potus. EW had a scheduled mtg [sic] with the "person responsible for the pardons." His original goal was to discuss Pollard—and at the same time raised a question about the MRPG case. He was told that the MRPG case can't be defined as humanitarian because there was no trial, conviction or punishment to deal with[.]
>
> I understand—although he didn't disclose it that he talked with a lawyer, the WH counsel. Perhaps BL.
>
> This is not new to you. What the lawyers think or thought at the time. However, I think it worthwhile mentioning that EW's mtg [sic] was held in the morniing [sic] hours of Monday, Dec 12th—before xx [sic] before the formal petition was delivered in the afternoon hours. I hope that the lawyers have a different view of the case by now?
>
> It is clear that EW is reluctant to make a direct appeal to potus—with the uncertainty that he is doing something that doesn't stand a chance. Therefore, it seems plausible that if someone he respects will convince him that he is doing the right thing it might still be possible.[518]

Despite the assurances that Wiesel had raised the Rich pardon with White House staff, Azulay apparently continued his efforts to have Wiesel raise it directly with the President. On January 2, 2001, he e-mailed Fink, Quinn, and Behan to tell them that Knesset Speaker Avraham Burg was going to try to recruit Wiesel to help with the Rich case.[519]

Other than the information that Azulay was able to get from Wiesel, Gershon Kekst also told the rest of the Rich team that Wiesel had weighed in with the White House on the Rich pardon. In a January 9, 2001, e-mail, Kekst wrote that "[b]y the way, please tell marc [sic] that I am 'assured' the call has been made by elie [sic]."[520] Robert Fink responded that he would "tell Marc about Elie."[521] When he was interviewed by Committee staff, Kekst explained that he discussed Wiesel's involvement in the Rich pardon effort with Yossi Ciecanover, a former senior Israeli government official.[522] Ciecanover told Kekst that he had been asked by Azulay to ask Wiesel to express support for the Rich pardon.[523]

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[517] Arnold & Porter Document Production A0851 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Dec. 27, 2000)) (Exhibit 113).

[518] Arnold & Porter Document Production A0854 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Dec. 31, 2000)) (Exhibit 114).

[519] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00104 (E-mail from Avner Azulay, Director, Rich Foundation, to Robert Fink *et al.* (Jan. 2, 2001)) (Exhibit 115).

[520] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00159 (E-mail from Gershon Kekst, President, Kekst and Co., to Robert Fink and Jack Quinn (Jan. 9, 2001)) (Exhibit 116).

[521] *Id.*

[522] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).

[523] *Id.*

Ciecanover said that Wiesel either "would call" or "did call" the President.[524]

Elie Wiesel has denied any involvement in the Marc Rich pardon effort, calling such allegations "pure fantasy."[525] Wiesel acknowledged that he did visit the White House in December 2000 and January 2001.[526] However, Wiesel denied that he raised any Marc Rich pardon issues with anyone at the White House on either of those visits.[527] He also denied that he ever raised any pardon issues with anyone at the White House in any other form, other than writing a letter on Jonathan Pollard's behalf to the President.[528] Given the lack of any first-hand evidence that Wiesel did actually lobby the President on behalf of Marc Rich, the e-mails of Kekst and Azulay most likely overstated involvement of Wiesel in the Rich pardon effort.

5. King Juan Carlos

King Juan Carlos apparently made two contacts with the White House over the Rich pardon. The first contact was a direct one, when the King called President Clinton personally regarding the Rich pardon. On January 13, 2001, Avner Azulay sent an e-mail to the Rich legal team indicating that "we have a CFM [confirmation] that the king of spain [sic] talked to potus. He reports a positive conversation. No concrete sayings [sic]."[529] It is unclear why the King took this action on Rich's behalf. It is possible that the King was motivated by Rich's support of Madrid's Jewish community, but he has not offered any explanation for his actions.

Also in this same time frame, John Podesta heard of King Juan Carlos' interest in the Rich pardon. Podesta received a telephone call from former Congressman John Brademas, President Emeritus of New York University, who is a friend of King Juan Carlos.[530] The King had informed Brademas that he had recently met with the Israeli Foreign Minister, Shlomo Ben Ami, who had raised the Marc Rich pardon with the King. The King in turn called Brademas to see if Brademas could make the King's interest in the pardon known to the White House. Podesta told Brademas that "while it was the President's decision, the White House Counsel's Office and I were firmly opposed and I did not believe that the pardon would be granted."[531] While Podesta apparently braced the King for the worst, the King's interest in the Rich matter was made known to the President, as well as Marc Rich's supporters, who have often mentioned his support for the pardon.

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[524] *Id.* Associate White House Counsel Eric Angel also suggested that he heard that Wiesel raised the Rich matter with President Clinton. However, after making this initial assertion, Angel backtracked, and said that he was not certain if he recalled hearing this before the pardons were granted, or from media accounts after the fact. Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001).

[525] Telephone Interview with Elie Wiesel (Apr. 2, 2001).

[526] *Id.*

[527] *Id.*

[528] *Id.*

[529] Arnold & Porter Document Production A0881 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Jan. 13, 2001)) (Exhibit 117).

[530] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 320 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

[531] *Id.* at 317.

6. Avner Azulay

Avner Azulay is a former high-ranking Mossad agent. He founded his own security consulting company after leaving the Mossad in the early 1990s.[532] Marc Rich retained his services and placed him as the head of the Marc Rich Foundation and the Doron Foundation, based in Jerusalem.[533] These Foundations handle all of Rich's philanthropic interests (they were recently merged and are now referred to only as the Marc Rich Foundation). These foundations also paid significant amounts of money to many organizations and persons who wrote letters on behalf of Marc Rich that were included in the pardon petition.

Azulay was a central figure in the pardon effort. His name appears on a large number of the e-mails produced to the Committee that were sent among the Rich pardon team. Azulay played a key role in securing many of the letters included in the petition. He traveled throughout Israel, Europe, and the United States soliciting the letters for the pardon. Azulay also solicited many Jewish leaders for their support of Rich. In this effort, Azulay contacted Abraham Foxman, Elie Wiesel, and Rabbi Irving Greenberg, among others. As would be revealed after the pardon was granted, however, not everyone who was approached by Azulay was told that their letter would be used in the pardon effort.

The Committee first sought Avner Azulay's cooperation in its investigation in a March 8, 2001, letter asking him to participate in an interview with Committee staff.[534] Azulay refused to meet with staff, citing health reasons.[535] Committee staff followed up with a number of telephone calls to Azulay's counsel to try to secure an interview, but he made it clear that Azulay would not participate in an interview, due to health concerns and concerns regarding the ongoing criminal investigation by the Southern District of New York. As a close advisor to Marc Rich and a key participant in the pardon effort, Azulay has a great deal of valuable information that he has decided to withhold from the Committee. His lack of cooperation appears to be part of a concerted effort by Marc Rich and his closest advisers to keep critical information about the pardon effort from the American people.

7. Michael Steinhardt

Michael Steinhardt is a prominent hedge fund investor who has also been involved in Democratic politics, having served as the Chair of the Democratic Leadership Council and the Progressive Policy Institute. He first met President Clinton while serving in the former position. Steinhardt mentioned this fact in his December 7, 2000, letter to President Clinton that was included in the pardon

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[532] Bo'az Ga'on, *Rich as Korach*, MA'ARIV WEEKEND MAGAZINE, Oct. 1, 1999 (Exhibit 6).

[533] *Id.*

[534] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Avner Azulay, Director, Rich Foundation (Mar. 8, 2001) (Exhibit 118).

[535] Letter from Avner Azulay, Director, Rich Foundation, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Mar. 15, 2001) (Exhibit 119).

application.[536] Steinhardt also wrote a follow-up letter to President Clinton on Marc Rich's behalf on January 16, 2001.[537]

Steinhardt has been an acquaintance of Marc Rich since the 1970s, and a close friend since 1996. Both Marc Rich and Denise Rich's father, Emil Eisenberg, had invested in Steinhardt's fund.[538] In 1997, Steinhardt made his first recommendation to Rich, which was to hire public relations specialist Gershon Kekst to help him with his case.[539] Over the course of the last few years, Steinhardt had numerous meetings and discussions with Rich, Azulay, Kekst, Jack Quinn, and Robert Fink concerning the legal negotiations and the pardon effort. Throughout that time, Steinhardt advised Rich on his efforts to settle his criminal case. In the fall of 2000, when the efforts to settle the case reached a dead-end, Steinhardt claims that he conceived of the pardon option and recommended that Rich seek a presidential pardon.[540]

Steinhardt was also involved in the effort to solicit Edgar Bronfman, President of the World Jewish Congress, to assist in the Rich lobbying effort. Around the same time that he faxed his follow-up letter to President Clinton, Steinhardt attempted to contact Bronfman in Washington, D.C. In a January 16, 2001, e-mail to Jack Quinn and copied to Robert Fink and Marc Rich, Avner Azulay wrote, "Michael faxed the letter to potus as requested. Edgar B. is in DC. Michael is trying to contact him to enlist his support."[541] When asked about this e-mail by Committee staff, Steinhardt confirmed that he had tried to contact Bronfman to enlist his support in the pardon effort.[542] However, Steinhardt explained that he did not contact Bronfman in time for him to help.[543]

8. Gershon Kekst

Gershon Kekst is a prominent public relations specialist who heads his own firm, Kekst and Company, which focuses on corporate communications. Kekst was hired by Marc Rich to assist with strategy and public relations relating to his criminal case.[544] Michael Steinhardt told Committee staff that he first recommended Kekst to Marc Rich sometime in 1997.[545] Kekst recalled this meeting, explaining to Committee staff that he met Steinhardt and two of Marc Rich's lawyers, including Robert Fink, at Steinhardt's office.[546] According to Kekst, he told the lawyers that he would probably not get involved because he did not believe a public relations

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[536] Letter from Michael Steinhardt to President William J, Clinton (Dec. 7, 2000) (Exhibit 120). As Steinhardt mentioned in the letter to President Clinton, "I think you may remember me as one of your earliest national supporters." Steinhardt went on in the letter to explain his decision to step away from the DLC in 1995 "when ideas and human judgments seemingly led in different directions[.]"

[537] Letter from Michael Steinhardt to President William J. Clinton (Jan. 16, 2001) (Exhibit 121).

[538] Telephone Interview with Michael Steinhardt (Mar. 12, 2001).

[539] *Id.*

[540] *Id.*

[541] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00171 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al.* (Jan. 16, 2001)) (Exhibit 122).

[542] Telephone Interview with Michael Steinhardt (Mar. 12, 2001).

[543] *Id.*

[544] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).

[545] Telephone Interview with Michael Steinhardt (Mar. 12, 2001).

[546] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).

campaign would be helpful for Rich.[547] Rich's lawyers implored Kekst to study the Rich case and to meet personally with Rich to discuss working for him.[548]

A few months later, Kekst met with Marc Rich in Switzerland.[549] According to Kekst, Rich told him that unless Kekst could guarantee that getting publicity would help resolve Rich's problems, Rich did not want to go through with it.[550] Kekst said he left the meeting with the understanding that he would do no work on the Rich case.[551] When back in the United States, he again met with Fink and Steinhardt.[552] According to Kekst, he told them that they should either let Marc Rich live in peace or get a lawyer in Washington who worked with DOJ to work on the case.[553] As is discussed in a previous section, it was Kekst who recommended Jack Quinn to the Rich team in late 1998.[554] Nevertheless, Kekst claims that he never worked on the Rich case and "turned down" work on the case.[555] In 1997 and 1998, Rich paid Kekst $75,000 for the time he spent reviewing the case and traveling to Switzerland. However, Kekst did not receive any payments from Rich after 1998 despite the fact that he devoted considerable time to the Rich case.

Despite his claim that he repeatedly rebuffed the Rich team's attempts to recruit him throughout the late 1990s, there is evidence that Kekst was working with the team at least as early as 1999. In responding to an October 13, 1999, e-mail from Robert Fink concerning press articles written about Rich, Kekst wrote, "I did not like it because we had agreed that no publcity [sic] best serves us for the time being. If someone wanted to change that position, I would have liked to have known so I could argue a bit."[556] It is telling that at this point in 1999, Kekst was referring to "us" when responding to Marc Rich's lawyer. It is also telling that in a fax sent the previous day from Azulay to Fink, Azulay suggests conferring with Kekst to get his opinion on the articles.[557] This evidence strongly indicates that Kekst was already part of the Rich team in 1999.

According to several e-mails produced to the Committee, Kekst continued to be included in the strategy and planning of the Rich team in 2000. In late January of 2000, Fink e-mailed Marc Rich to inform him that Fink and Quinn would be meeting with Kekst to discuss their negotiations with the Southern District of New York.[558] Furthermore, in a February 10, 2000, e-mail, Avner Azulay described Kekst's active role in strategy sessions involving the Southern District. Discussing the rejection letter sent by Mary Jo White's deputy Shirah Neiman, Azulay wrote, "I note that

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[547] *Id.*
[548] *Id.*
[549] *Id.*
[550] *Id.*
[551] *Id.*
[552] *Id.*
[553] *Id.*
[554] *Id.*
[555] *Id.*
[556] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00642–43 (E-mail from Gershon Kekst, President, Kekst & Co., to Robert Fink (Oct. 13, 1999)) (Exhibit 123).
[557] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00839 (Fax from Avner Azulay, Director, Rich Foundation, to Robert Fink (Oct. 12, 1999)) (Exhibit 124).
[558] Arnold & Porter Document Production A1011–12 (E-mail from Robert Fink to Marc Rich *et. al*. (Jan. 26, 2000)) (Exhibit 125).

Shirah's ltr is dated feb [sic] 2. This means that she had already issued the ltr when you JQ GK [sic] were discussing what to do and how to approach her."[559] After the rejection letter from the SDNY, Kekst continued to consult on the next steps the Rich team should take. As Robert Fink explained to Marc Rich on February 17, 2000, "I have only recently spoken to Jack, Gershon and Kitty on this issue and all agree that we should try to approach the DoJ tax lawyers even without the SDNY if necessary."[560] On February 29, 2000, Fink sent Marc Rich an e-mail noting that:

> Gershon has not billed for months. He has spoken to me many time[s] and Avner at least one and meet [sic] with me and Jack at least three times (Jack speaks to him more) in the last two months and I know he speaks to Michael from time to time. He even did a draft outline of what he thought our response should be to the Southern District, which he, frankly, thought required a response. No doubt he has some billable work for which we have not been billed. He knows that you do not want him to work for free, but has not billed or has just delayed it.[561]

As these e-mails demonstrate, Kekst was obviously much more involved in the pre-pardon efforts than he was willing to reveal to the Committee.

Kekst's claim not to be involved in the Rich pardon campaign is also strongly contradicted by the documentary evidence received by the Committee. As early as March of 2000, Kekst was mentioned by the Rich team in their strategic planning. A March 18, 2000, e-mail from Avner Azulay to Robert Fink discussing Denise Rich's "personal mission" states, "IF it works we didin't [sic] lose the present opportunity—until nov—which shall not repat [sic] itself. If it doesn't—then probably Gershon's course of acion [sic] shall be the one left option to start all over again."[562] When asked about this e-mail, Kekst told Committee staff that he has no understanding of what this e-mail means.[563] He said his entire awareness of Denise Rich comes from watching C-SPAN.[564] Kekst further stated that he did not think he knew Denise Rich was involved.[565] He said he has never met Denise Rich and does not recall speaking to Azulay around March 2000, the time of this e-mail.[566] Kekst's lack of memory on this message is brought into question by the testimony of Jack Quinn and Robert Fink. When asked about the March 18, 2000, e-mail, Quinn testified, "It's also entirely possible that Mr. Azulay, others, myself included, were involved in a conversation where someone said you know we are going to try to par-

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[559] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00698 (E-mail from Avner Azulay, Director, Rich Foundation, to Robert Fink (Feb. 10, 2000)) (Exhibit 126).
[560] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00701 (E-mail from Robert Fink to Marc Rich and Avner Azulay, Director, Rich Foundation (Feb. 17, 2000)) (Exhibit 52).
[561] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00722 (E-mail from Robert Fink to Marc Rich (Feb. 29, 2000)) (Exhibit 39).
[562] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00729 (E-mail from Avner Azulay, Director, Rich Foundation, to Robert Fink (Mar. 18, 2000)) (Exhibit 60).
[563] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).
[564] *Id.*
[565] *Id.*
[566] *Id.*

don one of these days."[567] Perhaps most significantly, when Fink was asked about this e-mail, he testified that he believed that "Gershon's course of action" referred to the idea of a pardon application.[568] This raises the distinct possibility that not only was Kekst heavily involved in the pardon effort, but more importantly that the idea to seek a pardon was his own. This may explain why Kekst was not forthcoming when he was interviewed by Committee staff.

Kekst again became heavily involved with the Rich team when the pardon effort began in earnest. In November of 2000, Robert Fink asked Kekst to meet with Avner Azulay.[569] This meeting took place on November 15, 2000.[570] According to Kekst, he told Fink that he had no interest in mounting a public relations campaign and that it would only hurt Rich.[571] Nevertheless, Kekst met with Azulay. Azulay told Kekst about the plans for a pardon petition and the need to get letters of support.[572] Azulay asked for Kekst's help but, according to Kekst, he told Azulay "no."[573] Kekst told Committee staff that he knew before his conversation with Azulay that Rich was seeking a pardon.[574] From time to time Kekst received e-mail asking if he had changed his mind. According to Kekst, he either clicked the delete button or would send a short negative answer.[575] Kekst asked the Rich team to let him know if Jack Quinn changed his mind about a public relations campaign.[576] Kekst thought that if Quinn thought a public relations campaign was warranted, then he would reconsider.[577]

Kekst's claim that he refused to help Azulay is undermined by a November 15, 2000, e-mail from Avner Azulay to Kathleen Behan, Robert Fink, and Marc Rich, the subject line of which reads, "meeting with gershon kekst[.]" The e-mail begins with the statement "GK supports the idea of presenting the request for a P[ardon]." The e-mail also goes on to state the following:

> Although chances are not high, no damage could result thereof if plea is rejected. It could also generate a positive effect on the DOJ even if case is not resolved.
>
> -Media & public criticism can be countered by the fact that for years DOJ and SD stonewalled and were never open to find a solution that the interested parties offered. The most recent rejection of JQ's proposal for a review can be used as an example.
>
> -GK proposed Elie Wiesel as the "moral authority" to present the plea. We discussed some ideas how to reach him—and that I shall do in the next few days.

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[567] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 396 (Mar. 1, 2001) (testimony of Jack Quinn).
[568] *Id.* at 516 (testimony of Robert Fink).
[569] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).
[570] Arnold & Porter Document Production A0541 (E-mail from Robert Fink to Kathleen Behan, Partner, Arnold & Porter, and Avner Azulay, Director, Rich Foundation (Nov. 15, 2000)) (Exhibit 127).
[571] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).
[572] *Id.*
[573] *Id.*
[574] *Id.*
[575] *Id.*
[576] *Id.*
[577] *Id.*

> -I gave GK a copy of my updated long list of potential supporters (Bob—pse [sic] fax a copy to KittY [sic]), and reported on my contacts with DR's friend. I expect to recieve [sic] a priority list from these to work on.
>
> -GK pointed out that Prof. Itamar Rabiinovitch [sic] is an important supporter because he is highly respected in the US and could help with additional names in the US—which are lacking in my list.
>
> -The time-table [sic] for implementing this project with a dead line should be decided upon with JQ.
>
> -I also raised the idea that "a task force" under his guidance and strategy should be established to make sure we make good use of the time and means available. I understood from GK that he shall undertake this project.
>
> -GK is meeting Bob on Thursday, shall contact JQ and decide on how to proceed.[578]

This e-mail was followed up by Azulay in an e-mail which reads, "-GK thinks it is better to present the plea in 2 consecutive steps (MR first and PG later). It might be easier to obtain positive results, if any, for one single. If it succeeds then the second shall be easier to obtain."[579]

These e-mails indicate that Kekst was heavily involved in the pardon process. From holding meetings with the Rich team, to going over lists of potential supporters, to recommending Elie Wiesel to lobby the President, Kekst had a hand in many aspects of the campaign. When asked about this first e-mail, however, Kekst told Committee staff that the e-mail does not accurately reflect what he said at the meeting.[580] Kekst stated that he does not believe he advocated seeking a pardon or taking any particular option.[581] He said he did not know how criticism could be countered, and that is why he did not agree to assist in the first place.[582] He also stated, "To think you could counter the record, which was pretty awful, is outrageous to me. I would not have proposed Elie Wiesel as a moral authority to anyone on any subject."[583] However, e-mails sent by Robert Fink strongly contradict Kekst's claim concerning Wiesel. On November 17, 2000, Fink wrote to Azulay and Behan that "Gershon made it clear that he thinks his proposed moral authority, EW, is the most important person by far."[584] On January 5, 2001, Fink sent Quinn an e-mail stating that "Gershon continues to believe, indeed, he is very consistent, that Elie Weisel [sic] is the key. I will email Avner and ask where he is on that."[585]

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[578] Arnold & Porter Document Production A0552–53 (E-mail from Avner Azulay, Director, Rich Foundation, to Kathleen Behan, Partner, Arnold & Porter *et al.* (Nov. 15, 2000)) (Exhibit 128).

[579] *Id.* at A0552.

[580] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).

[581] *Id.*

[582] *Id.*

[583] *Id.*

[584] Arnold & Porter Document Production A0564 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation, and Kathleen Behan, Partner, Arnold & Porter (Nov. 17, 2000)) (Exhibit 129).

[585] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00403 (E-mail from Robert Fink to Jack Quinn (Jan. 5, 2001)) (Exhibit 130).

The Committee is troubled by Kekst's apparent dishonesty regarding his suggested use of Elie Wiesel in the pardon process.

Committee staff also asked Kekst about numerous other e-mails also detailing his involvement in the Rich case. In one of the e-mails, Kekst personally responds to the Rich team about a meeting agenda from November 21, 2000, concerning the pardon petition and lobbying campaign. One of the bullets from the meeting agenda mentions "Maximizing use of Gershon."[586] In response to the meeting agenda, Kekst wrote the following, in all capital letters, to Robert Fink:

> ALL I CAN SAY IS THAT THE CASE MUST BE MADE (FOLLOWING THE GUIDELINES MEMO) IN THE CORE DOCUMENT. AS THERE IS NO MARGIN FOR ERROR OR OMISSION, I MUST LEAVE THE DRAFTING TO THE EXPERTS (YOU, KITTY AND JACK). I WOULD WANT A SHOT AT IT, THOUGH, BECAUSE ONCE THAT DOCUMENT HAS PASSED THAT TEST, IT SHOULD BE LOOKED AT FROM A PUBLIC AND PERSUASION TEST, AS WELL. SECOND, THE SUPPORT-SPONSORSHIP OF AN ELIE WIESEL IS CRUCIAL: AVNER SAID HE WOULD WORK ON THAT. A [sic] AND THE LIST OF SUPPORTERS MUST NOT BE ALL RECIPIENTS OF PHILANTHROPY, JEWS AND ISRAELIS: IT MUST INCLUDE POLITICAL AND BUSINESS LEADERS FROM AROUND THE WORKLD [sic], INCLUDING THE U.S.A. I BELIEVE AVNER SAID HE WOULD START ON THAT. (AS TO HOW TO USE GERSHON BEST . . . . . GEE, LET ME KNOIW [sic] WHEN YOU DECIDE !) BY THE WAY, I WILL ONLY HAVE ABOUT AN HOUR (PERHAPS A FEW MINUTES LESS) BECAUSE I AM TO CATCH A PLANE THAT AFTERNOON.[587]

When asked about the meeting and this e-mail, Kekst told Committee staff that he was unaware of any meeting being planned.[588] Committee staff then asked him about the specifics of his response. Kekst stated that he wrote this e-mail as an "angry e-mail," suggesting that he did not want to be involved.[589] Asked why he said he wanted "a shot at [the pardon petition] though because once the document has passed that test, it should be looked at from a public and persuasion test as well," Kekst said "I don't know."[590] Later, Kekst claimed that he was concerned because Azulay went so far in enlisting Jewish organizations that it would have a negative "boomerang" effect on the Jewish people.[591] So, Kekst said he may have offered to review the petition as "one last shot to keep them from doing that."[592] Kekst stated that his offer to review the par-

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[586] Arnold & Porter Document Production A0567–0569 (Agenda of Nov. 21, 2000, Meeting) (Exhibit 76).
[587] Arnold & Porter Document Production A0570 (E-mail from Gershon Kekst, President, Kekst and Co., to Robert Fink and Jack Quinn (Nov. 19, 2000)) (Exhibit 131).
[588] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).
[589] *Id.*
[590] *Id.*
[591] *Id.*
[592] *Id.*

don petition was limited solely to this aspect.[593] Kekst claimed that when he stated, "it should be looked at from a public and persuasion test as well," he was referring to trying to limit any anti-Semitic backlash.[594]

The explanation by Kekst that he was only reluctantly involved, and only offered advice because of fear of an anti-Semitic backlash is belied by the fact that the Rich team included him in numerous conference calls, and continued to include him in their e-mail loop. Moreover, Kekst continued to respond to some of the messages. For example, before the pardon application was submitted, Robert Fink forwarded Kekst a copy of Avner Azulay's work on the letters concerning Rich's philanthropic activity that would be included in the application.[595]

On December 26, 2000, Kekst responded to a Robert Fink e-mail, which discussed contacting Hillary Rodham Clinton for her support and having Denise Rich call the White House, by registering his agreement with Fink's recommendation.[596] The following day, Kekst responded to an e-mail from Robert Fink, reminding him of his position on submitting two separate pardon applications for Marc Rich and Pincus Green. Kekst responded, "As you will recall, I always thought it best to de-link the two. But . . . ."[597] Finally, on December 27, 2000, Kekst responded to an e-mail from Fink concerning Senator Charles Schumer, stating, "Can quinn tell us who is close enough to lean on schumer?? I am certainly willing to call him, but have no real clout. Jack might be able to tell us quickly who the top contributors are . . . . . maybe Bernard Schwartz??"[598] As this series of e-mails makes clear, Kekst was far from a passive bystander who was simply worried about anti-Semitism. He was actively making suggestions about tactics—including the use of prominent political contributors to enlist the help of elected officials in the pardon effort.

During the last few weeks of the Clinton Presidency, Kekst continued to advise the Rich team. When asked on January 9, 2001, by Robert Fink about a potential press story on Rudy Giuliani's treatment of Marc Rich, Kekst responded:

> Unless jack quinn changes his views about the risk-reward ratio for publicity, I vote against it. The herald tribune, in any event, is not the place for us to be. The publicity I was referring to relates to the repair of marc's name assuming we fail, not to help make it happen (unless jack says it would). By the way, please tell marc that I am "assured" the call has been made by elie.[599]

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[593] *Id.*

[594] *Id.*

[595] Dickstein Shapiro Morin & Oshinsky Document Production DSM0001 (E-mail from Robert Fink to Gershon Kekst, President, Kekst and Co. (Nov. 30, 2000)) (Exhibit 132).

[596] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00076 (E-mail from Gershon Kekst, President, Kekst and Co., to Robert Fink (Dec. 26, 2000)) (Exhibit 133).

[597] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00081 (E-mail from Gershon Kekst, President, Kekst and Co., to Robert Fink (Dec. 27, 2000)) (Exhibit 134).

[598] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00083 (E-mail from Gershon Kekst, President, Kekst and Co., to Robert Fink (Dec. 27, 2000)) (Exhibit 135).

[599] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00159 (E-mail from Gershon Kekst, President, Kekst and Co., to Robert Fink and Jack Quinn (Jan. 9, 2001)) (Exhibit 116).

Two days later, Fink wrote to Marc Rich, stating, "Meanwhile I spoke to Gershon yesterday, and he said he would call first thing this morning to specifically ask that EW call Potus and no one else."[600] That same day, January 11, 2001, Kekst received a copy of a letter from the Speaker of the Israeli Knesset concerning Marc Rich. Kekst questioned its effectiveness in asking Quinn and Fink, "[I]s this a helpful letter?"[601] On January 16, 2001, Robert Fink e-mailed Marc Rich about Kekst's views on the pardon effort:

> Gershon just called and said he is convinced this is still possible and that this is a critical week, and suggests you call Jack directly and encourage him to keep plugging away, and thanking him for what he has done. Gershon is also convinced that the no publicity route was correct.[602]

Even after the pardon was granted, Kekst continued to receive and respond to e-mails from the Rich team. In a January 23, 2001, e-mail that Kekst sent to Quinn and Fink, he stated "I spoke with marc. He asked the question and I told him that he should not speak with any reporters anywhere, , , , , , , [sic] if after his first trip to America and that 'trauma' passes, he may be able to make 'courtesy calls' in Europe."[603] By dealing directly with Marc Rich concerning press inquiries, Kekst was clearly actively involved in the pardon process until the end. When asked about this e-mail, Kekst said that he spoke with Marc Rich twice after the pardon.[604] The first, he claimed, was to say congratulations.[605] The second was to say that he should do nothing at all about the public relations strategy.[606]

A series of e-mails from January 22 and January 24, 2001, suggests, however, that Kekst was actively consulting with the Rich team on post-pardon public relations strategy. On January 22, Kekst made suggestions for a post-pardon letter from Marc Rich to President Clinton. He wrote, "I think he needs to make reference to the fact that the president's opinion and action were based on his having been willing to take the time and give consideration to the best professional analysius [sic] of the matter which made clear the need to 'do justice' at this point."[607] That same day, Avner Azulay wrote to Quinn, Fink, Behan, Green, Kekst, and Rich, stating, "I thought we agreed that all inquiries, interviews should be channeled to gershon. Why is BF giving interviews? He shouldn't be dealing with this aspect."[608] Furthermore, in a discussion about an op-ed piece being solicited by the Rich team, a statement to Robert Fink reads, "It is Gershon's view that the New York Times

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[600] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00165 (E-mail from Robert Fink to Marc Rich and Avner Azulay, Director, Rich Foundation (Jan. 11, 2001)) (Exhibit 136).

[601] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00163–64 (E-mail from Gershon Kekst, President, Kekst and Co., to Robert Fink and Jack Quinn (Jan. 11, 2001)) (Exhibit 103).

[602] Piper Marbury Rudnick & Wolfe Document Production PMRW 00168 (E-mail from Robert Fink to Marc Rich (Jan. 16, 2001)) (Exhibit 137).

[603] Jack Quinn Document Production (E-mail from Gershon Kekst, President, Kekst and Co., to Jack Quinn and Robert Fink (Jan. 23, 2001)) (Exhibit 138).

[604] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).

[605] *Id.*

[606] *Id.*

[607] Jack Quinn Document Production (E-mail from Gershon Kekst, President, Kekst and Co., to Robert Fink and Jack Quinn (Jan. 22, 2001)) (Exhibit 139).

[608] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00191 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al*. (Jan. 22, 2001)) (Exhibit 69).

is the first choice for placement. He suggests that Jack resubmit this version for the Time's consideration."[609] In another e-mail of January 24, 2001, Fink asked a question about a New York Times reporter. In response, Kekst wrote, "I believe the paper is being dealt with . . . . and has been[.]"[610] Asked about this e-mail by Committee staff, Kekst said he was ignoring Azulay and did not want to talk to him.[611] Kekst said he believed Azulay had the "insane idea" that the Times reporter could help turn the public relations campaign around.[612] Nevertheless, Kekst continued to advise the Rich team and deal with members of the press. On January 25, 2001, when it was clear that the press was turning negative on the Rich pardon, Kekst issued a warning to Azulay, Fink and Quinn. He stated:

> The reporter at the ny times is Allison cowan working with Johnny apple. A senior, well-experienced team. They have met with jack and I believe you should run this past him. Unless there is strong evidence, they are not likely to fabricate a story. Is there any trace of evidence?? lenzner told me that forbes believes milkin [sic] should have been pardoned and he wanted to do a piece contrasting the two and showing that if mike did'nt [sic] deserve one certainly m.,r. [sic] didn't either. Talk with fink about him. PLEASE be careful about letting so many people talk with reporters. . . . . .all that is being accomplished is that, however "well-intentioned" they stir the story and keep it cooking!! We are a stage [sic] now at which the story is being kept alive be [sic] wannabe heroes.[613]

Kekst's claim not to be actively involved in the pardon effort is simply not believable. It is troubling that, despite all of the evidence to the contrary, Kekst told the Committee that he "did not work on the Marc Rich case."[614] It would make no sense for Azulay or others on the Rich team to waste time e-mailing each other about suggestions that were not made or offers to help that were fabricated. If Kekst were not involved, the Rich team would have been engaged in a fruitless effort to include him in their deliberations. Kekst made far too many suggestions to the Rich team throughout the pardon campaign for him to credibly assert that he was not involved. Kekst even admitted to Committee staff that he billed Marc Rich between $80,000 and $90,000—a large fee for someone who was not involved in the process.[615] It stands to reason that a person such as Kekst who needs to preserve his public image for his own livelihood as a public relations consultant would try to distance himself from the Marc Rich affair. Unfortunately, Kekst did so at the expense of providing the Committee with candid information.

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[609] Jack Quinn Document Production (E-mail from Roanne Kulakoff to Robert Fink (Jan. 24, 2001)) (Exhibit 140).

[610] Jack Quinn Document Production (E-mail from Gershon Kekst, President, Kekst and Co., to Avner Azulay, Director, Rich Foundation *et al.* (Jan. 24, 2001)) (Exhibit 141).

[611] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).

[612] *Id.*

[613] Jack Quinn Document Production (E-mail from Gershon Kekst, President, Kekst and Co., to Avner Azulay, Director, Rich Foundation *et al.* (Jan. 25, 2001)) (Exhibit 142).

[614] Interview with Gershon Kekst, President, Kekst and Co. (Mar. 15, 2001).

[615] *Id.*

9. Robert Fink

Robert Fink has worked as an attorney for Marc Rich for two decades, beginning in 1980.[616] At that time, Fink was with the law firm of Milgrim Thomajan and Lee. Fink's former law firm was responsible for what the Southern District of New York referred to as the "steamer trunk affair," in which subpoenaed documents from Marc Rich's company were taken out of the country on a plane to Switzerland.[617] Fink continued to represent Rich when he moved to his new law firm, Piper Marbury Rudnick & Wolfe. Fink was involved throughout the 1980s and 1990s with the failed efforts to reach an acceptable arrangement with the SDNY. It was Fink to whom the SDNY communicated the offer to drop the RICO charge in the indictment if Rich and Green would return to the United States to face trial.[618] Fink continued to work on the matter when Jack Quinn and Kitty Behan were retained by Rich. He was one of the most active and important members of the Rich pardon effort.

10. Kathleen Behan

Kathleen Behan is a partner at the law firm Arnold & Porter. Jack Quinn recruited her to the Marc Rich case when he was also at the firm. Behan was one of the three most active lawyers in the pardon process, along with Quinn and Fink. Behan met Marc Rich in 1999 when she and Quinn flew to Switzerland to discuss their representation of Rich. Like Quinn, Behan was retained in July of 1999 to work for Marc Rich for a fee of at least $330,000 that included $55,000 per month for the first six months.[619] Behan was interviewed by Committee staff on February 27, 2001. Behan asserted attorney-client privilege or work product privilege in response to the majority of questions relating to her work on the pardon.[620]

11. Peter Kadzik

Peter Kadzik is a partner at Dickstein Shapiro Morin & Oshinsky LLP. According to Jack Quinn, Kadzik was hired at the suggestion of Michael Green, a fellow partner of Kadzik's, because he was "trusted by [White House Chief of Staff John] Podesta," and was considered to be a "useful person to convey [Marc Rich's] arguments to Mr. Podesta."[621] Kadzik's effort on behalf of the Rich team included seven contacts with the White House Chief of Staff or his assistants between December 12, 2000, and the end of the Clinton Administration.[622] He also called the White House four out of the final five days of the Administration to see what progress

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[616] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 467 (Mar. 1, 2001) (testimony of Robert Fink).

[617] *See* Section I(B)(1) above.

[618] Piper Marbury Rudnick & Wolfe Document Production 00697 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation (Feb. 10, 2000)) (Exhibit 32).

[619] Arnold & Porter Document Production A0507–10 (Letter from Kathleen Behan, Partner, Arnold & Porter, to Marc Rich (July 21, 1999)) (Exhibit 34).

[620] *Id.*

[621] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform,* 107th Cong. 432 (Mar. 1, 2001) (testimony of Jack Quinn).

[622] Dickstein Shapiro Morin & Oshinsky Document Production DSM0064–65 (Billing records from Dickstein Shapiro Morin & Oshinsky to Robert Fink (Dec. 12, 2000, and Feb. 13, 2001)) (Exhibit 143).

had been made on the Rich pardon.[623] Based on the testimony of Podesta before the Committee, it does not appear that Kadzik's efforts were successful, as Podesta remained opposed to the Marc Rich pardon until the end.

B. Importance of Secrecy to the Marc Rich Team

During the lobbying campaign for the pardon, the Rich team was keenly aware that public knowledge of their efforts would hamper their ability to secure a pardon. The most logical reason for their concern was knowledge that sunshine regarding the Rich pardon application would severely curtail their ability to misrepresent facts about the history of Rich's legal troubles. Perhaps more importantly, public attention probably would have resulted in the Administration consulting with the Central Intelligence Agency or the National Security Agency. Such consultation would certainly have had a negative impact on the Rich pardon petition.

Rich's legal team was determined to keep their efforts secret from the outset. An agenda for one of the first meetings regarding the Rich pardon effort lists as a discussion item "A need for secrecy and possibility/likelihood of potential leaks. (Kitty says people are watching this closely.)"[624] Robert Fink defended this approach, testifying that "Marc Rich has been victimized by the press and publicity and that if the press learned about this that victimization would continue."[625]

On January 9, 2001, Robert Fink sent an e-mail to Gershon Kekst and Jack Quinn in which he discussed a negative story that was being written about New York Mayor Rudolph Giuliani.[626] Fink mentioned that the story "led to a discussion [with Marc Rich] on whether we seek any publicity about the pardon application[.]"[627] As Fink continued, "I explained that we did not want publicity now. He [Marc Rich] understands that is our view. I look forward to hearing from you."[628] Jack Quinn responded to Fink's e-mail the same day stating, "[I] think we've benefitted from being under the press radar. [P]odesta said as much."[629] Gershon Kekst also responded to Fink's message, stating, "Unless jack quinn [sic] changes his views about the risk-reward ratio for publicity, I vote against it."[630] To this, Fink responded, "I agree with your views on publicity[.]"[631]

The fears over the disclosure of the pardon effort concerned the Rich team up until the very end of the Clinton Administration. On January 19, 2001, Robert Fink e-mailed Avner Azulay, Mike Green, and Kitty Behan, and informed them that the head of the SEC

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[623] *Id.*

[624] Arnold & Porter Document Production A0569 (E-mail from Robert Fink to Jack Quinn *et al.* (Nov. 19, 2000)) (Exhibit 76). Fink sent the agenda for the November 21, 2000, meeting as an e-mail attachment.

[625] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform,* 107th Cong. 476 (Mar. 1, 2001) (testimony of Robert Fink).

[626] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00158 (E-mail from Robert Fink to Gershon Kekst, President, Kekst and Co., and Jack Quinn (Jan. 9, 2001)) (Exhibit 144).

[627] *Id.*

[628] *Id.*

[629] *Id.*

[630] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00159 (E-mail from Gershon Kekst, President, Kekst and Co., to Robert Fink and Jack Quinn (Jan. 9, 2001)) (Exhibit 116).

[631] *Id.*

knew about the pardon efforts.[632] As Fink stated in the message, "[w]e agree that is not good and that maybe the SDNY knows too, but we have no information on it."[633] In other words, the Rich team recognized that knowledge of their efforts could produce an outcry, especially if government officials who knew the details of the criminal case became aware of the possibility of a pardon for Rich and Green. Jack Quinn acknowledged as much at the Committee's February 8, 2001, hearing:

> Mr. LATOURETTE. [I]s there any plain reading of that e-mail on January 19, 2001, other than you all were afraid if the Southern District of New York caught wind of what you were up to, the egg was going to hit the fan?
>
> Mr. QUINN. My preference was that the White House counsel contact Main Justice and that, based on the course of dealings we had earlier, that they would make a recommendation that would be helpful to us. I certainly knew that if Main Justice deferred to the prosecutors in New York, they were likely to have a negative recommendation. But I thought that, based on our earlier dealings, they had enough information.[634]

Not only did Quinn and the Rich team recognize the public relations problem posed by the Rich pardon campaign, but, according to one e-mail, the White House Chief of Staff recognized this potential problem as well.[635] As it turned out, the eventual pardon of Marc Rich by President Clinton produced exactly the public outrage that the Rich team sought to avoid by keeping their lobbying campaign secret. However, by the time this wide-ranging public outrage was realized, Marc Rich already had his presidential pardon secured.

C. Jack Quinn and Eric Holder Cut the Justice Department Out of the Process

By late November 2000, the Marc Rich pardon petition had been prepared and was ready to be filed with the White House. Rather than go immediately to the White House, Jack Quinn first turned to Deputy Attorney General Eric Holder. Holder had worked with Quinn during the previous year to try to force the Southern District of New York to sit down and meet with Quinn about settling the charges against Rich. During that process, Holder became more familiar with the Marc Rich case, to the extent he was aware of the charges against Rich, and the fact that Rich was a fugitive from justice. Despite these facts, Holder had a basically sympathetic view of the Rich case. Holder believed that the prosecutors in New York should meet with Quinn, despite the fact that Rich was a fugitive and that prosecutors from the SDNY had already

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[632] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00180 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation *et al.* (Jan. 19, 2001)) (Exhibit 145).

[633] *Id.*

[634] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 230–31 (Feb. 8, 2001) (statement of the Honorable Steven LaTourette and testimony of Jack Quinn).

[635] For his part, Podesta stated that he did not recall telling Kadzik that Rich had benefited from being "under the press radar." *See* "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 432 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

had a number of unproductive negotiations with Rich's lawyers. In fact, Holder told Quinn the refusal of the prosecutors to meet was "ridiculous,"[636] that "we're all sympathetic," and the "equities [are] on your side."[637] By taking this position with Quinn, Holder had already sent the message to Quinn that he had a favorable view of the Marc Rich case, despite the firmly entrenched position that his own agency had taken for the preceding seventeen years.

As Marc Rich's lawyers prepared to file the pardon petition, Eric Holder provided pivotal assistance to their effort. Holder encouraged Jack Quinn to seek the pardon and helped Quinn cut the Justice Department out of the process of reviewing Rich's pardon petition. Ordinarily, the Justice Department has a key role in reviewing pardon petitions and providing a recommendation to the President as to whether each petition should be granted. However, Eric Holder abdicated his responsibilities as the Deputy Attorney General and took actions that ensured the Justice Department would have no meaningful input on the Rich and Green pardons. This was the first of two actions taken by Holder at the Justice Department's expense. After first succeeding in keeping the career prosecutors at the Justice Department from having any input in the Rich pardon, Holder informed the White House on the last day of the Clinton Administration that he was "neutral, leaning towards favorable" on the Rich and Green pardons.[638] Together, these actions had a dramatic impact on ensuring that the pardons were ultimately granted.

Knowing that Holder was favorably disposed to the Marc Rich case, Quinn approached Holder and confided in him that he was going to file the pardon petition with the White House. On November 21, 2000, Holder, Quinn, and representatives from the U.S. Marshals Service met regarding a matter for another client of Quinn's. After this meeting was over, Quinn took Holder aside and informed him that he would be filing a pardon petition on behalf of Marc Rich directly with the White House. Quinn then stated that "I hoped I could encourage the White House to seek his views and he said I should do so."[639] Quinn then asked Holder if Quinn should send a letter to the White House encouraging the White House Counsel to seek Holder's views. Holder told Quinn "no, just have him [sic] call me."[640] It is also likely that at the November 21, 2000, meeting, Quinn and Holder discussed whether Holder wanted to receive a copy of the pardon petition. When a senior Justice Department official informed *The Washington Post* that Holder left the November 21 meeting expecting to receive a copy of the pardon petition from Quinn, Quinn told the newspaper that:

> I am astounded that he now takes that position. . . . I am astounded because I specifically had a conversation [in November] with him [Holder] about the fact that I was going

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[636] *See* Jack Quinn Document Production (Note of Jack Quinn, Nov. 8, 1999) (Exhibit 48). *See also* "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 45 (Feb. 8, 2001) (testimony of Jack Quinn).

[637] *See* Jack Quinn Document Production (Note of Jack Quinn) (Exhibit 56).

[638] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 198 (Mar. 1, 2001) (testimony of Eric Holder, former Deputy Attorney General, Department of Justice).

[639] *Id*. at 44 (Feb. 8, 2001) (testimony of Jack Quinn).

[640] *Id*. at 158.

> to submit it to the White House and I asked him if he needed it in writing and he said he did not.[641]

While Quinn did not repeat this charge at the Committee's hearings, his statement to the newspaper makes it fairly clear that he offered to provide Holder with a copy of the pardon petition, and that Holder decided he did not want one. This appears to be in keeping with Holder's apparent disinterest in learning about the details of Marc Rich's legal troubles. In the normal course of events, one would expect Holder to have welcomed input from professional staff with experience in the pardon process. For some unknown reason, however, he eschewed such expertise.

For his part, Holder has testified that he does not recall any discussion of Marc Rich with Jack Quinn on November 21, 2000:

> Mr. Quinn has recently stated after the meeting he told me he was going to file a pardon request on behalf of Mr. Rich at the White House. I have no memory of that conversation but do not question Mr. Quinn's assertion. His comment would have been a fairly unremarkable one, given my belief that any pardon petition filed with the White House ultimately would be sent to the Justice Department for review and consideration.[642]
>
> * * *
>
> What I assumed was going to happen in late November of 2000 was that after the petition had been filed, that the White House would be reaching out to the Justice Department, and that we would have an opportunity at that point to share with them as we do in pardon—that we generally do in pardon requests, after all of the vetting had been done, the opinion of the Justice Department.[643]

Holder's defense is difficult to believe. First, his characterization of Quinn's comments as "unremarkable" is inconsistent with everything about the Rich case. Marc Rich was one of the most wanted fugitives in the United States, and the largest tax cheat in the country's history at the time of his indictment. Holder knew that his fugitive status meant that federal prosecutors wouldn't even meet with Rich's lawyers. Yet, when Jack Quinn informed him that he was seeking a presidential pardon, outside of the normal pardon process, Holder claims that he did not take note of it and could not even remember it two months later. Equally as unbelievable is Holder's claim that he did not want a copy of the pardon petition because he was confident that the White House would send the Justice Department a copy of the petition and seek out the Department's opinion. The fact that Quinn was going directly to the White House indicated that Quinn was trying to avoid the normal Justice Department procedure by which pardon petitions were reviewed. It

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[641] James V. Grimaldi and Robert O'Harrow Jr., *Recollections at Odds on Pardon*, WASH. POST, Jan. 26, 2001, at E1.

[642] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 193 (Feb. 8, 2001) (testimony of Eric Holder, former Deputy Attorney General, Department of Justice).

[643] *Id*. at 212.

also indicated that no serious vetting would be done on the Rich petition.

For his part, Jack Quinn claimed that he was not trying to keep any information from the Justice Department, but rather was filing his petition with the White House merely to expedite consideration of the pardon. Quinn claimed that he believed that the White House would provide the Justice Department with a copy of the pardon petition, and therefore, that he had no malign intent in failing to provide Holder with a copy of the petition in November, or at any point during the application process:

> COUNSEL. Why did you not send Mr. Holder the pardon application?
>
> Mr. QUINN. I believed that a good deal of the material included in the pardon application consisted, at least in their central parts, of the materials that I had provided to him in October 1999 when he asked Mr. Margolis to take a look at this matter. But you're correct. I did not at that time send him a copy of the full pardon petition.
>
> COUNSEL. The question was, why did you not do that? Is it because you thought he had all of the material from over a year previous?
>
> Mr. QUINN. Well, I thought he was sufficiently familiar with the underlying case that, when he was asked, he would be in a position to advise the White House.
>
> * * *
>
> COUNSEL. But you had not provided the extent of your ultimate argument to the President, so you didn't feel that he needed to see that?
>
> Mr. QUINN. Well, again, I think, in fairness, you have to say, if you look at the material I provided to him earlier about the flaws in the indictment, you will see that it was the same argument made in the pardon petition.
>
> COUNSEL. Because you're proud of your work, and you believe in your work, you want to provide it to people. It's not a matter of how much it costs, because that's not the issue. You would like to provide it to people so they can see the extent of what you are representing in whatever material you're pursuing. And, generally, it seems when you don't provide material to people it's because you don't want them to review it or you don't want them to poke holes in it or perhaps find a flaw. I mean, the courts require briefs. You have to provide them so they can see your legal reasoning. In this case, were you concerned that if you provided Mr. Holder your application that Mr. Holder might send it on to somebody who might actually read it and look at it?
>
> Mr. QUINN. Absolutely not. Again, I had provided these arguments to him at an earlier point.

> COUNSEL. You haven't provided all of the arguments, all the letters and all the other things in the tabs. You couldn't have provided them previously.
>
> Mr. QUINN. Fair enough. The other point I was going to make is, as I said earlier, I encouraged the White House Counsel's Office to reach out to him, and there's no reason in the world why they couldn't have shared a copy of the pardon petition when they did so.
>
> COUNSEL. I understand, but I've not yet heard of a lawyer who has decided to take a weak argument and leave it on the table when he's strengthened his argument. . . . . [I]t's hard for us to understand, even if it was the 11th hour, why you simply wouldn't put it in an envelope, messenger it over, let Mr. Holder take a look at it, take it home, spend a couple of hours. He could think to himself, maybe we want to talk to security people; maybe we want to send it over to the FBI. It's just—we still don't understand. I guess what you said is you provided material the previous year, and that was enough for Mr. Holder.
>
> Mr. QUINN. Well, look, you can disagree with me on this. I was not—I didn't make that decision in an effort to hide the pardon petition from anybody. I encouraged the White House to reach out to the Justice Department and seek their views. That's my testimony.[644]

Quinn's testimony is not convincing. As the questioning at the hearing demonstrated, Quinn simply did not have any reasonable justification for failing to send Holder a copy of the pardon petition. Perhaps most important, Quinn knew that if the petition were provided to Holder, Holder would likely forward it to the staff of the Pardon Attorney. Even more likely, the correspondence would be copied to the Pardon Attorney as a matter of routine. These lawyers would review the case, which would have likely involved contacts with the attorneys at the Southern District of New York, FBI, CIA, and NSA. If that had happened, Quinn's arguments would have been revealed as fraudulent, and this might have proven fatal to the pardon effort.

Quinn's claim that he had provided Holder with everything he needed to know in 1999 simply is not true. In early 2000, Quinn provided Holder with a two-page set of talking points that addressed solely why the Justice Department should review the Rich indictment.[645] It did not even begin to address the issues raised in the 31-page pardon petition. Quinn could have no reason for wanting to keep the pardon petition from Holder other than his desire to keep Rich's quest for a pardon as confidential as possible.

The key point that must be taken away from November 21, 2000, discussion between Holder and Quinn is that it took both of them to keep the Rich pardon petition from the Justice Department. It cannot be disputed that Holder should have recognized the significance of the fact that Quinn was applying for a pardon for Rich,

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[644] *Id.* at 267–68 (testimony of Jack Quinn).

[645] Jack Quinn Document Production (Memorandum entitled "Why DOJ Should Review the Marc Rich Indictment," Feb. 28, 2000) (Exhibit 53).

and should have asked for a copy of the pardon petition to be forwarded to the Justice Department. Holder has not provided any coherent explanation of why he failed to do so. Similarly, Quinn should have provided a copy of the pardon petition to Holder. Quinn has claimed that he had nothing to hide, and frequently asked the White House to include the Justice Department in the pardon process. Quinn's claims are misleading. Quinn clearly tried to keep his pardon petition from the Justice Department, apparently out of the fear that it could fall into the wrong hands, namely the prosecutors in New York, or anyone else who had knowledge of Rich's illegal activities or his subsequent actions in support of countries like Iraq, Iran, and Libya.

The final question then is whether Holder's failure to obtain the Rich petition and involve the Justice Department in the pardon process was the result of incompetence or a deliberate decision to assist Jack Quinn. At the Committee's hearing, Holder suggested that it was the result of poor judgment, initially not recognizing the seriousness of the Rich case, and then, by the time that he recognized that the pardon was being considered, being distracted by other matters.[646] However, it is difficult to believe that Holder's judgment would be so monumentally poor that he could not understand how he was being manipulated by Jack Quinn. Rather, the preponderance of the evidence indicates that Eric Holder was deliberately assisting Quinn with the Rich petition, and deliberately cut the rest of the Justice Department out of the process to help Quinn obtain the pardon for Marc Rich. This conclusion is supported by the following e-mail, which was sent by Quinn to Kitty Behan, Gershon Kekst, and Robert Fink on November 18, 2000, *three days before* Quinn's meeting with Holder on November 21:

> Subject: eric
>
> spoke to him last evening. he says go straight to wh. also says timing is good. we shd get in soon. will elab when we speak.[647]

Assuming the "eric" referenced is Eric Holder, this e-mail contradicts the heart of Holder's defense. Holder claims that he was not focused on the Rich pardon until late in the process, at first on January 6, when he spoke to Beth Nolan, and then, not really until January 19, when he announced his position of "neutral, leaning towards favorable." He claims that he does not even recall the November 21, 2000, meeting, because it was an unremarkable request. And he claims that he did not ask for a copy of the petition because he thought he would get everything in due course from the White House. However, this e-mail indicates that Holder suggested that Quinn file the petition directly with the White House and circumvent the Justice Department. It also suggests that Holder had reason to know that the request was remarkable, as he suggested to Quinn that he circumvent the Justice Department. Finally, it indicates that Holder was a willing participant in the plan to keep

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[646] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 193–95 (Feb. 8, 2001) (testimony of Eric Holder, former Deputy Attorney General, Department of Justice).

[647] Arnold & Porter Document Production A0565 (E-mail from Jack Quinn to Kathleen Behan, Partner, Arnold & Porter *et al*. (Nov. 18, 2000)) (Exhibit 146).

the Justice Department from knowing about and opposing the Marc Rich pardon.

The final question is why Eric Holder would do such a thing. As discussed below, Holder had been asking Quinn for his help in being appointed Attorney General in a Gore Administration. At the time when Holder made the decision to assist Quinn, there was still a realistic possibility of Vice President Gore winning the election. As an influential friend of Vice President Gore, Jack Quinn would be in a key position to assist Holder's chances of becoming Attorney General. While this may not have been Holder's sole motivation in aiding Quinn, it was likely a powerful motivation for Holder.[648] Regardless of Holder's motivations, his actions were unconscionable. One of Holder's primary duties in the pardon process was to make sure that the views of the Justice Department were adequately represented in the pardon process. In addition, as a Justice Department employee, he was bound by federal regulations that required the Justice Department to review pardon petitions before they were presented to the White House. Finally, as a simple matter of prudence, Holder should have ensured that he knew something about the pardon before he took action that substantially assisted the chances that the pardon would be issued. By helping Quinn circumvent the Justice Department, Holder ensured that his own prosecutors would not be able to express their opinion about the Rich case. In so doing, Holder disserved his own Department, as well as the statutes he was sworn to uphold.

D. The Filing of the Pardon Petition

On December 11, 2001, Jack Quinn called White House Counsel Beth Nolan to inform her that he would be submitting a pardon application to the White House that day.[649] Quinn personally delivered the application to the White House later that day.[650] Accompanying the application was a letter from Quinn to President Clinton, briefly explaining Rich's arguments.[651] In that letter, Quinn provided a brief summary of his arguments, claiming that a "grave injustice" had been done, that Rich and Green's attempts at settlement had been rebuffed, and that the charges against Rich and Green were unjustified.

The filing of the pardon petition triggered a small wave of phone calls and other attempts to lobby the President and top White House officials on the Rich pardon. These contacts ranged from calls from Prime Minister Ehud Barak to personal communications between Jack Quinn and his former White House colleagues.

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[648] In evaluating Holder's motivations, one should keep in mind that the only reason Jack Quinn was hired by Marc Rich was because of Eric Holder's initial recommendation to Gershon Kekst. Holder's suggestion to Kekst that he hire a lawyer like Quinn, who could come to him and solve the problem, was a self-fulfilling prophecy.

[649] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 431 (Mar. 1, 2001) (testimony of Beth Nolan, former Counsel to the President, the White House). By contrast, Kathleen Behan, who was present when Quinn called Nolan, told Committee Staff that she did not recall Quinn saying he was sending over a pardon application. Behan stated, "It sounded like he didn't need to explain to her what it was. It was very cordial conversation." Interview with Kathleen Behan, Partner, Arnold & Porter (Feb. 27, 2001).

[650] Jack Quinn Document Production (Letter from Jack Quinn to President William J. Clinton (Dec. 11, 2000)) (Exhibit 147).

[651] *Id.*

1. December 11, 2000, Call from Ehud Barak

On December 11, 2000, the same day that the pardon application was delivered to the White House, the Rich pardon became a topic of discussion between President Clinton and Israeli Prime Minister Ehud Barak. One can only speculate as to whether this was orchestrated or an extraordinary coincidence. Barak's involvement in the lobbying campaign was secured by Avner Azulay of the Rich Foundation. On May 13, 2001, Barak responded to a March 8, 2001, inquiry by the Committee concerning his involvement in the Rich pardon. As he stated in his letter:

> Few months ago [sic] I was approached by the chairman of the Rich Foundation in Israel. The chairman, Mr. Azoulay [sic] is a man I know [sic] for many years, who had contributed a lot to the security of the State of Israel for its philanthropic activities in the fields of healthcare, education and culture.
>
> Mr. Azoulay [sic] asked me to raise Mr. Rich case with President Clinton. I raised the subject with President Clinton several times (probably three) in the course of routine telephone conversations during the last two or three months of his presidency and made a personal recommendation to him to consider the case.[652]

The first of these three telephone conversations between Barak and Clinton concerning clemency for Marc Rich took place on December 11, 2000. The notes of the conversation taken by National Security Council staff indicate Prime Minister Barak raised the matter towards the end of the nineteen-minute conversation:

> BARAK. Okay, thank you. One last remark. There is an American Jewish businessman living in Switzerland and making a lot of philanthropic contributions to Israeli institutions and activities like education, and he is a man called Mark [sic] Rich. He violated certain rules of the game in the United States and is living abroad. I just wanted to let you know that here he is highly appreciated for his support of so many philanthropic institutions and funds, and that if I can, I would like to make my recommendation to consider his case.
>
> CLINTON. I am going to take all of them up at the same time. I know about that case because I know his ex-wife. She wants to help him, too. If your ex-wife wants to help you, that's good.
>
> BARAK. Oh. I know his new wife only, an Italian woman, very young. Okay. So, Mr. President, thank you very much. We will be in touch.[653]

As this exchange indicates, President Clinton may have already heard of the Marc Rich matter because of some contact with Denise Rich. It is unclear, however, when this contact occurred or in what

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[652] Letter from Ehud Barak, Prime Minister, Israel, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (May 13, 2001) (Exhibit 99).

[653] Verbatim notes of transcript of telephone conversation between President William J. Clinton and Ehud Barak, Prime Minister, Israel (Dec. 11, 2000) (Exhibit 148).

context it occurred. It is also possible that President Clinton discussed with Denise Rich her ex-husband's pardon over the phone. Phone records reflect a number of telephone calls between Rich and the White House.[654] It may also be that the President discussed the Marc Rich matter with Beth Dozoretz, who visited the White House on numerous occasions and placed numerous phone calls prior to Barak's first phone call. In any event, it is clear from the transcript of this conversation that President Clinton was already aware of the Marc Rich pardon effort when he first spoke with Prime Minister Barak.

There were additional lobbying contacts made with the White House on the Marc Rich matter on December 11. That same day, former Israeli Prime Minister Shimon Peres contacted President Clinton about the Marc Rich case. Presumably, this call, like the call from Prime Minister Barak, was initiated by Avner Azulay. Also on December 11, 2000, President Clinton attempted to call Beth Dozoretz. [655] It is unclear, from available documentary evidence, whether Dozoretz successfully spoke with the President, or what they spoke about. However, it is clear that Dozoretz and President Clinton discussed Marc Rich at some point in the days around when the petition was filed. In this conversation, President Clinton told Dozoretz that Quinn should make his case to the White House Counsel's Office. Finally, as discussed above, on December 12, 2000, Elie Wiesel visited the White House and may have raised the Rich pardon with a member of the White House staff.

2. Quinn Was Likely Legally Prohibited from Lobbying the White House

When Jack Quinn filed the Marc Rich pardon petition with the White House and contacted White House staff regarding the pardon, he violated Executive Order 12834. On January 20, 1993, the first day of the new administration, President Clinton signed into law Executive Order 12834.[656] The order prohibited persons who had worked for the administration from lobbying the administration for a five-year period.[657] In fact, Jack Quinn had a hand in writing this regulation. Quinn had left the White House in February of 1997, and was therefore under the prohibition when he submitted the pardon petition. Beth Nolan testified that when Quinn brought the pardon application to the White House, she raised the issue of his eligibility to represent someone before the White House.[658] According to Nolan, Quinn responded to her concerns by telling her that he "had obtained a legal opinion that it was permissible for him to represent someone in a pardon application." [659] Kathleen Behan also told Committee staff that Quinn told

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[654] *See, e.g.*, Verizon Document Production (Telephone calls from Denise Rich to the White House, Dec. 9, 1999); Qwest Document Production (Telephone call from Denise Rich to the White House, Feb. 16, 2000).

[655] NARA Document Production (White House record of attempted call between Dozoretz and President Clinton).

[656] Exec. Order No. 12,834; 58 Fed. Reg. 5,911 (1993) (Exhibit 149).

[657] *Id.*

[658] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 324 (Mar. 1, 2001) (testimony of Beth Nolan, former Counsel to the President, the White House).

[659] *Id.*

Nolan he could act "pursuant to the exception for representations like this."[660] In fact, Quinn does not appear to have obtained a "legal opinion." Rather, it appears that he exchanged brief e-mails with Kathleen Behan. Behan's entire "legal opinion" appears to be a two-sentence e-mail titled "Re: exec order 12834." Behan stated, "Certainly the plain language you have cited would not preclude your participation. I'd be happy to look at the whole order."[661] Nolan also testified that she "asked one of [her] associate counsels to look at the question independently and got the answer back that Quinn's work did meet the exception."[662]

Executive Order 12834 prohibits lobbying of the executive branch agency for which the person was employed for a five-year period. The exception to this rule referred to by Quinn reads as follows:

> [T]he term "lobby" does not include: . . . (2) communicating or appearing with regard to a Judicial proceeding, or a criminal or civil law enforcement inquiry, investigation or proceeding (but not with regard to an administrative proceeding) or with regard to an administrative proceeding to the extent that such communications or appearances are made after the commencement of and in connection with the conduct or disposition of a Judicial proceeding[.][663]

Quinn testified to the Committee that he believed he was within this exception when he lobbied the White House on behalf of Marc Rich. In response to a question from Congressman LaTourette, Quinn stated, "there was, as you've heard, an indictment pending in the Southern District of New York, so there was a judicial proceeding that had been commenced."[664]

In contradiction of Quinn, ethics expert Stephen Gillers of New York University law school says that Quinn has twisted this exception beyond its original intent. Gillers explains that the provision, known as the "judicial exception," is boilerplate for government ethics regulations and laws. It is meant for former government employees who are advocates in court, acting as attorneys in the traditional sense. According to Gillers:

> The problem with Quinn's efforts to use that loophole is that the president, in exercising his pardon power, is not performing in a judicial capacity . . . . He is performing in an executive capacity. And the pardon function does not enjoy any of the safeguards that led to the creation of the judicial exception. There is no judge, there is no adversary process necessary and there is no sunshine. . . . I don't think any reasonable interpretation of the language, in

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[660] Interview with Kathleen Behan, Partner, Arnold & Porter (Feb. 27, 2001).

[661] Jack Quinn Document Production (E-mail from Kathleen Behan, Partner, Arnold & Porter, to Jack Quinn (Dec. 7, 2000)) (Exhibit 150).

[662] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 324 (Mar. 1, 2001) (testimony of Beth Nolan, former Counsel to the President, the White House).

[663] Exec. Order No. 12,834; 58 Fed. Reg. 5,911 (1993) (Exhibit 149).

[664] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 153 (Feb. 8, 2001) (testimony of Jack Quinn).

> light of the history of this exception, can support his claim[.] [665]

Quinn's claim that he was appearing with regard to a "judicial proceeding" is not credible. Quinn was appearing to obtain a pardon, which is not a judicial power, but rather, is an executive power. If Quinn had been lobbying the President to intervene and force the Justice Department to drop criminal charges against Rich, his argument might be more sound. Quinn's claim was also severely undercut by a ruling in Federal Court that he and his colleagues were acting principally as lobbyists in the Rich case, rather than as attorneys.[666] As Judge Chin held in that decision:

> Although Quinn may be an excellent attorney, he was preceded by series of excellent attorneys; clearly, he was not hired for his ability to formulate better legal arguments or write better briefs. To the extent it contained legal arguments at all, the [pardon] Petition made the same arguments that Rich and his prior attorneys had been presenting, unsuccessfully, to the Southern District for almost 17 years. Rather, Quinn was hired because he was "Washington wise" and understood "the entire political process." He was hired because he could telephone the White House and engage in a 20-minute conversation with the President. He was hired because he could write the President a "personal note" that said "I believe in this cause with all my heart," and he would know that the President would read the note and give it weight.
>
> * * *
>
> The public relations consultants and media experts here were not helping the lawyers prepare for litigation. It was the other way around, as the lawyers were being used principally to put legal trappings on what was essentially a lobbying and political effort.[667]

It should also be noted that Quinn's position is diametrically opposed to Hugh Rodham's view of his work lobbying for pardons. Rodham received two large contingency fees for his work in lobbying for a pardon for Glenn Braswell and a commutation for Carlos Vignali. Florida bar rules prohibit lawyers from receiving contingency fees in criminal matters. When questioned about this matter, Rodham took the position that his contingency fees were permissible, because his appearance before the White House was a lobbying matter, not a criminal matter.

E. The Lobbying Effort

After the initial filing of the pardon petition, the Marc Rich legal team began a coordinated campaign to lobby the White House on the Rich and Green pardons. These contacts ranged from telephone calls from Jack Quinn to Beth Nolan, to personal appeals made by

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[665] James V. Grimaldi, *In Rich Pardon Case, Did Quinn Violate the Ethics Rule He Wrote?*, WASH. POST, Feb. 5, 2001, at E4.
[666] *In re Grand Jury Subpoenas*, No. M11–189 (DC) (S.D.N.Y. 2001).
[667] *Id.* at 41–42.

Denise Rich and Beth Dozoretz to the President, to calls from other lawyers to staff they knew at the White House. The apparent goal of this campaign was to raise the Rich pardon as frequently as possible and keep it as prominent as possible in the White House, without letting anyone outside of the White House know of the effort.

1. Quinn's Contacts with Bruce Lindsey in Belfast

Immediately after submitting the pardon application, Jack Quinn began to personally lobby the White House on behalf of Marc Rich. On December 13, 2000, Jack Quinn traveled to Belfast, Northern Ireland, with President Clinton's delegation for the peace talks. During this trip, Quinn took the opportunity to raise the Marc Rich pardon with Bruce Lindsey, who was also on the trip. But the first reaction by the Deputy White House Counsel was not positive: "Mr. Quinn asked me if I had gotten his packet of material on Mr. Rich and Mr. Green. I told him I had. He asked me what I thought. I told him I thought they were fugitives."[668] Apparently, Quinn disputed Lindsey's assertion, but it is not clear what else they discussed about the Rich matter during the Belfast trip.

When Quinn returned to the United States, he sent a brief letter to Lindsey to try to address Lindsey's concerns. In his letter, Quinn summarized some of the same arguments made in the pardon petition:

> You expressed a concern that they [Rich and Green] are fugitives; and I told you they are not. Here is why: Rich and Green were in fact residing in Switzerland when they were indicted in September 1983. They (understandably in my mind) chose not to return to the US for a trial in light of all that had happened to them; particularly the enormous and overwhelmingly adverse and prejudicial publicity generated, I am sure, by then U.S. Attorney Giuliani. Their failure to return to New York was not a crime and no one has ever accused them of a crime for failing to come to the US for a trial. . . . Our review of the law in the area (18 USC 1073) similarly confirms to us that their conduct is not proscribed by federal law.[669]

Quinn's claims were absurd, and it appears that the White House staff recognized that they were absurd. As described further below, Rich and Green were fugitives, both in the practical and the legal sense. Practically, they fled the country when they believed that their indictment was imminent, and never returned, because they knew they would be arrested. The federal government considered them fugitives, listing Rich as one of its ten most wanted international fugitives, attempting to extradite Rich and Green, and mounting complicated operations to apprehend them abroad. In the legal sense, Rich and Green clearly violated the federal statute outlawing fugitivity, which prohibits "travel[ing] in . . . foreign

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[668] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 323 (Mar. 1, 2001) (testimony of Bruce Lindsey, former Deputy Counsel to the President, the White House).

[669] Jack Quinn Document Production (Letter from Jack Quinn to Bruce Lindsey, former Deputy Counsel to the President, the White House (Dec. 19, 2000)) (Exhibit 151).

commerce with intent . . . to avoid prosecution."[670] The fact that Rich and Green were never charged with violating this statute has more to do with the fact that they were already facing dozens of felony counts, rather than any lack of evidence. It appears that Quinn's facile arguments had little impact on Lindsey as he, and every other lawyer at the White House who considered the Marc Rich matter, continued to believe that Rich was a fugitive.[671]

More important, should there have been any doubt about the matter, Quinn had Denise Rich to tell him what really happened. As she succinctly explained to the American people on April 27, 2001:

> QUESTION. How did you find out [about the indictment] and what was your reaction?
>
> DENISE RICH. All I really knew was that he spoke to me and he said that "I'm having tax problems with the government. And—and I think that we are going to have to leave." And my response was, "I am his wife. These are my children. I'm not going to split up the family." And, so, I did what I think any wife would do. I left the country.[672]

There can be no clearer "cause and effect" explanation of what happened than this, and it is hard to argue that Denise Rich failed to understand, at the time, why she and her children fled from the United States. In short, Quinn's after-the-fact rationalization is nothing more than pure dishonesty.

2. Peter Kadzik's Lobbying Contacts with John Podesta

Peter Kadzik is a partner at the law firm Dickstein Shapiro Morin & Oshinsky LLP, the same firm as long-time Rich lawyers Michael Green and I. Lewis Libby. Kadzik was recruited into Marc Rich's lobbying campaign because he was a long-time friend of White House Chief of Staff John Podesta, dating back to law

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[670] 18 U.S.C. § 1073 (2000). This section states:

> Whoever moves or travels in interstate or foreign commerce with intent either (1) to *avoid prosecution*, or custody or confinement after conviction, under the laws of the place from which he flees, for a crime, or an attempt to commit a crime, punishable by death or which is a felony under the laws of the place from which the fugitive flees, or (2) to avoid giving testimony in any criminal proceedings in such place in which the commission of an offense punishable by death or which is a felony under the laws of such place, is charged, or (3) to avoid service of, or *contempt proceedings for alleged disobedience of, lawful process requiring* attendance and the giving of testimony or *the production of documentary evidence* before an agency of a State empowered by the law of such State to conduct investigations of alleged criminal activities, shall be fined under this title or imprisoned not more than five years, or both. For the purposes of clause (3) of this paragraph, the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States. Violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed, or in which the person was held in custody or confinement, or in which an avoidance of service of process or a contempt referred to in clause (3) of the first paragraph of this section is alleged to have been committed, and only upon formal approval in writing by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or an Assistant Attorney General of the United States, which function of approving prosecutions may not be delegated. (Emphases added).

[671] Moreover, it appears that Quinn's own associates believed that Rich was a fugitive. Shortly after the pardon was granted, Jeff Connaughton, one of Quinn's partners, sent him an e-mail explaining that Quinn had to make the case that "President Clinton was right to pardon Rich despite the fact that he's a fugitive." Jack Quinn Document Production JQ 03088 (E-mail from Jeff Connaughton, Quinn Gillespie & Associates, to Jack Quinn (Jan. 27, 2001)) (Exhibit 152).

[672] *20/20* (ABC television broadcast, Apr. 27, 2001).

school. Kadzik had also represented Podesta in connection with Congressional and independent counsel investigations.[673] Over the course of his lobbying efforts for Marc Rich, Peter Kadzik had seven contacts with either Podesta or administrative staff at the White House.

On December 12, 2000, Peter Kadzik had his first telephone conversation with John Podesta relating to the Marc Rich pardon application.[674] In his opening testimony before the Committee, Podesta explained his initial contact with Kadzik:

> My first recollection of this matter is that some time in mid-December 2000 I returned a call from Mr. Peter Kadzik who has been a friend of mine since we attended law school together in the mid-1970's. I remember that Mr. Kadzik told me that his firm represented Mr. Rich and Mr. Green in connection with a criminal case and that Jack Quinn was seeking a Presidential pardon from them.
>
> At that point, I was unfamiliar with the Rich/Green case. Mr. Kadzik asked me who would be reviewing pardon matters at the White House. I recalled that I told him that the White House Counsel's office was reviewing pardon applications.[675]

A few days after this initial contact, on December 15, 2000, Kadzik sent Podesta a copy of Jack Quinn's cover letter to the pardon application, which provided a summary of Marc Rich's case.[676] Podesta testified that he forwarded this on to the White House Counsel's Office.[677] Kadzik next contacted Podesta on January 2, 2001.[678] According to Podesta, Kadzik "asked, in light of the pardons that Mr. Clinton had issued around Christmas, whether any more pardons were likely to be considered."[679] Podesta told Kadzik that President Clinton "was considering additional pardons and commutations, but it was unlikely that one would be granted under the circumstances he had briefly described unless the counsel's office, having reviewed the case on the merits, believed that some real injustice had been done."[680] Apparently, Kadzik also informed his partner Michael Green that the Rich case was pending, and

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[673] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 445–46 (Mar. 1, 2001) (testimony of Peter Kadzik, Partner, Dickstein Shapiro Morin & Oshinsky).

[674] Dickstein Shapiro Morin & Oshinsky Document Production DSM0059–0069 (Billing records from Dickstein Shapiro Morin & Oshinsky to Robert Fink (Dec. 12, 2000, and Feb. 13, 2001)) (Exhibit 143).

[675] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 316 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

[676] *Id*. *See also* Dickstein Shapiro Morin & Oshinsky Document Production DSM0005 (Letter from Peter Kadzik, Partner, Dickstein Shapiro Morin & Oshinsky, to John Podesta, former Chief of Staff to the President, the White House (Dec. 15, 2000)) (Exhibit 153).

[677] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 316 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

[678] Dickstein Shapiro Morin & Oshinsky Document Production DSM0059–0069 (Billing records from Dickstein Shapiro Morin & Oshinsky to Robert Fink (Dec. 12, 2000, and Feb. 13, 2001)) (Exhibit 143).

[679] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 316 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

[680] *Id.*

would be considered within the next week, but that they needed a supporter in the Counsel's Office. As Fink explained to Jack Quinn:

> Mike spoke with his partner [Kadzik] today who spoke to Podesta who said, in effect, that we are still in the running but we are fourth and long. It seems that there are many requests and only the ones being pushed by Beth or Bruce are being followed, so we have to get one of them strongly behind this. They have to become advocates.[681]

Fink sent a similar message to Avner Azulay:

> I learned from Mike Green today that our case is still pending and is part of a large group that may be considered at the end of the week. But his friend [Kadzik] told him that we need a rabbi among the people in the counsel's office (it seems that Mike's friend [Kadzik] believes we do not have one yet), so I have written Jack to ask him to follow up with the two people there (Beth and Bruce), both of whom received our papers, both of whom he knows well and both of whom he has already discussed this matter [sic].[682]

On January 6, 2001, Kadzik met with Podesta in the White House.[683] At this meeting, Podesta conveyed the collective view of the White House Counsel's Office on the potential pardon of Marc Rich and Pincus Green:

> I told him that I, along with the entire White House staff counsel, opposed it and that I did not think it would be granted. At that point, I believed that the pardons would not be granted in light of the uniform staff recommendation to the contrary and that little more needed to be done on the matter.[684]

Notwithstanding Podesta's negative views, and the discouraging news on the White House's consideration of the Rich pardon, Kadzik placed one more call to Podesta on January 16, 2001.[685] According to Podesta, Kadzik told him that "he had been informed that the President had reviewed the submissions Mr. Quinn had sent in and was impressed with them and was once again consider-

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[681] Dickstein Shapiro Morin & Oshinsky Document Production DSM0370 (E-mail from Robert Fink to Jack Quinn and Michael Green, Partner, Dickstein Shapiro Morin & Oshinsky (Jan. 2, 2001)) (Exhibit 154).

[682] Piper Marbury Document Production PMR&W 00108 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation (Jan. 3, 2001)) (Exhibit 155). Fink's use of the term "rabbi" caused some confusion for Azulay, who responded "I don't understand the comment about the rabbi. Our book is full of rabbis. Could you get more specific?" *Id*. Fink then responded, "Yes, by rabbi I meant someone inside who is in favor of the pardon and working for it to be granted. Sorry about the lack of clarity, it is just common usage here." *Id.*

[683] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 317 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House). *See also* Dickstein Shapiro Morin & Oshinsky Document Production DSM0059–0069 (Billing records of Dickstein Shapiro Morin & Oshinsky to Robert Fink (Dec. 12, 2000, and Feb. 13, 2001)) (Exhibit 143).

[684] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 317 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

[685] Dickstein Shapiro Morin & Oshinsky Document Production DSM0059–0069 (Billing records from Dickstein Shapiro Morin & Oshinsky to Robert Fink (Dec. 12, 2000, and Feb. 13, 2001)) (Exhibit 143).

ing the pardon."[686] Podesta told Kadzik that he still opposed the pardon and did not believe it would be granted.[687]

Taking John Podesta's testimony at face value, it does not appear that the Rich team's Kadzik approach was successful. Podesta, like Bruce Lindsey and the other key staff, appears to have been steadfastly against the pardon. However, as is discussed in more detail below, notwithstanding their strong opposition, White House staff did not give their best efforts to dissuade President Clinton from granting the Rich and Green pardons.

3. Further Contacts Between Jack Quinn and White House Staff

After Peter Kadzik spoke to John Podesta, and learned that Rich needed a "rabbi" among the White House staff to press the case for a pardon, Robert Fink decided that they needed to press their case as strongly as possible at both the staff level and with the President.[688] Fink then apparently asked Jack Quinn to make another call to the White House.[689] Quinn agreed to make the call,[690] and spoke to Beth Nolan on January 3, 2001.[691] He reported back to Fink, Marc Rich, Avner Azulay, and Behan later on January 3:

> I just got off the phone with Beth Nolan, the White House Counsel. She told me that her office will do the next "reassessment" of our and other applications on Friday [January 5]. I impressed upon her that our case is "sui generis" only in that M[arc] R[ich] was indicted but did not stand trial and then elaborated at some length on the circumstances of MR's decision not to return—the facts that Rudy was new, was trying to make a reputation, overcharged in the most gross way (and in ways that would not stand today—RICO, mail/wire fraud, etc.) and that MR, seeing the mountain of adverse publicity generated by the US Atty's ofc and the disproportionate charges, made the choice anyone would make, i.e., not to return. She responded that this is still a tough case—that the perception will nevertheless be that MR is in some "sense" a fugitive. I explained why he is not. I told her that I want an opportunity to know, before a final decision, if there are things we have not said or done that should be said or done. She promised me that opportunity. I asked if she would see us to review the matter in person and she said she would if there was reason to think, after her reassessment, that that would be fruitful. I told her, finallt [sic], that I intend to have one more conversation with POTUS before this is finalized in order to make the case to him, focusing in par-

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[686] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 317 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

[687] *Id.*

[688] Piper Marbury Document Production PMR&W 00106–07 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation (Jan. 3, 2001)) (Exhibit 156).

[689] Piper Marbury Document Production PMR&W 00108 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation (Jan. 3, 2001)) (Exhibit 155).

[690] Piper Marbury Document Production PMR&W 00109 (E-mail from Jack Quinn to Robert Fink (Jan. 3, 2001)) (Exhibit 157).

[691] Arnold & Porter Document Production A0864 (E-mail from Jack Quinn to Avner Azulay, Director, Rich Foundation (Jan. 3, 2001)) (Exhibit 158).

> ticular on his appreciation of what an overly-zealous prosecutor can do to make a fair trial, in court or in the court of public opinion, impossible. Lastly, I told her that, if they pardon J[onathan] P[ollard], then pardoning MR is easy, but that, if they do not pardon JP, then they should pardon MR. In the last connection, she affirmed that they have heard from people in or connected to the G[overnment] O[f] I[srael].[692]

After this call, Jack Quinn also tried to bring another former White House staffer into the Marc Rich pardon effort. Cheryl Mills was the former Deputy Counsel to the President, and was now an executive at Oxygen Media in New York. However, Mills was still influential in the Clinton White House, and Quinn brought his arguments to her. At some point before January 5, 2001, Quinn apparently called Mills and discussed the Rich pardon with her. Then, on January 5, 2001, Mills was in the White House for a party for former White House Counsels.[693] On January 5, Quinn sent a new letter to the President outlining his key arguments on the Rich pardon.[694] He sent copies of this letter to Beth Nolan, Bruce Lindsey, and Mills.[695] Quinn explained that he sent the material to Mills because she was:

> A person who, after some 7 years at the White House, was enormously well regarded and trusted, well might at some point be consulted on this. I had raised with her the fact that I was pursuing the pardon as I did with others from time to time to just bounce ideas off. But also I was hopeful, knowing of her relationship with Ms. Nolan and Mr. Lindsey and the President, that as any good lawyer would, that as this thing progressed, if it were progressing, that I would get some sense of how people were reacting to different arguments in order that I might be in a position to know better what concerns the folks advising the President might have so that I might address those concerns.[696]

Then, at the party for former White House Counsels later that day, where the former counsels, including Abner Mikva, Lloyd Cutler, and Bernard Nussbaum were filming a video for President Clinton, Quinn raised the Rich pardon with Nolan again. At that time, Mills told Quinn to "stop pestering" Nolan about the Rich pardon.[697] While Mills had received information about the pardon from Quinn, she was not familiar enough with the issue to discuss the merits with Quinn.[698]

While Quinn apparently did not make much progress with Mills at the January 5 party, he did lay important groundwork for the

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[692] *Id.*

[693] Interview with Cheryl Mills, former Associate Counsel to the President, the White House (Mar. 19, 2001).

[694] Jack Quinn Document Production (Letter from Jack Quinn to President William J. Clinton (Jan. 5, 2001)) (Exhibit 159).

[695] Piper Marbury Document Production PMR&W 00153 (E-mail from April Moore, Secretary to Jack Quinn, Quinn Gillespie & Associates, to Robert Fink and Kathleen Behan, Partner, Arnold & Porter (Jan. 5, 2001)) (Exhibit 160).

[696] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 331 (Mar. 1, 2001) (testimony of Jack Quinn).

[697] *Id.* at 333.

[698] Interview with Cheryl Mills, former Associate Counsel to the President, the White House (Mar. 19, 2001).

last day of the Clinton Administration, when Cheryl Mills would be the most supportive voice for the Rich pardon among White House staff.

4. Initial Discussions Between the White House and Justice Department

When he met with Eric Holder on November 21, 2000, Jack Quinn had told Holder that he was going to urge the White House to contact him about the Rich pardon. At the time, Holder had indicated that he looked forward to contact from the White House. True to his word, Quinn did suggest that the White House contact Holder. Quinn recognized that what Holder said to the White House would be crucial to whether or not Rich received a pardon. In an e-mail on Christmas 2000, Quinn told his colleagues that "[t]he greatest danger lies with the lawyers. I have worked them hard and I am hopeful that E. Holder will be helpful to us. But we can expect some outreach to NY."[699] Apparently, Quinn underestimated just how helpful Holder would be, keeping the Rich pardon completely to himself, and keeping his prosecutors in New York from even knowing about the effort to pardon Rich, much less asking for their opinion.

During the first week of January, Beth Nolan met with Holder, and asked for his opinion regarding a number of clemency matters. During this conversation, Nolan brought up Marc Rich's name. Holder told Nolan that he was neutral.[700] Later, at the Committee's February 8 hearing, Holder explained that when he used the term "neutral," he was trying to convey that he "didn't have the basis to form an opinion."[701] However, it is unclear why, if he was trying to tell Nolan that he did not know enough about the Rich case to have an opinion, Holder simply did not say that. In addition, it is strange that Holder would start out with a position of "neutral" on the Rich case, knowing what he did, namely, that Rich was a fugitive from justice, that his had been one of the largest tax cases in history, and that the prosecutors in New York would not even meet with his lawyers. However, late on January 19, 2001, Holder would revise his opinion of the Rich pardon from "neutral" to "neutral, leaning towards favorable," on the basis of a third-hand account of Prime Minister Barak's call to President Clinton.

Holder's default position of neutrality on the Marc Rich case is especially peculiar in light of express Justice Department policy regarding grants of clemency to fugitives. In the case of Fernando Fuentes Coba, Pardon Attorney Roger Adams rejected Fuentes' petition for clemency because Fuentes was a fugitive from the United States. Adams stated that:

> Mr. [Fuentes] Coba is ineligible to apply for a presidential pardon. Pursuant to 28 C.F.R. § 1.2 . . . "[n]o petition for pardon should be filed until the expiration of a waiting pe-

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[699] Arnold & Porter Document Production A0844 (E-mail from Jack Quinn to Avner Azulay, Director, Rich Foundation *et al*. (Dec. 25, 2000)) (Exhibit 36).

[700] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 205 (Feb. 8, 2001) (testimony of Eric Holder, former Deputy Attorney General, Department of Justice). *See also id.* at 354 (Mar. 1, 2001) (testimony of Beth Nolan, former Counsel to the President, the White House).

[701] *Id.* at 205 (Feb. 8, 2001) (testimony of Eric Holder, former Deputy Attorney General, Department of Justice).

> riod of at least five years after the date of the release of the petitioner from confinement . . . .'' Because Mr. Coba has served none of his prison sentence, he fails to meet this most basic eligibility requirement for pardon consideration. Moreover, the Department of Justice has consistently declined to accept pardon petitions from individuals, such as Mr. Coba, who are fugitives, since the pardon process assumes the Government's ability to implement either of the President's possible decisions regarding a petition—that is, a denial of clemency as well as a grant of clemency. Put another way, it is not reasonable to allow a person to ask that the President grant him a pardon which, if granted, would have the effect of eliminating the term of imprisonment to which he has been sentenced, while at the same time insulating himself from having to serve the sentence if the pardon is denied.[702]

The same principles should have applied to the Marc Rich pardon. The fact that Eric Holder disregarded this policy, as well as every other warning sign about the Rich case, raises further questions about his motivations in the Rich case.

5. January 8, 2001, Call Between President Clinton and Ehud Barak

The second week in January started with another call from Prime Minister Barak on the Rich pardon. Towards the end of the eighteen-minute call on January 8, 2001, Barak mentioned the Marc Rich pardon for a second time. It appears that this second conversation was prompted by a meeting between Marc Rich and Prime Minister Barak. A January 12, 2001, e-mail from Avner Azulay to Jack Quinn, Marc Rich, Robert Fink, and Kathleen Behan included the subject line ''telecons to potus.'' [703] As Azulay wrote, ''Following mr's mtg with the pm—the latter called potus this week. Potus said he is very much aware of the case, ''that he is looking into it and that he saw 2 fat books which were prepared by these people.'' Potus sounded positive but maede [sic] no concrete promise.'' [704] Azulay's summary closely tracks the discussion between the President and the Prime Minister as recorded by the National Security Council staff:

> PRIME MINISTER BARAK. Let me tell you last but not least two names I want to mention. [Redacted] The second is Mark [sic], the Jewish American.
>
> PRESIDENT CLINTON. I know quite a few things about that. I just got a long memo and am working on it. It's best that we not say much about that.
>
> PRIME MINISTER BARAK. Okay. I understand. I'm not mentioning it in any place.
>
> PRESIDENT CLINTON. I understand.

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[702] Vivian Mannerud Document Production (Letter from Roger Adams, Pardon Attorney, U.S. Department of Justice, to Lonnie Anne Pera, Counsel to Vivian Mannerud, Zuckert Scoutt & Rasenberger (Nov. 7, 2000)) (Exhibit 161).

[703] Piper Marbury Document Production PMR&W 00166 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al*. (Jan. 12, 2001)) (Exhibit 162).

[704] *Id.*

PRIME MINISTER BARAK. I believe it could be important [gap] not just financially, but he helped Mossad on more than one case.

PRESIDENT CLINTON. It is a bizarre case, and I am working on it.

PRIME MINISTER BARAK. Okay. I really appreciate it.[705]

Two facts about this telephone conversation stand out. First, it appears that President Clinton told Prime Minister Barak to "not say much" about the Rich matter. It is difficult to know exactly what the President meant by this comment, but one interpretation is that President Clinton did not want to discuss the Rich matter with Barak when there were a number of staff on the line taking notes about the conversation. Perhaps most important, if he was leaning towards pardoning Rich, he probably understood that if this became known, the public outcry would have made the pardon politically untenable. Indeed, it is difficult to think of any other reason why President Clinton would tell Prime Minister Barak to "not say much" about Rich.

Another critical element of the telephone call is Barak's statement that "I believe it could be important [gap] not just financially, but he helped Mossad on more than one case." Read literally, Barak's statement suggests that the Rich pardon had future financial implications for Barak, and perhaps President Clinton as well. It is also possible, though, that Prime Minister Barak was referring to Rich's past financial assistance to Israel. While the Committee does not have enough information to confirm that Barak or Clinton took action on behalf of Rich in exchange for future payment, Barak's comments raise this possibility.

6. "The HRC Option"

The Marc Rich legal team used a number of approaches to influence President Clinton and his staff. One approach that was considered was for then-First Lady Hillary Clinton to become involved. There is now, however, a uniform denial that she ever participated in the Marc Rich pardon process.

Beginning in late December, the lawyers representing Rich had a number of discussions in which they debated the merit of asking Hillary Clinton for help with the Rich pardon. Apparently the first discussions regarding Mrs. Clinton started around December 26, 2000, when Robert Fink sent the following e-mail to Quinn, with copies to Marc Rich, Kitty Behan, and Avner Azulay: "Kitty and I think the best person to call Hilary [sic] (if it makes sense to call her at all) may well be Denise. She is in Aspen; let me know if you need the number."[706] Later that day, Fink e-mailed the same group again:

> Of all the options we discussed, the only one that seems to have real potential for making a difference is the HRC option and even that has peril if not handled correctly. I

[705] Verbatim notes of transcript of telephone conversation between President William J. Clinton and Ehud Barak, Prime Minister, Israel (Jan. 8, 2001) (Exhibit 148).

[706] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00072 (E-mail from Robert Fink to Jack Quinn *et al*. (Dec. 26, 2000)) (Exhibit 163).

> assume, and am emphasizing that this is an assumption, that we want Avner to speak to Abe [Foxman] about the support this will get in NY to see if Abe could make the necessary representation to HRC.[707]

The following day, December 27, 2000, Avner Azulay weighed in:

> I have been advised that HRC shall feel more at ease if she is joined by her elder senator of NY who also represents the jewish [sic] population. The private request from DR shall not be sufficient. It seems that this shall be a prerequisite from her formal position [sic].[708]

Robert Fink passed this recommendation on to Gershon Kekst, who had been advising the Rich team with media relations. Kekst seemed to be taken with the idea, and recommended asking Senator Schumer's campaign contributors to "lean" on him:

> Good point. Can [Q]uinn tell us who is close enough to lean on [S]chumer?? I am certainly willing to call him, but have no real clout. Jack might be able to tell us quickly who the top contributors are . . . . . maybe Bernard Schwartz??[709]

Jack Quinn apparently signed onto the concept of involving the First Lady in the Rich pardon effort. On December 28, 2000, Robert Fink apparently contacted Quinn about the proposal, and sent the following confirming e-mail to Quinn:

> I understand I am to call DR and ask her to call HRC, but I wanted to talk to you first to make sure that makes sense and to determine what you thought DR should be saying, not just what she should be asking.[710]

It appears that Robert Fink discussed the "HRC option" with Denise Rich, and that Denise Rich did not react well to the idea. He sent the following e-mail to Azulay and Marc Rich on December 28, describing his conversation with Denise Rich:

> I spoke to DR who was adamantly against the proposal. She is convinced it would be viewed badly by the recipient. Nothing good will come of the overture even with a good word from anyone in NY. She said she is convinced of this and so is her friend who has advised DR not to discuss it in front of HRC. I spoke to MR both before the call and in the middle of this email and he now agrees we should do nothing on this topic.[711]

From this e-mail, it appears that the proposal to lobby Hillary Clinton was presented to Denise Rich, who in turn discussed it with Beth Dozoretz. Dozoretz advised Rich not to lobby Hillary

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[707] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00075 (E-mail from Robert Fink to Jack Quinn *et al*. (Dec. 26, 2000)) (Exhibit 164).

[708] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00080 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al*. (Dec. 27, 2000)) (Exhibit 165).

[709] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00083 (E-mail from Gershon Kekst, President, Kekst and Co., to Robert Fink (Dec. 27, 2000)) (Exhibit 135).

[710] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00401 (E-mail from Robert Fink to Jack Quinn (Dec. 28, 2000)) (Exhibit 166).

[711] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00087 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation, and Marc Rich (Dec. 28, 2000)) (Exhibit 167).

Clinton on the pardon, and Denise Rich rejected the plan. In turn, Marc Rich decided not to press the matter any further. However, Jack Quinn and Robert Fink still saw merit in the "HRC option," and continued to pursue it. Quinn told Fink that he thought "the friend [Dozoretz] is naïve to think this will not be discussed in front of her [Hillary Clinton]."[712] Fink replied that "I cannot help but think they are right. She has something to lose and little to gain and may not want anything which will affect her new position."[713] Quinn also stated, "I continue to think it most likely HRC would be at least informed before anything positive happens, given the possibility of a Giuliani/NY press reaction."[714] Fink then replied to Quinn's suggestion: "I will call Avner to see what he thinks. . . . DR was very sure speaking to HRC was a mistake and told me that Beth worned [sic] her not to raise the issue while HRC was in ear shot. Still want to contact HRC?"[715] Quinn replied:

> [I]t's a tough call, no doubt. [I] just think HE will know the calculation you mention and therefore she will become aware it is pending. If this is right, do we want her to hear about it first in that way or from someone (assuming we have someone) who can put it to her in the context we need?[716]

By January 2, 2001, Fink was apparently convinced, and suggested to Quinn that he call Hillary Clinton:

> Frankly, I think you are the best person at this point. You signed the petition and the letter and know the case better than anyone else who could call. DR is out and probably could only make a personal appeal. You know of Abe Foxman and of the Israeli connection and of all the giving and the Brooklyn connection (Pinky). So my vote is that you call her.[717]

But, it appears that by later on January 2 and on January 3, Marc Rich and Avner Azulay had decided against an approach to Hillary Clinton. First, around January 2, Marc Rich apparently spoke to Denise Rich. Azulay reported that "her impression—from Beth is that HRC shall try to be protective of her husband and stay out of potential trouble." The following day, January 3, Azulay e-mailed Quinn, Fink, Behan and Rich, and stated that:

> Looking from the sideline and hearing all this—I would like to forward the idea that perhaps we should just leave HRC alone. By initiating a call to her we are "saying in a way that there is a problem here . . .", and in the process we might create a problem out of speculations on her reaction. I don't think we have any positive knowledge that she is for or against, only assumptions. Potus should

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[712] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00097–98 (E-mail from Jack Quinn to Robert Fink (Dec. 28, 2000)) (Exhibit 36).
[713] *Id.*
[714] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00089 (E-mail from Jack Quinn to Robert Fink (Dec. 30, 2000)) (Exhibit 168).
[715] *Id.*
[716] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00097–98 (E-mail from Jack Quinn to Robert Fink (Dec. 31, 2000)) (Exhibit 36).
[717] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00102 (E-mail from Robert Fink to Jack Quinn *et al.* (Jan. 2, 2001)) (Exhibit 169).

> deal with this himself—and if it does then intervene with all the arguments etc.[718]

Apparently, Azulay's suggestion settled the matter, as there was no more discussion of the "HRC option." At the Committee's February 8 hearing, Jack Quinn testified that "I'm confident that I never communicated with the First Lady about this, and I don't believe that anyone else did."[719] In addition, the Committee has received no documents suggesting that the First Lady was actually contacted by anyone connected to Marc Rich or that the First Lady offered any opinion on the Marc Rich pardon.

F. The Final Days of the Marc Rich Lobbying Effort

1. Communications Between Peter Kadzik and John Podesta

As the end of the Clinton presidency approached, the Marc Rich legal team increased the intensity of its lobbying efforts. Peter Kadzik called the White House four out of the final five days of the Administration to see what progress had been made on the Rich pardon. On January 16, 2001, he spoke to his friend and sometime client, White House Chief of Staff John Podesta. Kadzik asked Podesta what the status of the Rich pardon was, and what recommendation the White House staff would make. After a conversation with Podesta, Kadzik relayed the results of that conversation to his partner at Dickstein Shapiro, Michael Green. The two calls took Kadzik a total of thirty minutes.[720] According to an e-mail sent by Robert Fink to the rest of the Rich legal team:

> [Kadzik partner] Mike Green called after speaking with Peter [Kadzik] who spoke with Podesta: it seems that while the staff are not supportive they are not in a veto mode, and that your efforts with POTUS are being felt. It sounds like you are making headway and should keep at it as long as you can. We are definitely still in the game.[721]

The e-mail message indicates that Podesta informed Kadzik that he and the other key White House staff did not support the Rich pardon, but at the same time, appeared to give Kadzik some encouragement, indicating that the President still might decide to grant the Rich pardon. However, when questioned about these discussions at the Committee's March 1, 2001, hearing, both Podesta and Kadzik disowned the contents of the e-mail message. Podesta described the conversation with Kadzik as follows:

> He told me he had been informed that the President had reviewed the submissions Mr. Quinn had sent in and was impressed with them and was once again considering the

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[718] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00109 (E-mail from Avner Azulay, Director, Rich Foundation, to Jack Quinn *et al*. (Jan 3, 2001)) (Exhibit 157).

[719] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 257 (Feb. 8, 2001) (testimony of Jack Quinn).

[720] Dickstein Shapiro Morin & Oshinsky Document Production DSM0064 (Billing records of Dickstein Shapiro Morin & Oshinsky to Robert Fink (Dec. 12, 2000, and Feb. 13, 2001)) (Exhibit 143).

[721] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00169 (E-mail from Robert Fink to Jack Quinn *et al.* (Jan. 16, 2001)) (Exhibit 170).

> pardon. I told him I was strongly opposed to the pardons and that I did not believe they would be granted.[722]

Kadzik likewise indicated that the e-mail describing his conversation with Podesta was inaccurate:

> Mr. LATOURETTE. [T]his e-mail in particular states that Mike Green spoke with Peter, who I assume is you, who spoke with Podesta; and that Podesta told Peter that while the staff are not supportive they are not in the veto mode.
>
> First of all, did Mr. Podesta communicate that to you on January 16th?
>
> Mr. KADZIK. No. . . . Again, he told me he was opposed to it, that the staff was opposed to it, but no final decision had been made and again the decision was the President's.[723]

It is difficult to square the recollections of John Podesta and Peter Kadzik with the contents of the Robert Fink e-mail message. The e-mail message is consistent with the portrait of the White House painted by a number of other contemporaneous e-mail messages—namely that the White House staff opposed the Rich pardon, but was not fully engaged on the issue, and that the President was open to it. This is the message that the Marc Rich legal team was getting from its contacts with the White House, despite the after-the-fact characterizations from Podesta and Kadzik.

2. The January 16, 2001, White House Meeting Regarding Rich

White House staff had a number of contacts with Jack Quinn and other lawyers representing Marc Rich regarding the Rich pardon in December 2000 and January 2001. Similarly, the President had contacts with individuals advocating on Rich's behalf during those two months. However, the first time that the President sat down with his staff to discuss the Rich pardon was January 16, 2001, just four days before the end of his Administration. The purpose of the January 16 meeting was for the President to discuss other clemency matters with White House staff. According to John Podesta, who was present at the meeting, President Clinton then initiated discussion of Marc Rich:

> [T]he President brought up the Rich case and told us that he thought Mr. Quinn had made some meritorious points in his submission. He clearly had digested the legal arguments presented by Mr. Quinn since he made a point of noting the Justice Department had abandoned the legal theory underlying the RICO count and mentioned the Ginsburg/Wolfman tax analyses. The staff informed the President that it was our view that the pardon should not be granted.[724]

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[722] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 317 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

[723] *Id.* at 464–66 (testimony of Peter Kadzik, Partner, Dickstein Shapiro Morin & Oshinsky).

[724] *Id.* at 317 (testimony of John Podesta, former Chief of Staff to the President, the White House).

Podesta interpreted the President's reaction to the views of the White House staff as meaning that "he accepted our judgment and I didn't think this was a particularly active matter."[725] Beth Nolan, who also attended the January 16 meeting, also remembered a fairly brief discussion:

> I don't recall that it was an extensive discussion. However, we were going through a number of pardon applications, and my memory is that it was a fairly brief discussion in which he heard from all of us our opposition. I didn't think it was going anywhere. . . . I did not believe that the pardon was going anywhere. He was familiar with it. He was sympathetic with it. And he was familiar with the issues, but I did not have the sense . . . at that meeting or until the 19th that he really was inclined to grant the pardon.[726]

While Beth Nolan interpreted the President's comments as meaning that the Rich pardon was not "going anywhere," Bruce Lindsey did not reach the same conclusion, informing the Committee, "I clearly left the meeting understanding that no decision had been made. I don't know if I knew what was in his mind."[727]

The account of the January 16, 2001, meeting appears to be an attempt by senior White House staff to explain why they were caught so unprepared when the President decided to grant the Marc Rich pardon three days later. As became clear on that day, White House staff knew little about the Rich case, and had not made any attempt to gather the necessary information. The ignorance of the senior White House staff meant that they were unable to provide any clear refutation of the arguments made by the Rich legal team. As explained by Beth Nolan, John Podesta, and to a lesser extent, Bruce Lindsey, they were caught unprepared because they simply did not believe that the President was going forward with the Rich pardon, based on the opposition that they expressed at the January 16 meeting. This argument explains why White House staff, while claiming to be opposed to the Rich pardon, did so little to actually keep it from being granted.

However, the defense of the White House staff does not seem to comport fully with reality. While the President listened to the White House staff as they objected to the Rich pardon, he apparently did not say anything to indicate that he actually agreed with White House staff. Rather, he clearly expressed that he was sympathetic to the Rich pardon. If the White House staff were serious about opposing the Rich pardon, they would have done more than simply express their opposition to the pardon. They would have taken the time period between January 16 and January 20 to gather information about the Rich case, and present it to the President as reasons why he should not grant the pardon. Unfortunately, White House staff never took any such steps.

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[725] *Id.* at 325.

[726] *Id.* at 324–25 (testimony of Beth Nolan, former Counsel to the President, the White House).

[727] *Id.* at 325 (testimony of Bruce Lindsey, former Deputy Counsel to the President, the White House).

3. The Justice Department Receives Jack Quinn's January 10 Letter

On January 17, 2001, the letter that Jack Quinn sent to Eric Holder on January 10, 2001, finally arrived at the Justice Department. Quinn had intended to have the letter delivered to Holder by messenger, but due to a secretarial error, the letter was sent to 901 E Street, in Washington, rather than the main Justice Department headquarters building, where Holder maintained his office.[728] The January 10 letter from Quinn to Holder represented the only documentary information the Justice Department ever received regarding the Rich pardon. The cover letter from Quinn to Holder stated "I hope you can say you agree with this letter. Your saying positive things, I'm told, would make this happen." Attached to the letter was a copy of Quinn's January 5 letter to President Clinton, which summarized the arguments made by Quinn in the Rich pardon petition.

Between January 10 and January 17, this letter made its way from the Justice Department offices at 901 E Street to the Justice Department Executive Secretariat, which is in charge of managing the paper flow at Justice Department headquarters. Despite the fact that the letter was addressed to the Deputy Attorney General, because it obviously related to pardon matters, the letter was directed to Roger Adams, the Pardon Attorney. The Office of Pardon Attorney received the letter during the afternoon of January 18, and Adams saw it in his inbox on the morning of Friday, January 19.[729] Adams drafted a short response to the Quinn letter, stating that neither Marc Rich nor Pincus Green had filed a pardon petition with the Justice Department, and advising Quinn that petition forms were available upon request from his office. Adams decided not to send the letter out, and instead hold it until the following Monday. Adams explained that he did not send the letter out because he recognized Jack Quinn's name, and knew that Quinn had substantial influence as a former White House Counsel, and acknowledged that he could not be certain of what was going on at the White House. Rather than send out what amounted to a rejection letter for a person who might yet receive a pardon later that day, Adams decided to hold the letter until after President Clinton left office, when he could be certain that Rich was not going to receive a pardon. As it turned out, Adams' fears were realized, and he never did mail the rejection letter.

4. Final Lobbying Contacts Leading up to January 19, 2001

As the Clinton Administration entered its final days, the Rich team increased its efforts. It was well known that the President was considering granting a large batch of pardons as one of his final acts as President. In fact, during his final visit to Arkansas

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[728] The Justice Department's Civil Division maintained offices at 901 E Street. While it is not clear why Quinn sent the letter to 901 E Street, the most obvious explanation is that Quinn's secretary had sent materials to the Justice Department Civil Division offices at 901 E Street in the past, and mistakenly assumed that Deputy Attorney General Holder had an office at 901 E Street as well.

[729] "President Clinton's Eleventh Hour Pardons," *Hearing Before the Senate Comm. on the Judiciary*, 107th Cong. 24 (Feb. 14, 2001) (testimony of Roger Adams, Pardon Attorney, Department of Justice).

as President on January 17, 2001, the President acknowledged this, asking reporters, "You got anybody you want to pardon? Everybody in America either wants somebody pardoned or a national monument." [730]

The Rich team increased the intensity of its lobbying campaign in the final days. First, Jack Quinn faxed a memo to Beth Nolan that purported to provide additional evidence that Rich had been singled out for prosecution. In a note at the top of the memo, Quinn wrote: "This is FYI further to the point that no one else was prosecuted." [731] In fact, the memo stands for the opposite point. The memo, which was drafted by a lawyer on the Rich legal team in 1988, provided a review of enforcement actions against individuals who had violated energy regulations. The memo concluded that "[w]e have uncovered no case in which a jail sentence has been imposed for a willful violation of the PAM regulations, the conduct for which M[arc] R[ich] and P[incus] G[reen] have been indicted." [732] Ironically, this memo, which was intended to provide support for the Rich case, actually weakens it. A close reading of the memo indicates that the Rich lawyers located 48 criminal cases brought for violations of the energy regulations, 14 of which resulted in jail time.[733] The Rich legal team distinguished those cases on the thinnest of technical grounds, since those convictions were for "miscertification" of oil, not a violation of the permissible markup regulations. However, it is most likely that the memo had no impact on the White House's consideration of the Rich pardon, either pro or con, since the White House staff took little time to read the Rich pardon petition, much less extraneous information pertaining to the case.

Attorney Peter Kadzik called the White House on each of the last three days of the Clinton Administration, seeking information about the status of the Rich pardon. On January 18, January 19, and January 20, Kadzik called staff in John Podesta's office to see if the President had made any decisions on pardons. After the calls on the 19th and 20th, he relayed what he had learned to his partner Michael Green, who was also working on the Rich pardon.[734] Kadzik characterized these calls as ministerial in nature—simply trying to determine whether any pardons had been granted, and if so, whether a list of pardons was available—as opposed to his earlier direct contacts with his client John Podesta.[735] Nevertheless, Kadzik billed Marc Rich an hour for his work on January 18, half an hour for his work on January 19, and half an hour for his work on January 20.[736]

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[730] Andrew Goldstein, *Countdown to a Pardon*, TIME, Feb. 26, 2001, at 27.

[731] Jack Quinn Document Production (Memorandum from Mark Ehlers to Scooter Libby (June 10, 1988) (Exhibit 63).

[732] *Id.*

[733] *Id.*

[734] Dickstein Shapiro Morin & Oshinsky Document Production DSM0065 (Billing records of Dickstein Shapiro Morin & Oshinsky to Robert Fink (Dec. 12, 2000, and Feb. 13, 2001)) (Exhibit 143).

[735] *See* "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 466 (Mar. 1, 2001) (testimony of Peter Kadzik, Partner, Dickstein Shapiro Morin & Oshinsky).

[736] Dickstein Shapiro Morin & Oshinsky Document Production DSM0065 (Billing records of Dickstein Shapiro Morin & Oshinsky to Robert Fink (Dec. 12, 2000, and Feb. 13, 2001)) (Exhibit 143). The billing entry on January 18 consists of two items, the call to the White House and a redacted entry. The entries on January 19 and January 20 each consist of two items, calls to the White House and Michael Green. Based on his descriptions of the calls to the White

a. Jack Quinn's January 18, 2001, Letter to the President

Also on January 18, 2001, Jack Quinn submitted a letter to the President "to clarify several points with regard to the petition" and to "propose a solution to any concerns . . . regarding the setting of an unwise precedent involving individuals living outside the jurisdiction of our American country."[737] In this letter, Quinn again attempted to refute the argument that Rich was a fugitive. To support his position, Quinn made three arguments, all of them spurious. First, Quinn claimed that "much of Mr. Rich and Mr. Green's professional lives have been spent abroad. . . . Thus, while they did not return to the United States following the issuance of the indictment, there is no question that this did not constitute a significant change in their international living circumstances."[738] Second, Quinn claimed that Rich and Green "violated no laws in not returning to the United States, and no violation of law with regard to their purported "fugitivity" ever has been alleged."[739] Third, Quinn pointed out that Rich and Green "have lived not as fugitives, but their residences and places of business always have been available to and known to the United States."[740]

Quinn's first point, that Rich and Green spent a great deal of time outside of the country prior to their indictment, was completely irrelevant. It is undisputed that Rich and Green refused to return after their indictment. Legally and practically, the fact that Rich and Green had houses in Switzerland prior to that indictment was meaningless. They fled to those homes in anticipation of the indictment and to avoid its consequences. That they managed to escape before rather than after the indictment is irrelevant.[741] Quinn's second assertion, that Rich and Green had not violated the law by remaining outside of the United States, was completely wrong. 18 U.S.C. § 1073, which outlaws fugitivity, states that:

> Whoever moves or travels in interstate or foreign commerce with intent . . . to avoid prosecution . . . under the laws of the place from which he flees, for a crime, or an attempt to commit a crime . . . which is a felony under the laws of the place from which the fugitive flees . . . shall be fined under this title or imprisoned not more than five years, or both.[742]

This statute clearly proscribes the behavior of Marc Rich and Pincus Green, namely, traveling in foreign commerce to avoid prosecution for a felony. The fact that Rich and Green were never charged with violation of this statute has more to do with the fact that they were already facing numerous felony charges than any

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House, those calls should not have taken more then 6 minutes each, the minimum amount of time that could be billed at Dickstein Shapiro. While it is possible that Kadzik spent 54 minutes on other Marc Rich business on January 18, and 24 minutes speaking to Michael Green on January 19 and 20, the length of the periods of time billed during these days casts doubt either on Kadzik's description of the calls to the White House or the accuracy of his billing.

[737] Jack Quinn Document Production (Letter from Jack Quinn to President William J. Clinton (Jan. 18, 2001)) (Exhibit 171).

[738] *Id.*

[739] *Id.*

[740] *Id.*

[741] *U.S. v. Lupino*, 171 F. Supp 648 (D.C. Minn. 1958).

[742] 18 U.S.C. § 1073.

innocence on their part.[743] Quinn's final point, rather than dispelling the argument that Rich and Green were fugitives, only shows the contempt with which they treated American laws. The fact that Rich and Green both lived in palatial estates in Switzerland, at addresses known to American authorities, did not mean that they were not fugitives. Swiss authorities refused to extradite Rich and Green, and they were therefore able to live their lives in comfort, rather than in hiding.

In addition to the facile and irrelevant arguments regarding his clients' status as fugitives, Quinn also made an offer to President Clinton in the January 18 letter. Quinn stated that "[m]y clients have authorized me to make it clear that they have always sought to negotiate a civil resolution with the government, and would willingly accept a disposition that would subject them to civil proceedings with the Department of Energy (or other appropriate agencies)."[744] While this offer might have appeared dramatic to President Clinton, someone with any understanding of the Rich case would have recognized that Rich and Green were not offering anything that they had not offered on any number of previous occasions. Throughout the Rich investigation, Rich's lawyers had offered to pay many millions of dollars to settle the case, as long as Rich was not required to serve jail time. This offer was repeatedly rejected by prosecutors, who recognized that Rich's crimes were of such a scale that jail time was amply justified. In addition, someone with knowledge of the Rich case would have recognized another serious flaw with Quinn's January 18 offer. All civil liability for Rich and Green was extinguished with the guilty pleas of the Rich companies, and that the only penalties available against Rich in 2001 were criminal.[745] Thus, Rich's offer—to be subject to civil penalties that could not be applied against him—was an empty offer. However, this letter, and the empty offer in it, had an impact at the White House, as would be demonstrated the following day. It does not appear that Quinn had any misgivings about what was really at issue—Rich wanted to buy his way out of his legal predicament, and if this was not an option, he would not only eschew the United States, but also work against vital U.S. interests. It is an interesting commentary on Quinn that he appears to agree with the thesis that rich people should be able to pay money to avoid prison.

b. Bruce Lindsey's Contacts with SEC Chairman Arthur Levitt

In this same time period, Clinton aide Bruce Lindsey made an apparent effort to gather information to use in opposition to the Rich pardon. On the morning of January 17 or 18, Lindsey called

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[743] *See* "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 123 (Feb. 8, 2001) (testimony of Morris "Sandy" Weinberg, Jr., former assistant U.S. attorney for the S.D.N.Y., Department of Justice).

[744] Jack Quinn Document Production (Letter from Jack Quinn to President William J. Clinton (Jan. 18, 2001)) (Exhibit 171).

[745] At the Committee's hearing, Mr. Auerbach stated, "The civil liabilities in this case were fully extinguished in 1984 when Marc Rich and Co. A.G. and Marc Rich and Co. International Limited paid $150 million to the U.S. Government. The civil liabilities were corporate civil liabilities." "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 108 (Feb. 8, 2001).

Arthur Levitt, Chairman of the SEC.[746] Lindsey asked Levitt what he knew about Pinky Green.[747] Levitt told Lindsey that he had never heard the name.[748] Lindsey then told Levitt that Green was Marc Rich's business partner.[749] Levitt told Lindsey that he would find out what he could about the matter. Levitt consulted with his staff, who informed him that the SEC had no information about Rich and Green, because theirs had been an IRS and Commodities and Futures Trading Commission matter, not an SEC matter.[750] Levitt then left a message for Lindsey indicating that he was getting back to him about the Marc Rich matter. Lindsey called back that afternoon, and Levitt told Lindsey that the Rich matter was not in the SEC's jurisdiction. However, Levitt then added that he believed that pardons of Rich and Green would be a "real bad idea."[751] Lindsey agreed that Rich and Green were "fugitives" who had "never set foot in the country" and that this "is not what pardons are intended for."[752] Based on his contacts with Lindsey, Levitt assumed that Lindsey was personally opposed to the pardons of Rich and Green, and that he was looking for further justification or reinforcement for his position.[753] Levitt also assumed that the pardons would not be granted, given Lindsey's great influence in the White House.[754]

Shortly after the call between Lindsey and Levitt, the Marc Rich team found out about the call. In the afternoon of January 19, Robert Fink e-mailed Avner Azulay, Mike Green, and Kitty Behan, and informed them that:

> I just spoke to Jack [Quinn]. He has not heard from the President, but agreed to call him as soon as he gets to a hard line phone (he was in the car). He said that the SEC knows of the request and for some reason opposed it. But not like they opposed Milken. He does not know how they learned of it. (He found out when the head of the SEC gave one of his partners a hard time about Marc yesterday.). We agree that is not good and that maybe the SDNY knows too, but we have no information on it. No other pardons have been announced yet, as far as we know. Bob[755]

The Fink e-mail again confirms that the Rich team was counting on secrecy to achieve its objective. Fink's message shows the concern with which the Rich team reacted any time that any government agency outside of the White House received word of the effort to obtain the pardon. When questioned about this matter at the Committee's March 1, 2001, hearing, Fink stated that he was concerned not that certain government agencies would learn of the pardon effort, but that he was concerned that the press would learn of it, and that the press' reaction "would not be helpful for a

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[746] Telephone Interview with Arthur Levitt (Feb. 20, 2001).
[747] *Id.*
[748] *Id.*
[749] *Id.*
[750] *Id.*
[751] *Id.*
[752] *Id.*
[753] *Id.*
[754] *Id.*
[755] Piper Marbury Rudnick & Wolfe Document Production 00180 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation *et al.* (Jan. 19, 2001)) (Exhibit 145).

thoughtful review of the pardon application."[756] However, Fink's assertion is not plausible. Fink's contemporaneous e-mail specifically identifies the prosecutors in the Southern District of New York, not the public or the press, as a subject of concern. Fink's e-mail, along with other evidence, shows that Rich's lawyers were trying to keep the pardon effort from the prosecutors in New York, the people who knew the most about the Rich case and could do the most to thwart the pardon effort.

Lindsey's interaction with Arthur Levitt on the Rich and Green pardons represents the only time that White House staff reached out to anyone other than Rich's lawyers and Eric Holder to gather information about the Rich case. It was a half-hearted effort, as the SEC was not involved in the Rich case, and had no information to offer. Lindsey's effort at outreach therefore demonstrated two important facts. First, it shows that Lindsey had little understanding of the Rich case, as he did not even know where to turn to get information about Rich. If Lindsey had turned to the Southern District of New York, rather than the SEC, he would have obtained voluminous information that refuted Quinn's arguments. Second, the Lindsey effort shows that there was a genuine rift between President Clinton and his closest advisor on this issue—to the extent that Lindsey even felt the need to gather outside information to bolster his case.

G. January 19–20, 2001

The final full day of the Clinton Presidency was obviously a busy one. Early in the day, President Clinton reached an agreement with the Office of Independent Counsel whereby the President admitted that "I acknowledge having knowingly violated Judge Wright's discovery orders in my deposition in [the Jones] case. I tried to walk a line between acting lawfully and testifying falsely but I now recognize that I did not fully accomplish this goal and that certain of my responses to questions about Ms. Lewinsky were false."[757] After making these admissions, which the President reportedly considered difficult to make, the President began final consideration of a number of grants of clemency.[758]

1. The Call Between Prime Minister Barak and President Clinton

Also on the final day of his presidency, President Clinton made a number of farewell telephone calls to world leaders. Among these was a call to Israeli Prime Minister Ehud Barak. Between 2:47 and 3:09 p.m., Clinton and Barak spoke.[759] During that conversation,

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[756] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 509 (Mar. 1, 2001) (testimony of Robert Fink).

[757] Neil A. Lewis, *Transition in Washington: The President; Exiting Job, Clinton Accepts Immunity Deal*, N.Y. TIMES, Jan. 20, 2001, at A1.

[758] Many, including Representative Waxman, have speculated that President Clinton was especially sensitive to "overzealous prosecutors" after making these admissions regarding his testimony in the Jones case. "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 341 (Mar. 1, 2001) (statement of the Honorable Henry Waxman). It is very possible that the President was motivated to issue a number of controversial grants of clemency in Independent Counsel cases as a result of his feelings about the Whitewater-Lewinsky investigation.

[759] Verbatim notes of transcript of telephone conversation between President William J. Clinton and Ehud Barak, Prime Minister, Israel (Jan. 19, 2001) (Exhibit 148).

it appears that President Clinton brought up that Marc Rich matter:

> PRESIDENT CLINTON. [Redacted] I'm trying to do something on clemency for Rich, but it is very difficult.
>
> PRIME MINISTER BARAK. Might it move forward?
>
> PRESIDENT CLINTON. I'm working on that but I'm not sure. I'm glad you asked me about that. When I finish these calls, I will go back into the meeting on that but I'm glad you raised it. Here's the only problem with Rich; there's almost no precedent in American history. There's nothing illegal about it but there's no precedent. He was overseas when he was indicted and never came home. The question is not whether he should get it or not but whether he should get it without coming back here. That's the dilemma I'm working through. I'm working on it.
>
> PRIME MINISTER BARAK. Okay.[760]

There are two important aspects of this call. First, the transcript does not make it appear that Prime Minister Barak was tenaciously lobbying for the Rich pardon. The only comments he made at this critical juncture were "Might it move forward?" and "Okay." Neither can be seen as a forceful request. In fact, the transcript raises the possibility that Prime Minister Barak, not President Clinton, brought up the Marc Rich pardon during the telephone call. Second, not in this call, or in any other call, did Prime Minister Barak claim that the Rich pardon would have any foreign policy benefits.

These facts undermine the suggestions made by the President and his supporters which place great importance on the January 19 call by Prime Minister Barak. For example, in the Committee's March 1, 2001, hearing, John Podesta stated that "[w]hile the bulk of that [January 19] call concerned the situation in the Middle East, Prime Minister Barak raised the Rich matter at the end and asked the President once again to consider the Rich pardon."[761] Bruce Lindsey testified that "[i]n our meeting when he [the President] said Barak had raised it in his conversation that day he indicated that was, I think, the third time it had been raised by Mr. Barak."[762] If the notes of the call prepared by the White House are correct, it appears that the President, not Prime Minister Barak, raised the question of the Marc Rich pardon during the January 19 telephone call. James Carville, a longtime defender of President Clinton, appeared on Meet the Press and stated that "Prime Minister Barak made enormous concessions to try to get a peace agreement. It was very important to him. And on the last day, he called and said 'look, I really would like for you to do this,' and the President did it." Again, Carville's description of the January 19 call was completely inaccurate and was either purposefully misleading

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[760] *Id.*

[761] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 317 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

[762] *Id.* at 431 (testimony of Bruce Lindsey, former Deputy Counsel to the President, the White House).

or the result of false information provided to him by President Clinton or the President's staff.

Most importantly, both on January 19, and during the controversy about the Rich pardon that followed, President Clinton repeatedly suggested that the calls from Prime Minister Barak "profoundly" influenced his decision making.[763] This claim was echoed by John Podesta at the Committee's March 1 hearing:

> I do know that Mr. Barak—as Mr. Lindsey said and raised a couple of times—that was, as you properly point out, was an emotional time. The peace process obviously wasn't coming to fruition. He had enormous respect for Mr. Barak. I think Mr. Barak had asked him for several things, if you will, that were intended to show support for the State of Israel, not so much for Mr. Barak but for the State of Israel, including, for example, the pardon of Jonathan Pollard.[764]

There is nothing in any of the discussions between Clinton and Barak, especially the January 19 discussion, that supports President Clinton's conclusion that the Rich pardon was especially important to Prime Minister Barak so that Barak's calls should have had a "profound" influence on the President. The actual transcripts of the calls suggest that, at least on January 19, the Rich pardon seemed to have a more prominent place in President Clinton's mind than in Prime Minister Barak's mind.

2. Eric Holder Weighs In

At about 6:30 in the evening on January 19, 2001, Jack Quinn called the office of Eric Holder. Quinn said that the Rich pardon was receiving serious consideration at the White House and that the White House would be calling Holder for his opinion before any decision was made.[765] Holder told Quinn that while he "had no strong opposition based on [Quinn's] recitation of the facts, law enforcement in New York would strongly oppose it."[766] Quinn's notes of the conversation with Holder indicate that Holder told Quinn that he had "no personal prob[lem]" with the Rich pardon, and that his personal feeling was that he was "not strongly against" it, but that the prosecutors in the Southern District would "howl."[767] It also appears that Quinn informed Holder that Prime Minister Barak had expressed support for the Rich pardon.[768] Holder was told that Barak "had weighed in strongly on behalf of the pardon

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[763] *Rivera Live* (CNBC television broadcast, Feb. 15, 2001).

[764] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 376 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

[765] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 45 (Feb. 8, 2001) (statement of Jack Quinn).

[766] *Id.* at 194 (testimony of Eric Holder, former Deputy Attorney General, Department of Justice).

[767] Jack Quinn Document Production (Note of Jack Quinn) (Exhibit 172).

[768] In his hearing testimony, Holder stated that he did not recall whether he learned of Barak's support through Quinn or Nolan. However, Beth Nolan made it clear that Holder stated that he had heard that Barak was interested in the pardon, and explained that this new information moved his position from "neutral" to "neutral leaning toward or neutral leaning favorable." *See* "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 354 (Mar. 1, 2001) (testimony of Beth Nolan, former Counsel to the President, the White House). Given Nolan's seemingly clear recollection that Holder already knew about Barak's support when she spoke to him on January 19, it is fair to conclude that it was Quinn, rather than Nolan, who told Holder about the Barak call.

request," and this assertion "really struck" Holder.[769] It appears that Quinn learned of Barak's call to President Clinton from sources in Israel, likely Avner Azulay, rather than the White House.[770]

Earlier that afternoon, Cheryl Mills arrived in Washington from New York to visit the Clinton White House one last time. Mills spent some of the afternoon in the West Wing office of White House Counsel Beth Nolan. While Mills was in Nolan's office, Jack Quinn called for Nolan. Nolan told Mills that she was busy and couldn't take the call, and asked Mills to take it instead. Mills picked up the line, and spoke with Quinn. Quinn told Mills that he had recently spoken with Eric Holder, and that Holder informed him that his position on the Rich pardon was "neutral, leaning favorable." Mills passed this information on to Nolan. Nolan understood Mills to say that Quinn had told her that Holder "favored the pardon."[771] Mills was surprised that Holder had taken such a positive position on the Rich pardon, as she believed him generally to be "conservative" with respect to pardons, and believed that under Holder the Justice Department "had not fulfilled its pardon function."[772]

After Mills told Nolan that Quinn said that Holder "favored the pardon," Nolan decided to call Holder herself to see if this was true. She called Holder at about 6:40 p.m.,[773] and described her conversation with Holder as follows:

> I had talked with him the first week in January about it, and I did not have the impression that he was in favor of it, so that's what I said. I said, I'm hearing you're in favor of it. I didn't think you were in favor of it.
>
> He said that he was neutral, which I think is the language he had used earlier in January about it. He—and I said, well, I'm a little confused because I'm hearing that you're not just neutral. And he said that he, if—he had heard that Mr. Barak was interested, that if that were the case, while he couldn't judge the foreign policy arguments, he would find that very persuasive and that—and I finally said, well, are you? I still don't understand what neutral means here. And he described it as neutral leaning toward or neutral leaning favorable.[774]

The position that Holder took in support of the Rich pardon took many by surprise. Obviously, Beth Nolan was surprised at Holder's position, especially when he had been neutral with respect to the pardon just two weeks earlier. Cheryl Mills was surprised, given what she considered Holder's "conservative" perspective on par-

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[769] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 194 (Feb. 8, 2001) (statement of Eric Holder, former Deputy Attorney General, Department of Justice).

[770] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 348 (Mar. 1, 2001) (testimony of Jack Quinn).

[771] *Id.* at 354 (testimony of Beth Nolan, former Counsel to the President, the White House).

[772] Interview with Cheryl Mills, former Associate White House Counsel, in New York, NY (Mar. 19, 2001).

[773] Department of Justice Document Production DOJ/ODAG–MR–00040 (Telephone log of Deputy Attorney General Eric Holder, Jan. 22, 2001) (Exhibit 173).

[774] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 354 (Mar. 1, 2001) (testimony of Beth Nolan, former Counsel to the President, the White House).

dons. Other White House staff were surprised as well. After her call with Holder, Beth Nolan informed Associate White House Counsel Eric Angel that Holder was in favor of the Rich pardon. Angel, like the rest of the staff, opposed the pardon and exclaimed, "Why the f**k would he say that?" [775] Nolan responded by shrugging her shoulders.[776]

Eric Holder's support for the Rich pardon would have a significant impact in the President's deliberations later that evening. Coming from the nation's second-ranking law enforcement official, Holder's support could easily counterbalance the objections to the Rich pardon made by White House staff. Holder's support also had the illusory effect of giving the Justice Department's blessing to the Rich pardon, when in reality, not a single individual at the Justice Department other than Eric Holder knew that the Rich pardon was even being considered. No information about the Rich pardon had been shared with the Justice Department through official channels. Indeed, Holder had a central responsibility for ensuring that no one else at the Justice Department knew that the pardon was even under consideration. Moreover, despite the fact that he had been on notice that Rich was seeking a pardon since November 2000, and that the White House was actively considering it in early January 2001, Holder made no attempt to contact prosecutors in the Southern District of New York to get their opinion regarding the case.

One of the most serious questions before the Committee is why Holder decided to support the Rich pardon, given the paucity of information that Holder had about the matter. Holder had never seen any documents regarding the Rich pardon, and his sum total of knowledge about the Rich case came from a page of talking points provided to him by Jack Quinn in 2000, before the pardon effort had even begun. Holder offered a number of excuses for his decisionmaking, many of them conflicting, none of them convincing. First, Holder claimed that he was really neutral, not in favor of, the Rich pardon:

> Neutral meaning I don't have a basis to form an opinion consistent with what I told him before. . . . I was neutral because I didn't have a basis to make a determination. I have not seen anything on the pardon.
>
> I'm now saying that I'm neutral consistent with what I said before, leaning toward it if there were a foreign policy benefit. I could not make the determination if there were foreign policy benefit[s].[777]

Holder's claims of "neutrality" are completely implausible. First, everyone who had contact with Holder on this matter took Holder's words as being in support of the Rich pardon. Second, Holder had to have known that when he was asked for his opinion regarding a prosecution which had been brought by his agency, if he said that

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[775] Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001).

[776] *Id.*

[777] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 201 (Feb. 8, 2001) (testimony of Eric Holder, former Deputy Attorney General, Department of Justice).

he was "neutral, leaning towards favorable," it was tantamount to supporting the pardon. Representative Barr pointed this fact out to Holder in the Committee's February 8 hearing:

> Mr. BARR. [I]n one conversation, you were swayed from let's give you the benefit of the doubt that you didn't know anything about the case and it was unremarkable to you, to understanding that it was important enough for a foreign leader to become personally involved in, and just based on that information alone . . . not having heard anything back from your prosecutors who identified this case as one of the most significant in white collar crime history, you all of a sudden become leaning toward favorably simply because some foreign leader, for whatever reason, [says] that he wants us to act favorably on this pardon?
>
> Mr. HOLDER. What I said was that I was neutral leaning toward. Neutral, meaning consistent with what I said before, which was I don't have a basis to one way or the other—
>
> Mr. BARR. Is that your presumption as the second top official at Justice, that if somebody comes in and asks you about a pardon that you don't know anything about, that your position is immediately neutral and therefore their job is to move you toward favorable? I mean, wouldn't your position as a prosecutor be you stand by your prosecutors and your initial position when you don't know about a case is to oppose it?
>
> Mr. HOLDER. No. Without a basis to know whether—how the decision should go, I think it would be incumbent upon—
>
> Mr. BARR. Don't you presume that your prosecutors have prepared good cases, and therefore you would operate from the presumption as their superior at the Department of Justice that you were going to stand by them and not take a neutral position?[778]

What Holder could not see, or would not admit to, even after it was made clear by Representative Barr, was that when he refused to support the work of the prosecutors in his own office, it amounted to one of the largest expressions of support for the Rich pardon that any independent party could muster.

Holder also attempted to argue that he was presumptively neutral on the Rich case because Rich was a fugitive, and Holder had supported a pardon for another fugitive several years earlier.

> I did not reflexively oppose it [the Rich pardon] because I had previously supported a successful pardon request for a fugitive, Preston King, who, in the context of a selective

[778] *Id.* at 209–10 (statement of the Honorable Bob Barr and testimony of Eric Holder, former Deputy Attorney General, Department of Justice).

> service case, had been discriminated against in the 1950's because of the color of his skin.[779]

Holder's argument amounts to a claim that since he once supported a pardon for a fugitive, he had to support all future pardon requests by fugitives. Holder's bizarre argument actually treats fugitivity as a bonus in the consideration of a pardon, rather than a criminal act.

Mere incompetence cannot account for Eric Holder's decisionmaking in the Marc Rich case. Holder knew about Jack Quinn's efforts to obtain a pardon for Rich as early as November 2000, yet he never mentioned the effort to prosecutors in New York or the Pardon Attorney. Holder kept this information from them, even though he knew that they would vehemently oppose any effort to pardon Rich. Perhaps more important, he never made an effort to educate himself about the facts of the case. These efforts to keep prosecutors from finding out what was happening, in conjunction with Holder's complete inability to explain or defend his decisionmaking, make the concerns regarding Eric Holder's motivations even more serious.

During the Committee's February 8 hearing, at least one potential motivation for Holder was revealed. Holder asked Jack Quinn for his support to have Holder nominated as Attorney General in a future Gore Administration.[780] Quinn recalled such a discussion, but claimed that it was in the fall, prior to the election, and prior to the filing of the Rich pardon petition.[781] However, Holder allowed that there might have been more than one discussion with Quinn regarding his appointment as Attorney General.[782] When asked about this matter, Holder angrily denied that his efforts to be appointed as Attorney General, and his solicitation of Quinn's support, had any effect on his decisionmaking:

> My actions in this matter were in no way affected by my desire to become Attorney General of the United States, any desires I had to influence or seek to curry favor with anybody. I did what I did in this case based only on the facts that were before me, the law as I understood it and consistent with my duties as Deputy Attorney General, nothing more than that.[783]

Holder's impassioned defense would be more believable if Holder's decisionmaking could be justified based on the facts that were in front of him. However, given his complete inability to justify his decision to keep the Rich matter from the rest of the Justice Department and his position in favor of the Rich pardon when he knew next to nothing about the case, the Committee must question Holder's motivations.

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[779] *Id.* at 194 (testimony of Eric Holder, former Deputy Attorney General, Department of Justice).
[780] *Id.* at 202.
[781] *Id.* (testimony of Jack Quinn).
[782] *Id.* (testimony of Eric Holder, former Deputy Attorney General, Department of Justice).
[783] *Id.* at 203.

3. The January 19 Meeting Between White House Staff and President Clinton

After hearing from Deputy Attorney General Holder, Beth Nolan, Bruce Lindsey, John Podesta, Meredith Cabe, Eric Angel, and Cheryl Mills all went to an Oval Office meeting with President Clinton to discuss the President's last grants of clemency.[784] This meeting took place at approximately 7:00 p.m. The presence of Cheryl Mills, who at this time was not a government employee, and had not been for over a year, has raised two serious concerns. First, Mills might have been exposed to information, that as a private citizen, she was not legally entitled to review. Certainly, if minimal due diligence regarding the Rich pardon had been performed, Mills would have been exposed to a considerable amount of highly classified information. Furthermore, even NCIC information on Rich and Green would have been inappropriate to disseminate to a private citizen like Mills. Second, at the time, Mills was a trustee of the Clinton Library. As a trustee, Mills was responsible for supervising the effort to construct the Library. However, Mills claimed that she was unaware both of general fundraising efforts, and of Denise Rich's large contributions to the Library. The White House staff present at the meeting explained that Mills was invited to the meeting because of her substantial knowledge regarding the various independent counsel investigations of the Clinton Administration.[785] The bulk of this meeting concerned pardons relating to various investigations by independent counsels, and Mills was asked for her opinion on whether various individuals involved in these investigations should receive pardons.[786]

After a lengthy discussion regarding the Independent Counsel-related pardons, the President raised the issue of Marc Rich. President Clinton said that he had received a message from Jack Quinn,[787] and that he had also received a call from Prime Minister Barak. Bruce Lindsey clearly recalled that the President stated that "Prime Minister Barak had spoken to him that afternoon and had asked him again—I don't believe it was the first time that the Prime Minister had raised the Marc Rich pardon—had asked him again to consider it."[788]

Before the President raised the Marc Rich matter, everyone on the White House staff thought it was a dead letter, and had not prepared for the issue to be brought up at the January 19 meet-

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[784] *Id.* at 428 (Mar. 1, 2001) (testimony of Beth Nolan, former Counsel to the President, the White House); Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

[785] During her tenure as Associate White House Counsel and then Deputy White House Counsel, Mills was one of the primary lawyers handling scandal-related matters at the Clinton White House.

[786] Interview with Cheryl Mills, former Associate Counsel to the President, the White House (Mar. 19, 2001); *See also* "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 328 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

[787] Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001). Quinn's phone records indicate that he called the President at 12:29 p.m. on January 19 for a duration of two minutes. Jack Quinn Document Production (Telephone bill of Jack Quinn, Feb. 9, 2001) (Exhibit 174). It appears that Quinn did not actually speak to the President, but rather left a message, which was returned in the evening.

[788] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 347 (Mar. 1, 2001) (testimony of Bruce Lindsey, former Deputy Counsel to the President, the White House). *See also id.* at 328.

ing.[789] Nevertheless, once the President raised the matter, Nolan, Lindsey, Cabe, and Angel all expressed their opposition to the Rich pardon.[790] Those present recall Lindsey giving a strong statement of opposition, focusing on the fact that Rich and Pincus Green were fugitives from justice who had never faced the charges against them.[791] The basic thrust of all of the arguments offered by the staff focused on the fact that Rich and Green were fugitives. When asked about the strength of the arguments made by Rich and Green, Meredith Cabe stated that if their arguments were strong, Rich and Green could obviously finance an excellent defense, and they should make those arguments in court.[792] During this discussion, Beth Nolan also expressed her opposition to the pardon. However, she also informed the President that Eric Holder was "leaning toward" the granting of the pardon. A number of individuals involved in the decisionmaking process have identified Holder's position as being a significant factor in the President's decisionmaking.[793]

As the White House staff argued against the Rich pardon, Cheryl Mills questioned their knowledge of the case. Mills pointed out that the White House Counsel's Office staff was not responding to the substantive issues raised in the Marc Rich petition. Mills specifically pointed out that Bruce Lindsey was not the best person to give an opinion on the Rich case since he had not even read the petition.[794] It appears that no one among the six individuals discussing the Rich pardon had even read through the 31-page petition. At this point, Mills outlined what she did know about the case, based on her review of materials provided to her by Jack Quinn. The President then asked her what she thought about the arguments made by Quinn about Rich's fugitive status in his January 18 letter. Mills stated that she did not find Quinn's arguments persuasive.[795] She did say that the President should look at the selective prosecution argument which had been raised by Rich. According to Beth Nolan, Mills said that the White House should be looking at the selective prosecution argument "seriously."[796] But then Mills told them "you know me, I don't care about rich white guys," and then argued that American blacks were selectively prosecuted every day.[797] Of the individuals present at the meeting, only Mills made any statements that can be construed as anything other

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[789] *Id.* at 344–45 (testimony of John Podesta, former Chief of Staff to the President, the White House).

[790] *Id.* at 110. *See also* Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001). John Podesta was present for the portion of the meeting where the independent counsel pardons were discussed, but left the meeting prior to the discussion of Marc Rich to tape a television appearance.

[791] Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

[792] *Id.*

[793] *See* "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 367 (Mar. 1, 2001) (testimony of John Podesta, former Chief of Staff to the President, the White House).

[794] Interview with Cheryl Mills, former Associate Counsel to the President, the White House (Mar. 19, 2001).

[795] Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001).

[796] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 346 (Mar. 1, 2001) (testimony of Beth Nolan, former Counsel to the President, the White House).

[797] Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001).

than negative about the Rich petition. The President indicated he was interested in the matter, but did not make any clear statements that he was going to issue the Rich pardon.

After this discussion, the President indicated that he had to return Quinn's call. He did not indicate whether he had made up his mind on the Rich pardon. It was clear, though, that the President still had a strong interest in the matter.

4. The President's Call to Jack Quinn

The President then tracked down Jack Quinn, who was having dinner at the home of a friend. Clinton spoke to Quinn about the Rich case. According to Quinn, this conversation lasted approximately twenty minutes. Before the call, Robert Fink e-mailed Quinn the following suggestion: "I would say, Do it for me. I know it is deserved."[798] Also providing a suggestion as to the topics discussed between Quinn and President Clinton is a list of bullet points apparently prepared by Quinn for the call:

- unusual
- but not unworthy
- never was a case
- tax RICO fraud
- stayed away—publicity
- CTS/RUDY SAY OVERREACHED
- will submit to some civil processes in ARCO
- others similarly sit.
- controversial/defensible
- humanitarian record since that time
- Ken Starr
- Ira[n]-Contra
- inequity
- bias—rich Jew
- Israel[799]

As has been discussed throughout this report, most of Quinn's apparent arguments were completely false, ranging from the assertion that there "never was a case," to the claim that other similarly situated defendants were subject to civil penalties, to the preposterous claim that Rich was targeted because he was Jewish.

According to Quinn, "President Clinton had obviously read and studied the pardon petition. He grasped the essence of my argument about this case being one that should have been handled civilly, not criminally, and he discussed with me whether the passage of time would permit statute of limitations defenses in such a civil proceeding."[800] After President Clinton expressed this opinion, Quinn told the President that he "would happily give him a letter waiving those defenses, and he insisted that I provided one to him within an hour."[801] Quinn has testified that his discussion with the President was limited to the law and the facts of the Rich case, and at no time touched upon the financial contributions of Denise

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[798] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00406 (E-mail from Robert Fink to Jack Quinn (Jan. 19, 2001)) (Exhibit 175).

[799] Jack Quinn Document Production (Note of Jack Quinn) (Exhibit 176).

[800] "President Clinton's Eleventh Hour Pardons," *Hearing Before the Senate Comm. on the Judiciary*, 107th Cong. 70 (Feb. 14, 2001) (testimony of Jack Quinn).

[801] *Id.*

Rich. After getting off the phone with the President, Quinn drafted a short letter making the necessary waiver. The letter reads as follows:

> I am writing to confirm that my clients, Marc Rich and Pincus Green, waive any and all defenses which could be raised to the lawful imposition of civil fines or penalties in connection with the actions and transactions alleged in the indictment against them pending in the Southern District of New York. Specifically they will not raise the statute of limitations or any other defenses which arose as a result of their absense [sic].[802]

This letter was then faxed to the White House, where it was apparently provided to the President and the relevant White House staff.

It was after the telephone call with Jack Quinn that President Clinton apparently decided to grant the pardons to Marc Rich and Pincus Green. The President himself has pointed to this agreement as a significant concession that he was able to obtain from Jack Quinn and Marc Rich.[803] That the assurances given by Jack Quinn had any impact on President Clinton's decisionmaking is deeply troubling. The promise made by Quinn was an empty promise for at least three reasons.

First, Quinn agreed to waive a defense that Marc Rich and Pincus Green could not use in any event. Due to their absence from the United States, Marc Rich and Pincus Green did not have a statute of limitations defense to waive. The statute of limitations provision of the Petroleum Overcharge Distribution and Restitution Act of 1986[804] would apply to any civil enforcement action imposing civil penalties on Marc Rich and Pincus Green for violations of the Emergency Petroleum Allocation Act of 1973[805] and the Economic Stabilization Act of 1970.[806] The limitations provision provides that a civil enforcement action cannot be commenced after the later of September 30, 1988, or six years after the date of the violation.[807] It appears that this provision would provide a defense for Marc Rich and Pincus Green; however, immediately following the limitations provision are exceptions tolling the limitations period. The first exception provides:

> (1) In computing the periods established in subparagraphs (A) and (B) of subsection (a)(1) of this section, there shall be excluded any period—
>
> (A) during which any person who is or may become the subject of a civil enforcement action is outside the United States, has absconded or concealed himself, or is not subject to legal process.[808]

Therefore, according to the plain meaning of the statute, the time Marc Rich and Pincus Green were outside the United States tolled

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[802] Jack Quinn Document Production (Letter from Jack Quinn to President William J. Clinton (Jan. 19, 2001)) (Exhibit 177).
[803] William Jefferson Clinton, *My Reasons for the Pardons*, N.Y. TIMES, Feb. 18, 2001 (Exhibit 178).
[804] 15 U.S.C.A. §§ 4501–4507 (2001).
[805] 15 U.S.C.A. §§ 751–760(h) (2001), omitted pursuant to 15 U.S.C.A. § 760(g).
[806] 12 U.S.C.A. § 1904 (1976) omitted, pursuant to Pub.L. 91–151, Title II, § 211.
[807] 15 U.S.C.A. § 4504(a)(1).
[808] 15 U.S.C.A. § 4504(b)(1)(A).

the statute of limitations. Furthermore, a look at the legislative history of this provision shows that Congress intended this result. Congress enacted the limitations provision with the intent that all alleged violations of the law would be pursued expeditiously but it did not intend for those who violated the laws to escape prosecution.[809] It is evident from the plain meaning of the statute, as well as the legislative history, that Marc Rich and Pincus Green did not have a statute of limitations defense to raise, but that, in fact, their absence tolled the limitations period.

Second, it appears almost certain that Rich does not have any civil liability relating to the charges against him in 1983. Martin Auerbach, one of the main prosecutors responsible for investigating Rich, opined that "[t]he civil liabilities in this case were fully extinguished in 1984 when Marc Rich and Co. A.G. and Marc Rich and Co. International Limited paid $150 million to the U.S. Government. The civil liabilities were corporate civil liabilities."[810] When asked about Rich's promise to pay civil liabilities, Sandy Weinberg stated, "What civil penalties? The civil penalties already have been extracted, $200 million worth. They were corporate liabilities and were already handled through plea agreements. This is about as big an empty promise as can be made."[811] Rich's own lawyers agree with the assessment of the prosecutors. Michael Green, one of the main lawyers representing Rich, stated that "[w]e think he [Marc Rich] owes no civil liabilities."[812] Perhaps the most telling sign is that over a year after the Rich pardon, the Department of Energy has taken no action to collect civil penalties from Rich.[813]

Third, to the extent that civil penalties were available, Marc Rich had been willing to pay as much as $100 million to settle the case against him, going back to the early 1980s. What Rich had feared though, and was not willing to accept, was any time in jail. Rather than representing a concession, the agreement between the President and Quinn represented exactly what Rich had been demanding all along.

It cannot be disputed that the deal the President reached with Jack Quinn on January 19, 2001, was a hollow, meaningless deal. The only remaining question is whether the President's mistake was the result of ignorance, part of his complete failure to conduct any research about the Marc Rich case, or whether the President knew it was an empty agreement and made it solely to provide window dressing for his decision. Since this question goes to the heart of whether or not President Clinton's decision was corrupt, it is difficult for the Committee to reach a conclusion on this question, absent additional information from individuals who have refused to cooperate with the Committee's investigation. However, it is difficult to understand why President Clinton would enter into these kinds of negotiations with Jack Quinn, reach this kind of

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[809] H.R. Conf. Rep. No. 99–1012, at 234 (1986).

[810] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 108 (Feb. 8, 2001) (statement of Martin Auerbach, former assistant U.S. attorney for the S.D.N.Y., Department of Justice).

[811] Jerry Seper, *Pardoned Financier Gives "Empty Promise," Ex-Prosecutor Says*, WASH. TIMES, Jan. 30, 2001, at A1.

[812] Raymond Bonner and Alison Leigh Cowan, *Notes Show Justice Official Knew of Pardon Application*, N.Y. TIMES, Feb. 2, 2001, at A14.

[813] Department of Energy staff have informed the Committee that they are still reviewing the Rich case.

agreement, and then use the agreement as a justification for granting the pardon without even checking with someone who understood the case to see if the agreement had substance. President Clinton knew that his staff had not even read Quinn's submissions to the White House, much less spoken to parties outside the White House about the Rich matter. Therefore, President Clinton, if he was attempting to reach a reasonable decision in the Rich matter, should have understood the need to turn to someone who understood the case to assist him in the matter. That he did not seek such advice raises further questions about his decisionmaking, and about his motive for issuing the Rich and Green pardons.

5. The White House Informs the Justice Department of the Decision

President Clinton apparently made the decision to pardon Rich and Green in the evening of January 19, 2001. After the President made the decision, Bruce Lindsey and Beth Nolan were informed of the decision. Nolan then asked Associate White House Counsel Meredith Cabe to inform the Justice Department, and have the Justice Department perform a National Crime Information Center ("NCIC") check on Rich and Green. It was standard procedure for the Justice Department to perform this kind of check on an individual before they received a pardon, even under the dramatically truncated background checks employed by the Clinton Administration in January 2001. The purpose of the NCIC check was to ensure that the individual receiving the pardon did not have any outstanding warrants or criminal charges.

Shortly after midnight on January 20, 2001, less than twelve hours before the end of the Clinton Administration, Cabe telephoned Roger Adams, the Pardon Attorney, and informed him that she would be faxing over a list of additional individuals to whom President Clinton was considering granting pardons.[814] When the list arrived, Adams saw the names of Marc Rich and Pincus Green on the list. This was the first time that Adams had heard of Rich or Green being considered for pardons. Adams saw that the faxed list did not contain any identifying information for Rich or Green, so he called Cabe to ask for additional information.[815] Cabe provided Adams with dates of birth and social security numbers for Rich and Green. Cabe then informed Adams that she expected that there would be little information on them, because they had been "living abroad" for several years.[816]

While the FBI conducted the NCIC check on Rich and Green, the White House Counsel's Office faxed further information on Rich, consisting of several pages from Quinn's pardon petition, to the Pardon Attorney's Office.[817] Based on his review of these pages, Roger Adams understood the full magnitude of the Rich and Green case for the first time. He saw that they had been indicted 17 years

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[814] "President Clinton's Eleventh Hour Pardons," *Hearing Before the Senate Comm. on the Judiciary*, 107th Cong. 22–23 (Feb. 14, 2001) (testimony of Roger Adams, Pardon Attorney, Department of Justice).

[815] *Id.* at 23.

[816] *Id.*; Interview with Roger Adams, Pardon Attorney, Department of Justice (Feb. 27, 2001).

[817] "President Clinton's Eleventh Hour Pardons," *Hearing Before the Senate Comm. on the Judiciary*, 107th Cong. 23 (Feb. 14, 2001) (testimony of Roger Adams, Pardon Attorney, Department of Justice).

earlier in New York, and had remained fugitives since then. A member of Adams' staff then began to conduct internet research on Rich and Green.[818] While Adams's staff was attempting to gather information about Rich and Green, the FBI faxed the results of the NCIC check to Adams. The NCIC check revealed that Rich and Green were fugitives wanted for mail and wire fraud, arms trading, and tax evasion.[819] Adams drafted a summary of the charges against Rich and Green, and faxed the summary to the White House shortly before 1:00 a.m. on January 20.[820] At this point, Adams was obviously concerned about the effort to pardon Rich and Green, and called his superior at the Justice Department, Deputy Attorney General Holder, at home.[821] Adams informed Holder that President Clinton was considering granting pardons to Rich and Green. Holder then informed Adams that he was aware of the pending clemency requests from Rich and Green.[822] According to Holder, when he received this call from Roger Adams, it was the first time that he actually thought that the Rich pardon was likely to be granted.[823]

After his brief conversation with Holder, Adams received another call from the White House Counsel's office, which by this time had received Adams' summary of the charges against Rich and Green. During this conversation, Adams told Meredith Cabe that in addition to the charges against Rich, there was a customs alert posted for Rich and Green and that he believed this was significant. Apparently not trusting Adams' summary, Cabe asked Adams to fax over the original printout from the NCIC check that was performed by the FBI. Adams faxed the printout over, as well as the articles that his staff had been able to locate through their Internet searches.[824]

What had caused such concern at the White House was the reference in the NCIC check to "arms trading." No one at the White House had ever heard that Rich or Green had been involved in arms trading. Cabe and Eric Angel took the information about arms trading to Beth Nolan. Nolan and Cheryl Mills were in Nolan's office. Bruce Lindsey had apparently left the White House for the evening. Cabe gave Nolan and Mills the information, which had been provided to her by the Pardon Attorney's office. Nolan compared the information in the NCIC printout to the Rich and Green indictment, attempting to discern whether they had been charged with arms trading in 1983, or whether this was new information. Cabe, Angel, Mills, and Nolan were unable to come to any definitive answer as to whether the information about arms trading was already known, or whether this was new information which would complicate the effort to issue a pardon. At the time, they

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[818] *Id.*

[819] *Id.*; Interview with Roger Adams, Pardon Attorney, Department of Justice (Feb. 27, 2001).

[820] "President Clinton's Eleventh Hour Pardons," *Hearing Before the Senate Comm. on the Judiciary*, 107th Cong. 23 (Feb. 14, 2001) (testimony of Roger Adams, Pardon Attorney, Department of Justice).

[821] *Id.*

[822] *Id.*

[823] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 194 (Feb. 8, 2001) (statement of Eric Holder, former Deputy Attorney General, Department of Justice).

[824] "President Clinton's Eleventh Hour Pardons," *Hearing Before the Senate Comm. on the Judiciary*, 107th Cong. 23–24 (Feb. 14, 2001) (testimony of Roger Adams, Pardon Attorney, Department of Justice).

speculated that either this was a new charge for which Rich and Green were wanted, unrelated to their 1983 indictment, or this was the way that the NCIC database referred to the Trading with the Enemy count which was part of their indictment.[825] In short, however, they did not have an understanding of what the "arms trading" reference meant.

The meaning of the "arms trading" reference in the NCIC is not entirely clear, since none of the charges in Rich and Green's 1983 indictment related to arms trading. The NCIC printout itself, however, does not support the speculation by the White House staff that the "arms trading" reference was just another term for trading with the enemy. The printouts for Marc Rich from the NCIC database show separate entries for "trading with the enemy" and "arms trading," suggesting that they are separate offenses.[826] Given the fact that on its face the NCIC printout raises serious questions about Rich being wanted for arms trading, President Clinton clearly should have made a serious inquiry to determine what the arms trading entry meant before granting the Marc Rich pardon.[827] Instead, he did not make a single inquiry of law enforcement.

To try to figure out a response to this new piece of information, Nolan, Mills, Cabe, and Angel called Bruce Lindsey. Lindsey did not have any insight regarding the arms trading information, but reiterated his opposition to the Rich pardon, and stated that the arms trading information was yet another reason not to issue the pardon.[828] Nolan then called Jack Quinn. Quinn expressed irritation to be receiving a call at 2:00 a.m.[829] Quinn also was not immediately responsive to the concerns Nolan was raising.[830] Quinn told Nolan that he "would have known if [Rich] had been charged with that." Apparently Nolan, and Cheryl Mills as well, did not consider that a satisfactory answer, and pressed Quinn for more information. Mills told Quinn that "you've got to work with us here."[831] At that point, Quinn told Nolan and the others that he would check back on this issue and call them back.[832] Shortly thereafter, Quinn called back and forcefully told Nolan and the others that he had no knowledge about any arms trading charges against Rich.[833] He told them to look at the indictment against Rich, and that the in-

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[825] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 374–75 (Mar. 1, 2001) (testimony of Beth Nolan, former Counsel to the President, the White House).

[826] Department of Justice Document Production DOJ/SDNY–MR–00021–23 (NCIC Printouts for Pincus Green and Marc Rich (Mar. 3, 1992, and Mar. 18, 1994)) (Exhibit 179).

[827] The Committee is not aware of any criminal charges that have been lodged against Rich or Green for illegal arms trading. There are numerous reports, however, that Marc Rich is involved in trafficking weapons, included sophisticated missile guidance systems. This arms dealing activity may or may not be legal. *See*, *e.g.*, A. CRAIG COPETAS, METAL MEN: MARC RICH AND THE 10-BILLION-DOLLAR SCAM 131 (1985) (indicating that Rich paid for Iranian oil with small arms, automatic rifles, and hand-held rockets); Jim Hougan, *King of the World* (Marc Rich), PLAYBOY, Feb. 1, 1994, at 104 (indicating that Rich bought gas-fired gyroscopes from North Korea and sold them to Iran).

[828] Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001).

[829] *Id.*

[830] *Id.*

[831] *Id.*

[832] Interview with Cheryl Mills, former Associate Counsel to the President, the White House (Mar. 19, 2001); Interview with Eric Angel, former Associate Counsel to the President, the White House (Mar. 28, 2001).

[833] *Id.*

dictment "was the only thing out there."[834] Quinn's answer was obviously non-responsive but no one appears to have taken any steps to obtain a responsive answer.

At the Committee's March 1 hearing, Nolan was asked why she did not take any further steps to determine exactly what charges were outstanding against Marc Rich. Nolan's answer was less than satisfactory:

> Mr. BURTON. An intelligence agency tells you that there was arms trading, a violation of law, and all these other things had taken place which had not just been revealed or checked; and you take the man's word or the President takes his word on the pardon of one of the most wanted fugitives in the world who renounced his citizenship and all the other things we talked about. You took his word when Mr. Quinn was representing him. And Mr. Quinn said in previous testimony the last time he was here, my job wasn't to tell all the facts that were against the pardon. My job was to point out all the reasons why there should be a pardon.
>
> You know as an attorney that's what you do. You try to make the best case for your client.
>
> Why in the world would you go to Mr. Quinn when there was a question of illegal activity and say, hey, what about this? You know darn well he's going to say, oh, that's nothing. That was just a minor thing. That was probably not arms trading. It was oil trading or something else. Why would you take his word for it and why would the President take his word for it and then go ahead and grant the pardon? I just don't understand it. It eludes me. Would you explain that to me?
>
> * * *
>
> Ms. NOLAN. This was 2:30 a.m. My eyes were officially stuck together by then. I had my contact lenses in since 7 or 6 the morning before. I had been going on a couple hours of sleep most nights that week, as had the President; and I think frankly, as Mr. Podesta said, because this came up so late we did not do the kind of checks that we would have if we would have had the time. . . . As Mr. Lindsey indicated, he had indeed indicated that, understand Mr. Quinn is not your advisor, he is an advocate. But I do think that the President viewed Mr. Quinn as somebody who he truly did trust to give him correct information; and as far as we know that information was correct, not incorrect.

[834] Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).

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> Mr. BURTON. I'm running out of time here. Was Mr. Quinn at the White House?
>
> Ms. NOLAN. No.
>
> Mr. BURTON. So you had the ability with your eyes stuck together to get ahold of Mr. Quinn, but you didn't try to contact the Justice Department to ask them about it because it was 2:30 a.m.? And you can get a hold of the man who is an advocate for pardoning one of the most wanted fugitives in the world, but you don't call the Justice Department or the intelligence agency at 2:30 a.m.? I don't understand that.[835]

After the final conversation with Quinn, at 2:30 a.m., Nolan called President Clinton. Nolan told the President that they had performed an NCIC check, which showed that Rich was a wanted fugitive, and also revealed new information suggesting that Rich was wanted for arms trading. Nolan then told the President that the White House did not have any information showing that the NCIC information was inaccurate, other than what Quinn had told them:

> I said all we have is Jack Quinn's word that the arms trading is not, in fact, an issue for Mr. Rich.
>
> * * *
>
> [T]hat's when I said, you know, what we have is Jack Quinn's word; that's all we have at this hour. And he said, take Mr. Quinn's word, or take Jack's word.[836]

With that sentence—"take Jack's word"—President Clinton decided to grant the pardons of Marc Rich and Pincus Green. Nolan informed Cheryl Mills and Meredith Cabe, both of whom were in her office, of the decision, and then went home for the evening. The actual master warrant granting pardons to Marc Rich, Pincus Green, and 139 others was prepared at the Justice Department, and then delivered to the White House on the morning of January 20. The warrants were then signed by President Clinton.

H. Aftermath of the Rich and Green Pardons

1. Eric Holder's Congratulatory Remarks

The first reaction of the Marc Rich legal team to the pardons was one of happiness and self-congratulation. By Monday, January 22, they had turned to more practical concerns, like having the travel restrictions and arrest warrants for Rich and Green lifted. Jack Quinn spoke with Eric Holder, who was now Acting Attorney General. Quinn asked Holder what steps needed to be taken to ensure that Rich and Green were not arrested when they traveled. Holder

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[835] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 379 (Mar. 1, 2001).

[836] *Id.* at 378, 429 (testimony of Beth Nolan, former Counsel to the President, the White House).

told Quinn he needed to have detainers removed from computers, as well as inform Interpol of the pardon.[837] Apparently, Holder thought that the Southern District of New York might resist the pardon, and refuse to dismiss the indictment. In that case, Holder counseled Quinn, Rich and Green to move to dismiss the indictment in court.[838] According to Jack Quinn, who took notes of the conversation, Holder said that Quinn "did a very good job."[839] Holder also gave Quinn advice on how to handle the burgeoning media requests regarding the pardon effort, telling Quinn that he should "make public [their] commitment to waive defenses to civil penalties at [DOE] and tthe [sic] support of [B]arak."[840] Also in this same conversation, Holder asked Quinn to consider hiring two of his former aides at the Justice Department.[841]

Holder has offered evolving accounts of his congratulatory remarks to Jack Quinn. At first, Holder's supporters informed the press that his comments to Quinn were "sarcastic, not congratulatory."[842] Then, when questioned about this matter at the Committee's hearing, Holder denied making the comments at all.[843] Given the fact that Quinn took notes and sent an e-mail contemporaneously with the conversation with Holder, and that Holder has offered conflicting accounts of the conversation, it appears that Holder has not offered an honest explanation, and that he did indeed make the congratulatory comments to Quinn. Such comments support the Committee's conclusion that Eric Holder was sympathetic to the Marc Rich pardon or was willing, through his own inaction, to see the pardon granted so as not to interfere with his other interests. It is also worth noting that Holder, who had himself sought Quinn's support for his appointment as Attorney General if Vice President Gore won the presidency, continued to seek Quinn's support for finding employment for his underlings, even after the Rich pardon had been granted.

2. The Rich Team's Effort to Deal with the Press

After Holder's congratulations, things began to go downhill for the Marc Rich team. By the end of the day on Monday, January 22, it became clear that the pardons of Marc Rich and Pincus Green were going to be a major news story. E-mails between Rich's representatives showed that they were having some difficulty deal-

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[841] *Id.* Holder sent the resumes of the two aides, former Associate Deputy Attorney General Bernard J. Delia and former Associate Deputy Attorney General Nicholas M. Gess, later that day. Jack Quinn Document Production (Fax from Eric Holder, Deputy Attorney General, Department of Justice, to Jack Quinn (dated Dec. 1, 2000, date stamped by fax machine Jan. 22, 2001)) (Exhibit 182). In addition, at least one of these aides, Nick Gess, called Quinn as early as January 2, 2001, presumably seeking a job. The telephone message reads, "Calling at Holder's suggestion." *See* Jack Quinn Document Production (Telephone Message from Nick Gess, Associate Deputy Attorney General, Department of Justice, to Jack Quinn (Jan. 2, 2001)) (Exhibit 183).

[837] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 194 (Feb. 8, 2001) (statement of Eric Holder, former Deputy Attorney General, Department of Justice).

[838] *See* Jack Quinn Document Production (E-mail from Jack Quinn to Robert Fink *et al.* (Jan. 22, 2001)) (Exhibit 180); Jack Quinn Document Production (Note of Jack Quinn) (Exhibit 181).

[839] *Id.*

[840] Jack Quinn Document Production (E-mail from Jack Quinn to Robert Fink *et al.* (Jan. 22, 2001)) (Exhibit 180).

[842] Lucy Howard, Susannah Meadows, Bret Begun and Katherine Stroup, *Periscope*, NEWSWEEK, Feb. 12, 2001, at 6.

[843] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 215 (Feb. 8, 2001) (testimony of Eric Holder, former Deputy Attorney General, Department of Justice).

ing with this unforeseen consequence of the pardons. Rich lawyer Robert Fink began by asking how he should deal with press calls:

> I have been asked who lobbied the President in behalf of Marc (and Pinky) and said it may be private and therefore did not immediately respond. May I? Who should I say? I have told everyone that Denise was in favor of the resolution of this case and was in favor of the pardon.[844]

Rich's representative in Israel, Avner Azulay, was concerned about the publicity:

> Pse [sic] keep barak [sic] out of the media. We have enough names on the list other than his. Important to keep all politicians out of the story. Pse [sic] share with me the inclusion of any one on the list. This is election time here and has a potential of blowup. A newsweek reporter here has already asked if there were any political contributions. Other than that I thought we agreed that all inquiries, interviews should be channeled to [G]ershon. Why is B[ob] F[ink] giving interviews? He shouldn't be dealing with this aspect.[845]

Jack Quinn also made a case for further disclosure:

> I have this very great concern: we are withholding our very good and compelling petition from the press only to protect the tax professors who don't want to be too far out front. The tail is wagging the dog. I think it is critical that one of us sit down with some journalist and share the petition. I hope I'm not over-reacting, but thins [sic] is my best judgment. I'd do it with the NY Times. In the next hour or so. Is that possible?[846]

Avner Azulay agreed with the need to make the tax professors' opinion public:

> You are right. Why do we have to worry so much about the professors. They did a job and there is nothing wrong in giving expert onions [sic]. A lot know about it, including the doj and sdny. It is part of the petition. Why hide it?[847]

The e-mails indicate that Professors Ginsburg and Wolfman expressed some hesitancy to have their work for Marc Rich publicly disclosed. When asked if Professor Ginsburg was hesitant to be linked to the Rich case because it might harm the reputation of his wife, Supreme Court Justice Ruth Bader Ginsburg, Quinn said Professor Ginsburg's, and Professor Wolfman's concerns were limited to a fear of being "besieged with media requests."[848] It appears that the professors' concerns were more serious than fear of dealing with a barrage of press calls, and it stands to reason that they were concerned about having their reputations tarnished by having

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[844] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00191 (E-mail from Robert Fink to Avner Azulay, Director, Rich Foundation *et al*. (Jan. 22, 2001)) (Exhibit 69).

[845] *Id.*

[846] Piper Marbury Rudnick & Wolfe Document Production PMR&W 00195 (E-mail from Jack Quinn to Robert Fink *et al.* (Jan. 23, 2001)) (Exhibit 184).

[847] *Id.*

[848] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 180 (Feb. 8, 2001) (testimony of Jack Quinn).

the public know of their lucrative work for Marc Rich and Pincus Green.

While they were deciding how to deal with the public, the Marc Rich team was also receiving communications from former President Clinton. On January 23, Anne McGuire, an associate at Quinn Gillespie, e-mailed Jack Quinn to let him know that she had heard from Clinton Library fundraiser Peter O'Keefe:

> Just got a weird call from Peter O'Keefe—was up in Chappaqua for the last few days—he asked me to check with you on whether or not you were going to go out and start defending vigorously—said "we wanted to find out." I am assuming he meant Terry [McAuliffe]—but I did not go into it on the cell phone.[849]

It appears that Quinn spoke to former President Clinton on January 23 and 24, about how to handle the Rich issue in the press. On January 23, Quinn e-mailed Avner Azulay and pointed out that Clinton "himself is saying in his frustration about the press coverage that good people like the PM [Barak] supported this."[850] The following day, Quinn e-mailed the Marc Rich team and said that he "spoke to BC. [He] thinks we shd offer op-ed to daily news. [C]an anyone help?"[851]

On January 26, 2001, Quinn did write an op-ed piece, which was published by *The Washington Post*. The article was little more than a rehash of the same inaccurate arguments that Quinn made to the White House when he was seeking the pardon. Quinn's main claims were that: (1) companies which committed acts similar to those of Rich and Green were not prosecuted for their actions; (2) the prosecutors in the Southern District of New York refused to negotiate with Rich and Green; and (3) Quinn did not violate the Executive Order banning lobbying by officials who had left the White House in the previous five years. As explained earlier in this report, all of these arguments were misleading.

Internal e-mails among the team defending Jack Quinn indicate that they were particularly concerned about Quinn's exposure for his possible role in "coordinating" political activities and the effort to obtain the Rich pardon. These e-mails also indicate that Quinn was eager to place the blame for the Rich pardon onto others. The day after the Committee's February 8, 2001, hearing, Quinn associate Peter Mirijanian sent the following e-mail to Quinn and a number of his associates:

> Where Jack remains exposed is in defending the optics of the emails, contributions and the DNC piece (Beth Dzoretz [sic]). We need to anticipate the worst in this regard—i.e.

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[849] Jack Quinn Document Production (E-mail from Anne McGuire, Associate, Quinn Gillespie & Associates, to Jack Quinn (Jan. 23, 2001)) (Exhibit 185). Shortly after her conversation with O'Keefe, McGuire spoke to Terry McAuliffe and asked Quinn to "[c]all me as soon as you can." Jack Quinn Document Production (E-mail from Anne McGuire, Associate, Quinn Gillespie & Associates, to Jack Quinn (Jan. 23, 2001)) (Exhibit 186). The timing of McAuliffe's call suggests that it was related to Quinn's response to the Rich matter. However, since McAuliffee has refused to participate in an interview with Committee staff, the Committee cannot know definitively what McAuliffe's call was about.

[850] Jack Quinn Document Production (E-mail from Jack Quinn to Avner Azulay, Director, Rich Foundation *et al.* (Jan. 23, 2001)) (Exhibit 187).

[851] Jack Quinn Document Production (E-mail from Jack Quinn to Robert Fink *et al.* (Jan. 24, 2001)) (Exhibit 188).

> Fink refuses to testify, Denise is granted immunity and Beth is brought before the committee. Since Jack has been out front and center on this the impression will stick that, yes, he knew of these activities and gave them his tacit approval.
>
> Just like with Holder, if these other parties don't come forward and instead duck their responsibility on these matters, we'll have to do it for them. (Does that sound too "Sopranos-like"?) [852]

On February 10, 2001, Mirijanian advised Quinn against appearing on Meet the Press because of similar concerns:

> My concern jack is that russert is going to get into a series of questions involving denise's political activities and you will be the de facto defender of what she did. That will only result in more press inquiries about your "coordinating" role—something we want to avoid.[853]

These e-mails suggest that Quinn and his defenders felt that they were vulnerable to questions about Quinn's coordination of the political activities of Denise Rich and Beth Dozoretz and the effort to obtain Marc Rich's pardon. The e-mails raise the possibility that Denise Rich and Dozoretz might have had valuable information regarding these activities which they did not share with the Committee, due to the invocation of their Fifth Amendment rights.

3. President Clinton's Column in The New York Times

For the first month of public outcry about the Marc Rich pardon, President Clinton was largely silent. He made a few scattered comments about the matter, most notably a telephone call to Geraldo Rivera. Through the call to Rivera, the public learned that the President felt "blindsided by this. I have no infrastructure to deal with this, no press person. I just wanted to go out there and do what past presidents have done, but the Republicans had other ideas for me." [854] President Clinton also suggested that the outcry over Marc Rich was hypocritical, because Republicans had worked on the Rich case: "It's terrible! I mean, he had three big-time Republican lawyers, including Dick Cheney's chief of staff. Marc Rich himself is a Republican." [855] President Clinton also told Rivera about the influence that Israeli support for Rich had played: "Now, I'll tell you what did influence me. Israel did influence me profoundly." [856]

On Sunday, February 18, former President Clinton attempted a fuller defense by publishing a column in *The New York Times*. Unfortunately for the President, his attempt at defense only made matters worse. The column largely parroted the arguments made by Jack Quinn and the other Marc Rich lawyers. Therefore, it was rife with false and misleading statements. The following is a sum-

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[852] Jack Quinn Document Production JQ 02943 (E-mail from Peter Mirijanian, Quinn Gillespie & Associates, to Scott Hynes, Quinn Gillespie & Associates *et al.* (Feb. 9, 2001)) (Exhibit 189).
[853] Jack Quinn Document Production JQ 02946 (E-mail from Peter Mirijanian, Quinn Gillespie & Associates, to Jack Quinn (Feb. 10, 2001)) (Exhibit 190).
[854] *Rivera Live* (CNBC television broadcast, Feb. 15, 2001).
[855] *Id.*
[856] *Id.*

mary of the arguments made by the President, and the problems with each argument:

- "I understood that the other oil companies that had structured transactions like those on which Mr. Rich and Mr. Green were indicted were instead sued civilly by the government." [857]

  As explained earlier in this report, there were 48 criminal prosecutions for violations of oil price control regulations by crude oil resellers, and 14 of those individuals served time in prison. In fact, John Troland and David Ratliff, resellers of oil who played a small part in Marc Rich's plan to avoid U.S. oil regulations and tax laws, served 10 months in prison, and provided vital evidence against Marc Rich and Pincus Green.

- "I was informed that, in 1985, in a related case against a trading partner of Mr. Rich and Mr. Green, the Energy Department, which was responsible for enforcing the governing law, found that the manner in which the Rich/Green companies had accounted for these transactions was proper." [858]

  The so-called DOE finding was completely irrelevant to the criminal charges against Rich and Green. Despite the finding about accounting methods in a related case, the Department of Energy never disputed that Rich's companies falsified reports to hide illegal profits and then failed to pay taxes on those illegal profits. Furthermore, the former President neglected to mention that he made no effort, and he was aware that his staff made no effort, to check with Justice Department or Energy Department experts regarding this matter.

- "[T]wo highly regarded tax experts, Bernard Wolfman . . . and Martin Ginsburg . . . reviewed the transactions in question and concluded that the companies 'were correct in their U.S. income tax treatment of all the items in question[.]'" [859]

  The tax analysis that was performed by Ginsburg and Wolfman was performed only with facts provided to the professors by the Marc Rich legal team.[860] The professors did not gather facts independently, and therefore based their analysis on an incorrect set of assumptions. In addition, the President failed to disclose in his column that Marc Rich paid Professors Ginsburg and Wolfman over $96,000 for their work on the Rich case.[861]

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[857] William Jefferson Clinton, *My Reasons for the Pardons*, N.Y. TIMES, Feb. 18, 2001, at sec. 4, p. 13 (Exhibit 178).

[858] *Id.*

[859] *Id.*

[860] Jack Quinn Document Production (Letter from Bernard Wolfman, Professor, Harvard Law School, to Gerard E. Lynch, Criminal Division Chief of the Office of the U.S. Attorney for the S.D.N.Y., Department of Justice (Dec. 7, 1990)) (Exhibit 66).

[861] *See* Letter from Professor Martin D. Ginsburg, Professor, Georgetown University Law Center, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 12, 2001) (Exhibit

Continued

- "[I]n order to settle the government's case against them, the two men's companies had paid approximately $200 million in fines, penalties and taxes, most of which might not even have been warranted under the Wolfman/Ginsburg analysis that the companies had followed the law and correctly reported their income." [862]

  Rather than being an argument in support of the pardon, the fact of the corporate guilty plea and the massive fines shows that the case against Rich and Green was overwhelming. As prosecutor Sandy Weinberg observed, "if the case is so weak, I mean what in the world were those lawyers [for Rich's companies] thinking at that time . . . . They would have never pled guilty, they would have never paid those fines. Whatever the reason for the pardon, Mr. Chairman, and members of the committee, whatever the reason, surely the reason was not the merits of the case." [863]

- "[T]he Justice Department in 1989 rejected the use of racketeering statutes in tax cases like this one[.]" [864]

  The fact that the Justice Department stopped using the tax charges as predicate offenses for bringing RICO charges is irrelevant to the Rich pardon. While the Justice Department did stop using tax charges in this way, it continues to allow mail and wire fraud as predicate offenses, and therefore, RICO charges could still be brought against Rich and Green under current legal theories. In addition, money laundering statutes were not in place in 1983, and Rich could have been charged under these statutes if he were charged today. Finally, to look at the evolution of the law over the seventeen years that Marc Rich was a fugitive from justice, and argue that those changes merit a pardon for Rich is to reward Rich for his flight from the country. Indeed, sophisticated practitioners of money laundering—which is one of the things that Rich and Green were doing—would be in a far worse position if indicted today.

- "It was my understanding that Deputy Attorney General Eric Holder's position on the pardon application was 'neutral, leaning for.'" [865]

  As explained throughout this report, Holder's position on the pardon is more of an indictment of Holder's judgment and reasoning than it is a justification for the pardon. Holder served the Justice Department and President poorly by failing to gather any facts about the Rich case before reaching his decision about the pardon. He also created the indel-

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64); Letter from Bernard Wolfman, Professor, Harvard Law School, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 8, 2001) (Exhibit 65).

[862] William Jefferson Clinton, *My Reasons for the Pardons*, N.Y. TIMES, Feb. 18, 2001, at sec. 4, p. 13 (Exhibit 178).

[863] "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 107th Cong. 91 (Feb. 8, 2001) (testimony of Morris "Sandy" Weinberg, Jr., former assistant U.S. attorney for the S.D.N.Y., Department of Justice).

[864] William Jefferson Clinton, *My Reasons for the Pardons*, N.Y. TIMES, Feb. 18, 2001, at sec. 4, p. 13 (Exhibit 178).

[865] *Id.*

ible impression that he did not have a pure motive in supporting Rich's request while he was soliciting Jack Quinn's support for appointment as Attorney General. This point is also an indictment of Jack Quinn, who worked very hard to keep the Rich pardon matter away from anyone who would be able to refute his spurious arguments.

- "[T]he case for the pardons was reviewed and advocated not only by my former White House counsel Jack Quinn but also by three distinguished Republican attorneys: Leonard Garment, a former Nixon White House official; William Bradford Reynolds, a former high-ranking official in the Reagan Justice Department; and Lewis Libby, now Vice President Cheney's chief of staff." [866]

  This was President Clinton's most misleading assertion. When President Clinton initially drafted this statement, it said that "the *applications* were viewed and advocated" not only by my former White House counsel Jack Quinn but also by three distinguished Republicans[.]" [867] After some initial copies of the newspaper were printed, the former President's spokesmen called *The New York Times* and asked that the word "applications" be replaced with "the case for the pardons." [868] The pardon applications were never reviewed by Garment, Reynolds, or Libby, so the initial form of the statement was blatantly untrue.[869] However, even the improved statement was misleading. Garment, Reynolds and Libby had worked with Rich in the 1980s and early 1990s to try to reach a resolution of the charges against Rich in New York. The arguments made by Garment, Reynolds and Libby focused on the claim that the SDNY was criminalizing what should have been a civil tax case. They did not make, compile, or in any other way lay the groundwork for, or make a case for a Presidential pardon. When former President Clinton stated that they "reviewed and advocated" "the case for the pardons," he suggested that they were somehow involved in arguing that Rich and Green should receive pardons. This was completely untrue.

- "[F]inally, and importantly, many present and former high-ranking Israeli officials of both major political parties and leaders of Jewish communities in America and Europe urged the pardon of Mr. Rich because of his contributions and services to Israeli charitable causes, to the Mossad's efforts to rescue and evacuate Jews from hostile countries, and to the peace process through sponsorship of education and health programs in Gaza and the West Bank." [870]

  This argument would have been more sound if President Clinton had been President of Israel, rather than President

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[866] *Id.*
[867] *Editors' Note*, N.Y. TIMES, Feb. 19, 2001, at A15.
[868] *Id.*
[869] *Id.*
[870] William Jefferson Clinton, *My Reasons for the Pardons*, N.Y. TIMES, Feb. 18, 2001, at sec. 4, p. 13 (Exhibit 178).

of the United States. Indeed, President Clinton received more pressure from the Israeli government, Israelis, and Israeli sympathizers for a pardon for Jonathan Pollard than for Marc Rich and Pincus Green. Presumably, President Clinton was representing U.S. interests when he declined to pardon Pollard. While it would certainly not have been inappropriate to take many concerns into consideration, one would have expected President Clinton to continue to put U.S. interests above all others when considering the Rich and Green pardons.

There were a number of other problems with President Clinton's reliance on statements of support from Israeli and Jewish officials. First, as discussed throughout this report, it appears that Marc Rich carefully cultivated support by making large financial contributions to political candidates and charitable groups, in some cases making his financial support contingent on their support for his pardon. In other cases, individuals voicing support for Rich were misled, and had no idea that their support would be used to obtain a pardon. Finally, as explained previously, it appears that the President has grossly exaggerated the extent to which Prime Minister Barak pressed him to issue the Rich pardon. President Clinton even misinformed his staff on January 19 that Prime Minister Barak had raised the Marc Rich issue, when in reality, it was President Clinton who raised the Rich pardon with Barak.

Given the fact that every reason that the President offered for the Rich pardon was either misleading or inaccurate, the President's column added to the public furor over the pardons. Given the President's inability to provide any factually accurate or convincing justification for the Rich pardon, the public, and the Committee, are left wondering what the President's true motivations were.[871]

V. FAILURE OF KEY PARTIES TO COOPERATE IN THE MARC RICH AND PINCUS GREEN INVESTIGATION

The Committee's investigation of the pardons of Marc Rich and Pincus Green was hampered by a number of Fifth Amendment claims and other refusals to cooperate with the Committee.

A. Marc Rich

On February 15, 2001, Chairman Burton directed a letter to Marc Rich, asking him to testify before the Committee and waive attorney-client privilege with respect to documents relating to his efforts to obtain a pardon. On February 27, 2001, Laurence

[871] In a televised interview, Roger Clinton made the following statement about the Marc Rich pardon:

> Well, it was surprising, I can't—but I'm not saying it was wrong. I have talked to my brother about it, not in detail, but he has explained to me the reasons, the non-personal reasons—because I don't need to know the personal ones—but he has explained to me how he was right in doing it, and he thought that he was right, specially based on all the people that had written him about it.

Larry King Live (CNN television broadcast, June 21, 2001). Roger Clinton's reference to the "personal reasons" for President Clinton's action is noteworthy. While Roger Clinton has limited credibility, as the President's brother, he would have reason to know whether President Clinton had hidden motives for issuing the Marc Rich and Pincus Green pardons. However, it is unclear, what, if any, "personal reasons" the President had for issuing the pardons.

Urgenson, counsel for Mr. Rich, informed the Committee that because of the various criminal investigations into Mr. Rich's activities, Rich would not waive his attorney-client privilege, or appear before the Committee.[872]

B. Pincus Green

On August 27, 2001, Chairman Burton sent a letter to Pincus Green, requesting that he participate in an interview with Committee staff.[873] Green never responded to this request. Given that Green apparently still lives outside of the United States, the Committee has not been able to serve him with a subpoena requiring the production of documents or testimony.

C. Jack Quinn

Jack Quinn cooperated with the initial phase of the Committee's investigation, testifying at both the February 8, 2001, and March 1, 2001, hearings. Quinn also produced a number of documents to the Committee regarding his work for Marc Rich and Pincus Green. However, Quinn also withheld hundreds of pages from the Committee, claiming that they were covered by the attorney-client privilege. Quinn and three other law firms which had represented Marc Rich also made similar arguments to try to withhold the documents from the grand jury investigating the Rich and Green pardons. In December 2001, Federal District Court Judge Denny Chin overruled the claims of privilege by Quinn and the other lawyers, and directed them to produce the subpoenaed records to the grand jury. On December 17, 2001, Chairman Burton requested that Quinn and three other law firms representing Rich to produce to the Committee any documents they produced to the grand jury in response to Judge Chin's ruling.

On February 7, 2002, Quinn produced hundreds of pages of documents to the Committee which he had withheld for over a year. The documents were highly significant, and raised serious questions about Quinn's work on the Rich case, including whether Quinn was going to receive money from Rich, contrary to assurances given by Quinn at the Committee's February 8, 2001, hearing. On February 19, 2002, Chairman Burton asked Quinn to participate in a voluntary interview with Committee staff regarding the documents he had turned over. On March 5, 2002, Quinn's counsel Victoria Toensing informed Committee staff that Quinn would not participate in an interview with Committee staff. It is disturbing that Quinn withheld documents from the Committee for over a year, and then refused to answer questions about those documents when they were finally turned over to the Committee. Quinn's refusal to answer questions about these documents creates an impression that Quinn is still attempting to conceal relevant information from the Committee about his work on the Marc Rich case. In an attempt to obtain further information from Quinn, the Committee issued a document subpoena to him on March 6, 2002.

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[872] Letter from Laurence A. Urgenson, Counsel for Marc Rich, Kirkland & Ellis, to James C. Wilson, Chief Counsel, Comm. on Govt. Reform (Feb. 27, 2001) (within Appendix I).

[873] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Pincus Green (Aug. 27, 2001) (within Appendix I).

D. Denise Rich

On February 5, 2001, Chairman Burton submitted a list of written questions to Denise Rich regarding her efforts to win a pardon for her ex-husband.[874] Chairman Burton sent this letter in an attempt to obtain information from Mrs. Rich without calling her to testify at a public hearing. On February 7, 2001, Committee staff met with Carol Elder Bruce, counsel for Denise Rich. Bruce informed Committee staff that Rich would be invoking her Fifth Amendment rights rather than answer the questions posed to her by the Chairman. Bruce also informed the Committee staff that Rich was "privy to a number of private conversations that might be of interest" to the Committee.[875] She further informed the Committee that Rich had given a large amount of money with respect to the Clintons, including an "enormous sum" of money to the Clinton Library.[876] However, Bruce denied that Rich had any intent to bribe President Clinton. Later that day, Bruce sent a letter to Chairman Burton in which she confirmed that "Ms. Rich is asserting her privilege under the Fifth Amendment of the United States Constitution not to be a witness against herself and, accordingly, will not be answering any questions of the Chairman or the Committee."[877]

E. Beth Dozoretz

After the Committee learned of Beth Dozoretz's involvement in the Rich pardon matter at its February 8, 2001, hearing, Committee staff attempted to interview Dozoretz. She refused to answer calls from Committee staff, and accordingly, on February 16, 2001, Chairman Burton sent a letter to Dozoretz requesting her to participate in an interview.[878] On February 20, 2001, Tom Green, counsel for Dozoretz, called Committee staff and stated that Dozoretz declined to be interviewed. Accordingly, on February 23, 2001, Chairman Burton issued a subpoena to Dozoretz requiring her to testify before a hearing of the Committee on March 1, 2001. On February 26, 2001, Mr. Green wrote to the Chairman to inform him that Dozoretz "has elected to invoke her constitutional privilege not to testify."[879] When Chairman Burton informed Green that he intended to call Dozoretz to invoke her Fifth Amendment rights publicly,[880] Green sent a letter requesting that Dozoretz be excused from her appearance.[881] However, the Chairman required Dozoretz to testify for two main reasons: first, a letter from counsel

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[875] Notes of meeting with Carol Elder Bruce, Counsel for Denise Rich, Tighe Patton Armstrong & Teasdale (Feb. 7, 2001).

[874] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Carol Elder Bruce, Counsel for Denise Rich, Tighe Patton Armstrong & Teasdale (Feb. 5, 2001) (within Appendix I).

[876] *Id.*

[877] Letter from Carol Elder Bruce, Counsel for Denise Rich, Tighe Patton Armstrong & Teasdale, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 7, 2001) (within Appendix I).

[878] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Beth Dozoretz, former Finance Chair, Democratic National Committee (Feb. 16, 2001) (within Appendix I).

[879] Letter from Thomas C. Green, Counsel for Beth Dozoretz, Sidley & Austin, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 26, 2001) (within Appendix I).

[880] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Thomas C. Green, Counsel for Beth Dozoretz, Sidley & Austin (Feb. 26, 2001) (within Appendix I).

[881] Letter from Thomas C. Green, Counsel for Beth Dozoretz, Sidley & Austin, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 27, 2001) (within Appendix I).

stating that a client will invoke the Fifth Amendment if called is not a satisfactory invocation of the Fifth Amendment; and second, the Committee could not be certain that Dozoretz would actually take the Fifth if called to testify, and accordingly had a responsibility to call her to determine whether or not she would actually invoke her Fifth Amendment rights. On March 1, 2001, Dozoretz appeared before the Committee and invoked her Fifth Amendment rights rather than testify about her role in the Rich and Green pardons.

F. Avner Azulay

Avner Azulay was a key participant in the effort of Marc Rich and Pincus Green to obtain a pardon. Since Azulay resides outside of the United States, the Committee was not able to compel Azulay's testimony. However, on March 8, 2001, Chairman Burton sent a letter to Azulay requesting that he participate in an interview with Committee staff.[882] On March 15, 2001, Azulay responded by referring the Committee to his lawyer in New York, Robert Morvillo.[883] Committee staff then had a number of communications with Morvillo attempting to arrange an interview of Azulay. The Committee was initially informed that Azulay was undergoing medical treatment, and was unable to participate in an interview. However, over the course of the negotiations with Morvillo, it became clear that Azulay had no intention of cooperating with the committee. In a final discussion on February 28, 2002, Morvillo confirmed that Azulay would not participate in an interview with Committee staff. Given his key role in enlisting support for the Rich and Green pardons among Israeli leaders, Azulay's refusal to cooperate with the Committee's investigation has had a significant negative impact.

G. Peter Kadzik

The Committee only learned of Peter Kadzik's role in lobbying for the Rich and Green pardons after receiving records from his law firm, Dickstein, Shapiro, Morin & Oshinsky, which reflected Kadzik's work on the matter. On Friday, February 23, 2001, Committee staff left a message with Kadzik's attorney informing him that Kadzik would be called to testify at the Committee's March 1, 2001, hearing. On Monday, February 26, Chairman Burton sent a letter to Kadzik formally notifying him that he would be called to testify.[884] At 7:40 p.m. on February 27, 2001, only 36 hours before the March 1 hearing, and without so much as a telephone call from Kadzik or his attorneys to Committee staff, Kadzik sent a response to the Chairman, declining to testify because he was to be in California for a meeting.[885] Upon receiving this information, Chairman Burton issued a subpoena for Kadzik's attendance at the hear-

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[882] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Avner Azulay, Director, Rich Foundation (Mar. 8, 2001) (Exhibit 118).

[883] Letter from Avner Azulay, Director, Rich Foundation, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Mar. 15, 2001) (Exhibit 119).

[884] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Peter Kadzik, Partner, Dickstein Shapiro Morin & Oshinsky (Feb. 26, 2001) (within Appendix I).

[885] Letter from Peter Kadzik, Partner, Dickstein Shapiro Morin & Oshinsky, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Feb. 27, 2001) (within Appendix I).

ing.[886] Despite the fact that Committee staff informed Kadzik's attorneys that the Chairman would subpoena Kadzik to attend the hearing, Kadzik boarded a plane for California on the morning of February 28, 2001. Accordingly, the Committee provided the subpoena to the U.S. Marshals Service for service upon Kadzik. When Kadzik exited his plane in San Francisco, he was served by a U.S. Marshal. He then boarded the next plane for Washington, and arrived in time to testify at the Committee's March 1, 2001, hearing. While the Committee was able to serve Kadzik and receive testimony from him, his attempts to avoid compulsory process were unseemly. Kadzik declined to testify voluntarily. Then, when he was informed that the Committee would issue a subpoena to compel his attendance at the hearing, he left Washington, mistakenly assuming that the Committee would not be able to serve him.

H. Terry McAuliffe

In a letter dated February 16, 2001, Chairman Burton requested Terry McAuliffe to participate in an interview with Committee staff regarding the Rich and Green pardons, specifically regarding Denise Rich's contributions to the Clinton Library.[887] Shortly thereafter, Richard Ben-Veniste, McAuliffe's attorney, contacted Committee staff to state that he wanted to wait until the Committee reached an accommodation with the Clinton Library regarding access to the Library's information, before he decided whether to make McAuliffe available. On March 22, 2001, Chairman Burton informed Ben-Veniste that after obtaining information from the Clinton Library, he still wanted McAuliffe to participate in an interview with Committee staff.[888] On March 23, 2001, Ben-Veniste responded to state that he wanted more information regarding what the Committee sought from McAuliffe.[889] The Committee's Chief Counsel provided this information in a letter dated March 30, 2001.[890] Nevertheless, on April 11, 2001, Ben-Veniste sent a reply stating that "it does not appear that a personal interview with the staff is warranted at this time. Mr. McAuliffe wishes you to know that his obligations as Chairman of the Democratic National Committee to help elect a Democratic majority to the House and Senate are fully occupying his time at the present."[891]

[Exhibits referred to follow:]

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[886] Subpoena from House Comm. on Govt. Reform to Peter Kadzik, Partner, Dickstein Shapiro Morin & Oshinsky (Feb. 27, 2001) (within Appendix II).

[887] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Richard Ben-Veniste, Counsel for Terry McAuliffe, Weil Gotshal & Manges (Feb. 16, 2001) (within Appendix I).

[888] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Richard Ben-Veniste, Counsel for Terry McAuliffe, Weil Gotshal & Manges (Mar. 22, 2001) (within Appendix I).

[889] Letter from Richard Ben-Veniste, Counsel for Terry McAuliffe, Weil Gotshal & Manges, to James C. Wilson, Chief Counsel, Comm. on Govt. Reform (Mar. 23, 2001) (within Appendix I).

[890] Letter from James C. Wilson, Chief Counsel, Comm. on Govt. Reform, to Richard Ben-Veniste, Counsel for Terry McAuliffe, Weil Gotshal & Manges (Mar. 30, 2001) (within Appendix I).

[891] Letter from Richard Ben-Veniste, Counsel for Terry McAuliffe, Weil Gotshal & Manges, to James C. Wilson, Chief Counsel, Comm. on Govt. Reform (Apr. 11, 2001) (within Appendix I).

Note to file C-17306

From: Compliance Programs Division

Compliance does not feel comfortable in signing off on this license. We have serious concerns about releasing the funds. The case involves a blocked payment in the amount of $917,722.00 which was being transferred from Venezuela and destined for an account of Marc Rich and Co., Switzerland. This is not the first time that a Marc Rich company has run afoul of the Cuban Assets Control Regulations. In late 1991, for example, Compliance had occasion to block $2.5 million relating to a $3.9 million Cuban sugar deal brokered by Marc Rich & Co., Ltd. in the U.K. That fact, coupled with the dirth of information in the written record we have before us, gives us pause.

The payment in this transaction contained a reference to "Maraven Venezuela Gasoil/Cuba." It has not been adequately explained. FAC received its application from the remitter, Maraven, a 100% owned affiliate of the Venezuelan state oil company, Petroleos de Venezuela, with international political clout to which State would pay particular attention. According to Maraven, Marc Rich & Co. had purchased oil from it which was paid for in advance. Between the time of the contract and the delivery of the oil, the price of oil dropped. According to Maraven, this remittance represents a refund of the overpayment. Maraven has offered no documentation to substantiate its explanation, which some would consider to be unorthodox. Maraven also stated that it "believes" that Marc Rich intended to resell the oil to Cuba, but that this particular transfer did not relate to the sale of the oil to Cuba. If it did not relate to Cuba, why did it reference Cuba? Despite the fact that this substantial sum sent to Marc Rich & Co. was blocked, FAC never heard from the Swiss company nor have we received an adequate explanation of the reference to Cuba in the payment order.

Compliance feels that we should obtain additional information and a more detailed explanation of this transfer prior to licensing the release of the funds.

Rick —
We don't know if you wanted or needed to bring this up at the [illegible] meeting, so you have information that we don't, or if you've already decided it needs to go, so we're passing it along to you. —Jim

EXHIBIT 1

000635

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

SEP 16 1994

#387

COMPL94253

FAC SPECIAL ENFORCEMENT REPORT

MEMORANDUM FOR RONALD K. NOBLE
UNDER SECRETARY
(ENFORCEMENT)

FROM: R. Richard Newcomb R. RICHARD NEWCOMB
Director
Office of Foreign Assets Control

SUBJECT: FAC blocks $917,722.00 destined for Marc Rich and Co., Switzerland, related to oil transactions involving Cuba.

As a result of Interdict software installed at the Bank of New York, FAC Compliance has blocked a payment in the amount of $917,722.00 which was being transferred from Venezuela and destined for the account of Marc Rich and Co., Switzerland. The payment appears to be related to a shipment of oil involving Cuba. The remittance referenced "Maraven Venezuela Gasoil/Cuba."

FAC has had a long history with Marc Rich. In 1983, he was indicted on charges of violating the U.S. sanctions against Iran, as well as numerous charges of tax evasion. When he and his company were indicted, he fled to Switzerland from the United States and has been a fugitive from justice ever since. He initially established his commodities trading company in Switzerland, and has since established branch offices in numerous European cities.

Marc Rich has repeatedly attempted to capitalize on economic sanctions. He is known to have negotiated deals with Iran and South Africa during the periods that sanctions against those countries were in effect. We know that he has had a long history of trading with Cuba and we have received allegations that he is currently dealing with Iraq and Serbia in violation of U.S. and multi-lateral sanctions against those countries. In 1992, FAC blocked approximately $2 million involving Cuban sugar which he attempted to finance through a U.S. bank.

Although Mr. Rich is Belgian born, he is a U.S. citizen. Despite his attempts to rescind his citizenship, the U.S. Department of

a U.S. citizen. FAC Enforcement has an open case against him involving potential indictments for his violations of the Cuban Assets Control Regulations.

000652

EXHIBIT
2

DEPARTMENT OF STATE
DIVISION OF LANGUAGE SERVICES

(TRANSLATION)

LS NO. 129826
PH/
German

MINUTES
of the meeting of the Board of Directors of Richco Grain AG [Inc.] of January 6, 1987, at the company's registered offices

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Gentlemen present:
- Dr. Eric Dreifuss, President/Chairman
- Albert Mossdorf, Regierungsrat [canton government member]
- Markus Kasper
- Josef Guggenheim

Absent, excused:
- Eddie Egloff

The president determines that a quorum exists. Mr. Josef Guggenheim is appointed keeper of the minutes.

AGENDA

1. Report on current activity and outlook for 1987

In place of the managing director, Mr. Josef Guggenheim gives the report on activity in the past quarter. Business activity with Romania went very well in 1986. Also going very well was the rice sector, where we have already been able to record a few million dollars of profit in the books. One rice shipment to Brazil, which in and of itself substantially would have gone well, got into the red (as a result of the interest rates which went up to 200%). By the managing director's estimate, a loss of about $2 million (U.S.) is incurred from this deal. However, we were able to offset this loss with a rice deal in Abidjan that had an equal amount of profit.

The team for the fertilizer department in the U.S.A. and for the liquidation department in London was beefed up, and good prospects exist in the area of urea...
[line or lines illegible on photocopy]
...represents a great opportunity for our company, of course, as an active trading firm.

The forestry department is to be further expanded and developed. The managing director will be in Chile in the very near future, since the kinds of wood found there are very much sought after in the markets we deal in.



2. Quarterly report on the company's financial situation (quarterly balance)

The Board of Directors takes note of the company's quarterly balance as of August 31, 1986 (annexed to these minutes). In addition, Mr. Guggenheim reports that in November 1986 we were able to release in favor of the profit account a reserve for the Caliope NV [Inc.] rice deal in the amount of $3 million (U.S.).

At a special general meeting of Richco Grain which was held recently, the annual closing of accounts was now resituated to December 31 of each year, starting with 12-31-86; thus in the past reporting period, we are dealing with a truncated year of 7 months.

3. Miscellaneous

The Board of Directors takes note of a letter of the audit office of Deloitte Haskins+Sells AG [Inc.], according to which in future in cases of company losses carried forward at year's end which exceed the capital stock by half, and when appropriate guarantees are produced, the appropriate note will be included in the auditors' report.

At the same time, the Board of Directors takes note of a letter of Dr. Mosimann, Attorney, who is currently conducting a lawsuit for Richco Grain against the firm of Action S.A. [Inc.], Paris, concerning a shipment of Indian rice; this letter, which is annexed to these minutes, does not contain a quantification of the possible risk. The relevant letter of Dr. Mosimann will be provided later.

There are no further requests for the floor.

For the minutes:

The Chairman:
[signature]
Dr. Eric Dreifuss

The Keeper of the Minutes:
[signature]
Josef Guggenheim

*R1Z,PL

COPY FOR YOUR INFORMATION

27-SEP-1989 LISTING OF E.E.P. AWARDS MADE TO RICHCO GRAIN 1

DATE OF AWARD (Y,M,D)	NAME OF COUNTRY	TYPE OF COMMODITY	MEAN METRIC TONS AWARDED	BONUSES AWARDED BASED ON THE MEAN QUANTITY AWARDED
860725	SAUDI ARABIA	BARLEY	40,000	$1,196,062.77
860730	SAUDI ARABIA	BARLEY	45,000	$1,312,500.55
860731	SAUDI ARABIA	BARLEY	45,000	$1,271,161.95
860801	SAUDI ARABIA	BARLEY	45,000	$1,312,500.55
860819	SAUDI ARABIA	BARLEY	45,000	$1,120,276.06
860819	SAUDI ARABIA	BARLEY	45,000	$1,120,276.06
860819	SAUDI ARABIA	BARLEY	45,000	$1,120,276.06
860923	SAUDI ARABIA	BARLEY	45,000	$1,479,921.88
860924	SAUDI ARABIA	BARLEY	45,000	$1,479,921.88
860924	SAUDI ARABIA	BARLEY	45,000	$1,479,921.88
861006	SAUDI ARABIA	BARLEY	45,000	$1,572,933.73
861006	SAUDI ARABIA	BARLEY	45,000	$1,572,933.73
861006	SAUDI ARABIA	BARLEY	42,500	$1,485,548.10
861103	ROMANIA	BARLEY	35,000	$1,654,138.08
861104	ROMANIA	BARLEY	16,000	$756,178.14
861105	ROMANIA	BARLEY	16,000	$756,178.14
861107	ROMANIA	BARLEY	16,500	$749,493.87
861110	ROMANIA	BARLEY	16,500	$749,493.87
861118	ROMANIA	BARLEY	25,000	$1,147,145.71
870204	SAUDI ARABIA	BARLEY	25,000	$1,079,395.42
870204	SAUDI ARABIA	BARLEY	25,000	$1,079,395.42
870204	SAUDI ARABIA	BARLEY	25,000	$1,079,395.42
870204	SAUDI ARABIA	BARLEY	25,000	$1,079,395.42
870205	SAUDI ARABIA	BARLEY	50,000	$2,133,527.47
870205	SAUDI ARABIA	BARLEY	25,000	$1,066,764.20
870205	SAUDI ARABIA	BARLEY	25,000	$1,066,764.20
870205	SAUDI ARABIA	BARLEY	25,000	$1,066,764.20
870205	SAUDI ARABIA	BARLEY	50,000	$2,133,527.47
870205	SAUDI ARABIA	BARLEY	25,000	$1,066,764.20
870206	SAUDI ARABIA	BARLEY	17,500	$741,108.21
870206	SAUDI ARABIA	BARLEY	17,500	$741,108.21
870206	SAUDI ARABIA	BARLEY	17,500	$741,108.21
870209	SAUDI ARABIA	BARLEY	13,500	$571,711.92
870210	CHINA	WHEAT	30,000	$891,810.86
870218	CHINA	WHEAT	30,000	$895,117.94
870311	CHINA	WHEAT	30,000	$964,346.28
870521	SOVIET UNION	WHEAT	100,000	$3,820,786.69
870527	SOVIET UNION	WHEAT	50,000	$1,983,884.15
870527	SOVIET UNION	WHEAT	50,000	$1,983,884.15
870604	SAUDI ARABIA	BARLEY	50,000	$2,022,143.09
870604	SAUDI ARABIA	BARLEY	50,000	$2,022,143.09
870604	SAUDI ARABIA	BARLEY	50,000	$2,022,143.09
870604	SAUDI ARABIA	BARLEY	25,000	$1,011,071.99
870604	SAUDI ARABIA	BARLEY	25,000	$1,011,071.99
870604	SAUDI ARABIA	BARLEY	25,000	$1,011,071.99
870604	SAUDI ARABIA	BARLEY	25,000	$1,011,071.99
870604	SAUDI ARABIA	BARLEY	50,000	$2,022,143.09

SOURCE: JIM WARDEN, RP&R BRANCH, EXPORT CREDITS, FAS, USDA

U.S. Department of Justice

MJA:jcj

United States Attorney
Southern District of New York

One Saint Andrew's Plaza
New York, New York 10007

March 6, 1984

Honorable Shirley Wohl Kram
United States District Judge
United States Courthouse
Foley Square
New York, New York 10007

Re: United States v. Marc Rich, et al.
83 Cr. 579 (SWK)

Dear Judge Kram:

Enclosed herewith please find a superseding indictment returned late yesterday in the above referenced matter. None of the modifications requires additional discovery or calls for additional motions. On the contrary, we believe that the changes will facilitate and expedite the disposition of the defendants' motions and the trial of this matter. To assist your review of this superseding indictment, we have provided a detailed summary of the changes that have been made:

1. The structure of the Indictment. The Indictment has been reorganized so that the mail and wire fraud schemes to defraud the IRS and the Department of Energy ("DOE") are now alleged first, followed by the statutory RICO charges to which they give rise.

Count One of the original Indictment, charging RICO conspiracy, had set forth the various schemes to defraud which served as the predicate acts underlying the RICO conspiracy and substantive counts. In the original Indictment, those allegations were realleged in Count Two, the substantive RICO count and then again in the substantive fraud scheme counts: Five through Twenty-four (IRS fraud); Twenty-five through Twenty-eight (DOE fraud); and Twenty-nine through Forty-three (Iranian fraud).

The superseding Indictment simplifies the structure of the charges and reduces the amount of repetition by simply charging the various mail and wire fraud predicates first and then following them with the RICO substantive and RICO conspiracy

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counts. Thus, the superseding Indictment charges, in Counts One through Twenty-three, the scheme to defraud the IRS. (The allegations in paragraphs 1-23 are substantially the same as those in paragraphs 12-25 and 40-42 of the original indictment with the addition of three specific counts discussed below.) Next, the superseding Indictment charges the scheme to defraud the DOE, in counts Twenty-four through Thirty-eight. (Paragraphs 24-27 are substantially the same as paragraphs 26, 27, and 43-45 of the original Indictment, with the addition of eleven specific mail fraud counts discussed below.)

Because, as discussed below, the Iranian fraud scheme predicates have been removed from the RICO counts, the superseding Indictment proceeds next to the RICO substantive count, Count Thirty-nine. (The allegations in this count are substantially the same as those as charged in paragraphs 7, 11 and 30 through 32 of the original Indictment.) Next, the superseding indictment charges a RICO conspiracy, in Count Forty. (This is substantially the same as paragraphs 9 and 10 of the original indictment.) Count Forty is followed by the forfeitures section, paragraphs 37-41 which are identical to paragraphs 33 through 37 of the original indictment. Next, the superseding Indictment charges two counts of tax evasion, Counts Forty-one and Forty-two, which are identical to Counts Three and Four of the original indictment.

2. The scheme to defraud the Treasury re: Iran. AG and International have now been eliminated as defendants in the counts charging the scheme to defraud the Treasury Department with respect to Iranian transactions. The primary focus of those counts has always been the activities of the American individuals, Marc Rich and Pincus Green. Indeed, Counts Forty-three through Fifty-one of the original indictment charge only those two defendants with respect to the actual transactions done with Iran. Given the fugitivity of the defendants Rich and Green, the Government has confined the Iranian fraud scheme counts, now Forty-three through Fifty-seven, to the individuals, eliminating the corporations as defendants in those counts. The elimination of AG and International as defendants in these counts should also eliminate all challenges to the original Indictment based on their previous inclusion in those counts.

3. The RICO counts. Because the scheme to defraud the Treasury Department with respect to Iranian transactions no longer charges the defendants that have appeared for trial, that fraud scheme has been removed as a predicate for the RICO counts

of the superseding indictment. The removal of that fraud as a RICO predicate will have the collateral consequence of eliminating the concern expressed by the defendant Meltzer with respect to prosecution for RICO violations predicated in part on a scheme with which he was not charged.

4. The additional wire fraud counts. The superseding Indictment adds three new wire fraud counts concerning telefaxes transmitted on or about February 1, 9 and 10, 1981, allegedly in furtherance of the scheme to defraud the IRS. These three counts, Seven, Eight and Nine, (S. Ind. at 20) simply refer to telefaxes of various notes concerning the West Texas Marketing pot, and relate to facts fully described in the original Indictment. These added counts do not alter the theory of the fraud, its scope, or the proof anticipated at trial. Discovery has already been made with respect to these counts.

5. The additional mail fraud counts. The superseding Indictment adds eleven new counts of mail fraud to the scheme to defraud the DOE. These new counts, Twenty-seven through Thirty-eight, refer to allegedly inflated invoices mailed by West Texas Marketing and Listo to International in furtherance of the alleged DOE fraud. These counts relate directly to the allegations in Paragraphs 22(d) and 22(l) of the superseding Indictment which are the same as those in Paragraphs 25(d) and 25(l) of the original indictment. Thus, these new counts do not alter the theory or proof of this case and have already been the subject of discovery provided to the defendants.

6. The DOE regulations. The background discussion of the DOE regulations which now appears in paragraphs 12 through 21 has been expanded to clarify the relationship between maximum lawful selling price controls imposed on oil the first time it was sold in the United States market and the subsequent limitation on prices achieved through the permissible average markup. (See particularly S. Ind. ¶ 19).

7. The daisy chain allegations. The allegations concerning International's role as the original reseller into daisy chains, now alleged in Paragraph 18, have been revised to eliminate all references to illegality and to clarify the fact that the defendants are not being charged with crimes relating to mis-certification of crude oil. As the defendants have noted, allegations such as those which have been retained, do not themselves allege any illegality.

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8. The purported sale of International. The description of International which appears in paragraph 5 of both the original and superseding Indictments has been expanded to describe the purported sale of International and the resulting change in the name by which it is now known.

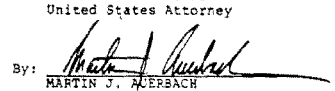
9. The absence of Rich and Green. The fact that Marc Rich and Pincus Green have left the jurisdiction and have not returned is alleged in the last sentences of paragraphs 1 and 2 of the new indictment, respectively.

10. Typographical errors, such as the omission of the defendant Meltzer's name from the list of defendants in the first four predicate acts under the heading II. The Scheme to Defraud the DOE, in the RICO count (S. Ind. at p. 31-32), have been corrected.

We would appreciate your arraigning the defendants on the superseding Indictment at the Court's earliest convenience.

Respectfully submitted,

RUDOLPH W. GIULIANI
United States Attorney

By: 
MARTIN J. AUERBACH
Assistant United States Attorney
Telephone: (212) 791-0043

cc: Peter Zimroth, Esq.
Peter Fleming, Esq.
Andrew Lawler, Esq.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	
- v -	:	INDICTMENT
MARC RICH, PINCUS GREEN, CLYDE MELTZER, MARC RICH + CO., A.G., and MARC RICH + CO. INTERNATIONAL, LTD., now known as "Clarendon Ltd."	:	S 83 Cr. 579 (SWK)
Defendants.	:	

COUNTS ONE THROUGH TWENTY-THREE

THE SCHEME TO DEFRAUD THE IRS

The Grand Jury charges:

Introduction

At all times relevant to this Indictment, except as otherwise indicated:

1. The defendant MARC RICH is a United States citizen and a principal shareholder and Chairman of the Board of Directors of the defendant MARC RICH + CO., A.G. ("AG"), and Chairman of the defendant MARC RICH + CO. INTERNATIONAL, LTD. now known as "Clarendon Ltd.," ("INTERNATIONAL"). In or about the summer of 1983, the defendant MARC RICH left the United States and has not returned.

2. The defendant PINCUS GREEN is a United States citizen and a principal shareholder and member of the Board of Directors of the defendant AG, and President of the defendant INTERNATIONAL. In or about the summer of 1983, the defendant PINCUS GREEN, left the United States and has not returned.

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3. The defendant CLYDE MELTZER is a United States citizen and vice-president in charge of crude oil trading for Listo Petroleum, Houston, Texas. In or about late summer 1982, the defendant CLYDE MELTZER was hired as a crude oil trader by the defendant INTERNATIONAL.

4. The defendant AG is a Swiss corporation which is engaged in the worldwide business of trading commodities, including crude oil, and transacts and does business in the United States. The defendant AG does not file United States corporate income tax returns.

5. The defendant INTERNATIONAL is a wholly-owned Swiss subsidiary of the defendant AG, which is in the business of trading commodities, including crude oil, in the United States. The defendant INTERNATIONAL has its principal offices in New York City and in Zug, Switzerland. The defendant INTERNATIONAL files United States corporate income tax returns. During 1980 and 1981, revenues generated by the defendant INTERNATIONAL from crude oil trading constituted the principal part of the defendant INTERNATIONAL's reportable income in the United States for corporate income tax purposes. As a reseller and trader of crude oil in the United States, defendant INTERNATIONAL was also subject to the oil price control rules and regulations administered by the Department of Energy as set forth in Paragraphs 12 through 21 below. In or about July 1983, the defendant AG purported to sell the defendant INTERNATIONAL to all shareholders of the defendant AG except the defendants MARC

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RICH and PINCUS GREEN, who remain the principal shareholders of the defendant AG. As a result of the purported sale, the name of the defendant INTERNATIONAL was changed to Clarendon Ltd.

6. Rescor, Inc. ("Rescor") and Highams Consultants ("Highams") are wholly-owned Panamanian subsidiaries of the defendant AG engaged in the business of trading crude oil. Rescor and Highams do not maintain separate sets of books and records from the defendant AG.

The Scheme to Defraud

7. From in or about January 1980, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG, and INTERNATIONAL, the defendants, together with others known and unknown to the Grand Jury ("co-schemers"), unlawfully, wilfully and knowingly would and did devise and intend to devise a scheme and artifice to defraud the United States and an agency thereof, to wit, the Internal Revenue Service, in its lawful governmental function of administering and overseeing the collection of taxes in the United States, and to obtain money and property by false and fraudulent pretenses, representations and promises. The defendants engaged in this scheme as part of a pattern of racketeering activity in which they concealed in excess of $100 million in taxable income of the defendant INTERNATOINAL, most of which income was illegally generated

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through the defendants' violations of federal energy laws and regulations. This scheme, and pattern of racketeering activity, enabled to defendant INTERNATIONAL to evade in excess of $48 million in United States taxes for the 1980 and 1981 tax years.

8. It was part of said scheme and artifice to defraud the IRS that the defendants MARC RICH and PINCUS GREEN would and did cause third party companies, to wit, West Texas Marketing ("WTM"), Abilene, Texas, and Listo Petroleum ("Listo"), Houston, Texas, with the aid of the defendant CLYDE MELTZER, to conduct business for and on behalf of the defendant INTERNATIONAL and to conceal approximately $71 million in domestic profits belonging to the defendant INTERNATIONAL by making it appear that such profits had in fact been earned by WTM and Listo rather than by the defendant INTERNATIONAL.

9. It was further part of said scheme and artifice to defraud the IRS that the $71 million in domestic profits of the defendant INTERNATIONAL being concealed and held by WTM and Listo would be and were moved by wire transfers to foreign bank accounts of the defendant AG and its wholly-owned subsidiaries Rescor and Highams through a series of sham transactions involving foreign crude oil, in which WTM and Listo purportedly "lost" to the defendant AG amounts equivalent to the concealed profits actually belonging to the defendant INTERNATIONAL.

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10. It was further part of said scheme and artifice to defraud the IRS that the defendants and their co-schemers would and did create in excess of $31 million in fraudulent deductions for the defendant INTERNATIONAL by fabricating transactions between the defendants AG and INTERNATIONAL relating to offshore oil deals between the defendant AG and Charter Oil Company Bahamas. As a result of these sham transactions, over $31 million in taxable income was diverted from the defendant INTERNATIONAL offshore to the defendant AG.

11. It was a further part of said scheme and artifice to defraud the IRS that the defendants and their co-schemers would and did create $2,716,510.00 in fraudulent deductions for the defendant INTERNATIONAL by fabricating a transaction between the defendant INTERNATIONAL and Rescor involving the purchase of foreign crude oil by Rescor. As a result of this sham transaction, $2,716,510.00 in taxable income was diverted from the defendant INTERNATIONAL offshore to the defendant AG through Rescor.

Background: Oil Price Control Regulations

12. The Emergency Petroleum Allocation Act (EPAA) of 1973, Title 15, United States Code, Section 751, et seq., and the regulations promulgated thereunder (the "regulations"), provided for price controls and mandatory allocation of all crude oil produced in or imported into the United States.

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13. Under various of the regulations, the United States, through the Department of Energy ("DOE"), limited the prices that could be charged for domestic crude oil. Under the regulations, the permissible price was different for different regulatory categories of crude oil.

14. The regulatory categories of crude oil were "old" (also called "lower tier"), "new" (also called "upper tier") and "stripper." Crude oil was categorized or labelled "old," "new", or "stripper" depending on the history or the level of production of the well from which the oil came. Crude oil coming from a well at or below a designated 1972 level of production was labelled "old"; "new" oil referred to crude oil discovered since 1973 or oil obtained from existing wells in excess of the 1972 level of production; "stripper" oil referred to crude oil produced from a well whose average daily production was less then ten barrels. These categories (or labels) corresponded to price control categories and were not based on any physical or chemical characteristics of the oil. Since the oil was physically identical, oftentimes a quantity of domestic crude oil contained components of old oil, new oil and stripper. A barrel of domestic crude oil with a new oil or old oil component was referred to as a "controlled barrel." Stripper oil was referred to as "uncontrolled."

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15. Old oil (lower tier) had the lowest maximum lawful selling price. New oil (upper tier) had a higher maximum lawful selling price than old oil. Stripper oil was exempt from price controls and could be sold at the world market price which was far in excess of the prices for old and new oil. Depending on the type of crude oil, a stripper barrel would at relevant times sell for in excess of $20 more than a lower tier barrel and $15 more than an upper tier barrel of like quality.

16. Under the regulations, an entity which purchased and resold crude oil without substantially changing its form by refining, processing or other means was defined as a crude oil reseller. The defendant INTERNATIONAL was a crude oil "reseller" under the regulations.

17. Every seller or reseller of a volume of domestic crude oil was required by the regulations to certify in writing to the purchaser the respective amounts and prices of old oil, new oil, and stripper oil contained in the crude oil being sold. The DOE periodically audited and reviewed the records of sellers and purchasers of crude oil, which records were required to be kept by law, to determine compliance with the regulations.

18. During the period of price controls, in order to evade the regulations and produce huge profits, controlled oil was on occasion sold through a series of oil resellers known in the crude oil industry as a "daisy chain." The defendant INTERNATIONAL frequently participated as the original reseller of controlled oil into a "daisy chain." The "daisy chain" was

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utilized by the original reseller to make it extremely difficult to trace the movement of controlled barrels and to facilitate alteration of the certifications on controlled barrels into stripper barrels (uncontrolled) which could then be sold at the much higher world market price. The original reseller of controlled oil into the "daisy chain" would receive, at the conclusion of the "daisy chain," an equivalent quantity of crude oil certified as stripper barrels at drastically discounted prices from the world market value. The original reseller would then sell these stripper barrels at the world market price and realize enormous profits. Each of the oil companies in the "daisy chain" made a smaller profit.

19. Under the regulations, the maximum lawful selling price set by the DOE for a barrel of old oil or new oil only controlled the price of that barrel the first time it was sold in the United States market. To control the price of that barrel when it was resold, the DOE simply limited the amount of markup a reseller could add to the original price. The same markup restrictions were used to limit the price of stipper oil when it was resold. Thus, while the price of a barrel of stripper oil was uncontrolled the first time it was sold in the United States market, if that barrel was resold, the DOE limited the markup the reseller could add to the original, uncontrolled price. The DOE restricted the amount of markup a reseller could add to the price of oil by establishing a "permissible average markup" ("PAM") for resellers. Effective

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September 1, 1980, the DOE established a permissible average markup of 20¢ per barrel for a reseller such as the defendant INTERNATIONAL. In the event that a reseller's actual average markup, computed on a monthly basis, exceeded its PAM, the excess profits were illegal.

20. Resellers were required on a monthly basis to submit forms ERA-69 to the DOE setting forth their actual average markup per barrel for crude oil sales. On the ERA-69, resellers were required to set forth the dollar amount of any PAM overcharges in order that the overcharges could be immediately refunded to customers.

21. The defendant INTERNATIONAL was a reseller subject to the 20¢ per barrel PAM and was required to file forms ERA-69 on a monthly basis.

Methods and Means

22. Among the methods and means employed by the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL and their co-schemers to effectuate the scheme to defraud the IRS, were the following:

The West Texas Marketing "Pot"

(a) Prior to September 1980 and the imposition of the 20¢ per barrel PAM, the defendants MARC RICH and PINCUS GREEN for the defendant INTERNATIONAL would and did transact numerous "daisy chain" crude oil deals with West Texas Marketing ("WTM"), a crude oil reseller in Abilene, Texas.

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In those "daisy chain" deals, WTM would and did purchase from the defendant INTERNATIONAL domestic controlled oil upon WTM's agreement to sell back to the defendant INTERNATIONAL, after passage through a "daisy chain," an equal quantity of stripper oil (uncontrolled) at a substantial discount from the world market price. The defendant INTERNATIONAL then sold that discounted stripper oil to third parties for huge profits. Prior to September 1980, the substantial profits from these transactions were recorded on the books and records of the defendant INTERNATIONAL.

(b) The defendants MARC RICH and PINCUS GREEN agreed with the principals of WTM that beginning in September 1980, when the defendant INTERNATIONAL was limited by law to a 20¢ per barrel PAM, WTM would alter its "daisy chain" transactions with the defendant INTERNATIONAL so that the huge profits of the defendant INTERNATIGNAL from these crude oil transactions would be retained for it by WTM, rather than being reflected on the books and records of the defendant INTERNATIONAL as before. In these post-September 1, 1980 transactions, WTM would and did continue to buy controlled barrels from the defendant INTERNATIONAL at the controlled price and would and did agree to produce for the defendant INTERNATIONAL an equal number of stripper barrels at a price substantially below the market value. However, rather than sell these cheap stripper barrels back to the defendant INTERNATIONAL at the lower price as previously, WTM agreed

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ostensibly to sell the stripper barrels to the defendant INTERNATIONAL, or to third party companies designated by the defendant INTERNATIONAL, at the higher market price. From these deals, WTM purportedly reflected huge profits on its books, which profits were referred to as the "pot."

(c) The defendants MARC RICH and PINCUS GREEN and the principals of WTM further agreed that the huge profits in the "pot" belonged to the defendant INTERNATIONAL and would be retained by WTM in its bank accounts for the defendant INTERNATIONAL.

(d) To further conceal the scheme, the defendants and their co-schemers would and did cause WTM to prepare and mail invoices to the defendant INTERNATIONAL which falsely indicated that WTM had sold the stripper barrels to the defendant INTERNATIONAL at the high world market price, when in truth and in fact the defendant INTERNATIONAL was paying a far lower price upon WTM's agreement secretly to kickback to the defendants the huge profits held by WTM for the defendant INTERNATIONAL in the "pot".

(e) The monies in the "pot" were periodically moved out of the United States at the instance of the defendants MARC RICH and PINCUS GREEN, for the defendant INTERNATIONAL, to foreign bank accounts of the defendant AG and its foreign subsidiaries Rescor and Highams through sham transactions, wherein WTM would

incur pre-arranged "losses" to the defendant AG and its foreign subsidiaries. For example, in many of these transactions the defendant AG would purportedly sell a cargo of foreign crude oil to WTM, and then WTM would ostensibly sell the same oil back on the same day to Rescor, the defendant AG's subsidiary, for $3 per barrel less than WTM had paid for it. The $3 per barrel more which WTM paid AG, over the amount WTM received from Rescor, came out of the "pot." These transactions were a sham in that they were utilized by the defendants solely to remove monies from the "pot" and move the profits offshore. The defendants paid WTM a small fee per barrel to engage in these sham loss transactions.

(f) On or about April 30, 1981, the defendant MARC RICH and others met in New York, New York with representatives of WTM to discuss the amount remaining in the WTM "pot". The defendant MARC RICH and the principals of WTM agreed on a compromise "pot" amount of $1,215,000.00 and as a result of the meeting, the $1,215,000.00 from the "pot" was moved out of the United States to the defendant AG through a sham foreign loss transaction involving AG's subsidiary Highams.

(g) From in or about October 1980, through May 1981, the defendants moved and caused to be moved in excess of $23 million of the defendant INTERNATIONAL's income offshore to the defendant AG and its foreign subsidiaries from the WTM "pot".

(h) For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants and their co-schemers would and did transmit, and cause to be transmitted,

telefaxes, and wire transfers of monies from the "pot" sent by WTM from the United States to foreign bank accounts of the defendant AG and its subsidiary Highams resulting from transactions involving oil tankers, as set forth below in Counts 1 through 9 hereinbelow.

The Listo "Pot"

(i) In and around September 1980, the defendants and their co-schemers would and did agree with Listo Petroleum Corporation ("Listo"), a crude oil reseller in Houston, Texas, to a scheme which was essentially a duplicate of the WTM scheme set forth above, in order to conceal additional profits of the defendant INTERNATIONAL from sales of domestic crude oil by retaining the defendant INTERNATIONAL's profits on the books and records of Listo. Just as with the WTM scheme, the defendants and their co-schemers referred to these monies as the "pot." As with the WTM scheme, these huge profits were moved from the books of Listo offshore to foreign bank accounts of defendant AG and its foreign subsidiaries through a series of sham foreign loss transactions wherein Listo would incur pre-arranged "losses" to the defendant AG and its foreign subsidiary Rescor on the purchase and sale of foreign crude oil. Also as with the WTM scheme, these transactions included deals in which Listo would buy crude oil from the defendant AG and then immediately resell the same oil back to Rescor, paying AG $3 more per barrel than Listo received from Rescor. As with the WTM scheme, this sham loss of $3 per barrel was paid out of the "pot".

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(j) In or about August 1980, the defendants MARC RICH and PINCUS GREEN on behalf of the defendant INTERNATIONAL, negotiated with representatives of Atlantic Richfield Company ("Arco") to purchase controlled barrels of a particular type of domestic crude oil known as Alaskan North Slope ("ANS") oil. After a series of negotiations, the defendants MARC RICH and PINCUS GREEN for the defendant INTERNATIONAL agreed to purchase from Arco approximately 18 million ANS controlled barrels to be delivered in 1980 and 1981. The defendants MARC RICH and PINCUS GREEN subsequently informed Arco that Listo, rather than the defendant INTERNATIONAL, would be the contracting party with Arco on the deal. The ANS barrels from the Arco deal comprised the majority of barrels from which "pot" monies were collected for the defendant INTERNATIONAL on the books of Listo.

(k) As with the WTM scheme, the defendant CLYDE MELTZER for Listo agreed to acquire for the defendant INTERNATIONAL stripper ANS barrels at prices far below the world market price. As with the WTM scheme, Listo agreed to sell the stripper ANS barrels to the defendant INTERNATIONAL ostensibly at the higher market price, thereby purportedly reflecting huge profits on Listo's books.

(l) To further conceal the scheme, the defendants and their co-schemers would and did cause Listo to prepare and mail invoices to the defendant INTERNATIONAL which falsely indicated that Listo had sold the stripper barrels at the high world market

price, when in truth and in fact the defendant INTERNATIONAL was paying a far lower price upon Listo's agreement to secretly kick-back to the defendants the huge profits kept by Listo for the defendant INTERNATIONAL in the "pot."

(m) In 1980 and 1981, the defendants moved and caused to be moved in excess of $47 million of the defendant INTERNATIONAL's income offshore to the defendant AG from the Listo "pot".

(n) The defendants MARC RICH and PINCUS GREEN regularly met in New York with the defendant CLYDE MELTZER to discuss the Listo "pot". At these meetings, the defendant CLYDE MELTZER would give the defendants MARC RICH and PINCUS GREEN records accounting for monies currently in the "pot".

(o) For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants and their co-schemers would and did transmit, and cause to be transmitted, wire transfers of monies from the "pot" sent by Listo from the United States to foreign bank accounts of the defendant AG resulting from transactions involving oil tankers, as set forth in Counts 10 through 20 hereinbelow.

The Charter False Deductions

(p) In and around May 1980, the defendants and their co-schemers entered into a transaction with Charter Crude Oil Company ("Charter") wherein Charter agreed to sell the defendant INTERNATIONAL domestic controlled barrels and the defendant AG agreed to sell Charter's Bahamian subsidiary foreign crude oil at substantial discounts from the world market price. The transaction

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called for the delivery of controlled barrels to the defendant INTERNATIONAL and the delivery of foreign barrels from the defendant AG to Charter's Bahamian subsidiary on a monthly basis from June 1980, through at least December 1980. The vast majority of the controlled barrels delivered by Charter to the defendant INTERNATIONAL were sold by the defendants to WTM in 'daisy chain' transactions, and the defendant INTERNATIONAL realized substantial profits.

(q) Subsequently, in or about late summer 1980, the defendants prepared fraudulent invoices in order illegally to transfer much of the defendant INTERNATIONAL's profits from these transactions offshore to the defendant AG. The defendant AG invoiced the defendant INTERNATIONAL for $31,106,273.08, charging the defendant INTERNATIONAL for the difference between the discounted price (the price that the defendant AG had sold the foreign crude oil to Charter's Bahamian subsidiary) and the purported world market price for the crude oil. These false and fraudulent invoices and the subsequent entries on the defendant INTERNATIONAL's books falsely purported that the defendant INTERNATIONAL had purchased the foreign crude oil from the defendant AG at its "fair market value" and subsequently sold the foreign crude oil to Charter's Bahamian subsidiary at a substantial discount, when in truth and in fact the defendant INTERNATIONAL had never purchased the foreign crude oil from the defendant AG or sold it to Charter's subsidiary. The defendant

MARC RICH instructed the comptroller for the defendant INTERNATIONAL to notify his counterpart at the defendant AG in Zug, Switzerland, to prepare these fraudulent invoices. As a result, the defendant INTERNATIONAL fraudulently reduced the amount of the defendant INTERNATIONAL's taxable income for 1980 by $31,106,273.08 and transferred most of that sum offshore to the defendant AG.

(r) In and around September 1980, in order to make the invoices further appear as if there had been an actual contract between the defendant AG and the defendant INTERNATIONAL, the defendant AG sent the defendant INTERNATIONAL new invoices which read "contract price" rather than "fair market value." The old invoices were destroyed and the new invoices were placed in the defendant INTERNATIONAL's records.

(s) For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants and their co-schemers would and did transmit, and cause to be transmitted, wire transfers of monies sent by the defendant INTERNATIONAL from the United States to foreign bank accounts of the defendant AG resulting from transactions involving oil tankers, as set forth below in Counts 21 and 22 hereinbelow.

The Arco False Deduction

(t) In or about the Fall of 1980, the defendants and their co-schemers would and did cause a fraudulent invoice to be prepared wherein Rescor invoiced the defendant INTERNATIONAL for $2,715,510.00. This invoice concerned a non-existent contract

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between Rescor and the defendant INTERNATIONAL concerning the sale of foreign crude oil to Rescor by the defendant INTERNATIONAL. The fraudulent invoice made it appear that the defendant INTERNATIONAL had a contract with Rescor to sell it foreign crude oil. The fraudulent invoice made it further appear that the defendant INTERNATIONAL had failed to provide the oil under this purported contract and that consequently Rescor had had to purchase a similar quantity of oil from Arco at five dollars per barrel above the purported contract price between Rescor and the defendant INTERNATIONAL. As a result, the defendants fraudulently reduced the amount of the defendant INTERNATIONAL's taxable income for 1980 by $2,716,510.00 and transferred that sum offshore to the defendant AG.

(u) Just as with the fraudulent Charter invoices, the defendant MARC RICH instructed the comptroller of the defendant INTERNATIONAL to notify his counterpart at the defendant AG in Zug, Switzerland to prepare this fraudulent invoice for Rescor to be delivered to the defendant INTERNATIONAL.

(v) For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants and their co-schemers would and did transmit, and cause to be transmitted, a wire transfer from the defendant INTERNATIONAL to Rescor for a shipment on the oil tanker "Wind Escort," as set forth in Count 23 hereinbelow.

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Jurisdictional Allegations

23. For the purposes of executing the scheme and artifice to defraud the DOE and attempting to do so, on or about the dates set forth below, the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG, and INTERNATIONAL unlawfully, wilfully and knowingly, did transmit and cause to be transmitted by means of wire, radio and television communication, in interstate and foreign commerce, certain telexes, telefaxes and cable and wire transfers of monies, all as more particularly set forth in Counts 1 through 23 herein below:

COUNT	WIRE COMMUNICATION	APPROXIMATE DATE OF WIRE COMMUNICATION WTM "pot"	DEFENDANT
1	wire transfer to AG of $12,507,818.40 (including $1,786,831.00 from the pot) by WTM: "Arctic Star"	October 21, 1980	Rich, Green, AG and International
2	wire transfer to AG of $4,050,000.00 by WTM from the "pot": "Norse King"	October 23, 1980	Rich, Green, AG and International
3	wire transfer to AG of $5,384,217.00 by WTM from the "pot": "Olympic Bond"	January 5, 1981	Rich, Green, AG and International
4	wire transfer to AG of $5,000,000.00 by WTM from the "pot": "Nia Rocco Piaggio" and "Okinoshima Maru"	January 30, 1981	Rich, Green, AG and International
5	wire transfer to AG of $1,199,974.00 by WTM from the "pot": "Okinoshima Maru"	February 9, 1981	Rich, Green, AG and International

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COUNT	WIRE COMMUNICATION	APPROXIMATE DATE OF WIRE COMMUNICATION	DEFENDANT
6	wire transfer to AG of $5,141,709.00 by WIM from the "pot": "Romo Maersk"	February 23, 1981	Rich, Green, AG and International
7	telefaxes of handwritten notes re WIM pot from International to WIM	February 1, 1981	Rich, Green AG and International
8	telefax of typewritten summary re WIM pot from WIM to International	February 9, 1981	Rich, Green, AG and International
9	telefax of typewritten summary re WIM pot from International to WIM	February 10, 1981	Rich, Green, AG and International
		Listo "Pot"	
10	wire transfer to AG of $32,950,790.78 (including $4,131,620.24 from the pot) by Listo: "Montessa"	December 5, 1980	Rich, Green, Meltzer, AG, and International
11	wire transfer to AG of $4,259,844.00 by Listo from the "pot": " Universe Explorer"	December 15, 1980	Rich, Green, Meltzer, AG, and International
12	wire transfer to AG of $18,605,470.63 (including $2,241,743.45 from the "pot") by Listo: "Alnair II"	December 23, 1980	Rich, Green, Meltzer, AG, and International
13	wire transfer to AG of $19,946,906.84 (including $2,266,694.30 from the "pot") by Listo: "Lamyra"	December 31, 1980	Rich, Green, Meltzer, AG, and International
14	wire transfer to AG of $5,291,409.80 by Listo from the "pot": "Arctic Star"	January 27, 1981	Rich, Green, Meltzer, AG, and International

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COUNT	WIRE COMMUNICATION	APPROXIMATE DATE OF WIRE COMMUNICATION	DEFENDANT
15	wire transfer to AG of $3,349,660.34 by Listo from the "pot": "Ionian Commander"	January 30, 1981	Rich, Green, Meltzer, AG, and International
16	wire transfer to AG of $1,873,584.45 by Listo from the "pot": "Jeci"	February 2, 1981	Rich, Green, Meltzer, AG, and International
17	wire transfer to AG of $6,396,202.22 by Listo from the "pot": "Keiyoh Maru"	February 11, 1981	Rich, Green, Meltzer, AG, and International
18	wire transfer to AG of $5,315,478.50 by Listo from the "pot": "White Gardenia"	March 3, 1981	Rich, Green, Meltzer, AG, and International
19	wire transfer to AG of $9,452,307.00 by Listo from the "pot": "Jamunda" and "Norse King"	May 5, 1981	Rich, Green, Meltzer, AG, and International
20	wire transfer to Rescor of $3,000,700.00 by Listo: "Philip of Macedon" and "Okinoshima Maru"	May 14, 1981	Rich, Green, Meltzer, AG, and International
	Charter False Deductions		
21	wire transfer to AG of $29,157,628.90 by International: "Luna Mar", "Devali," "World Scholar" and "Ratna Jayshree"	September 29, 1980	Rich, Green, AG and International
22	wire transfer to AG of $1,659,472.80 by International: "Santamar"	April 7, 1981	Rich, Green, AG and International

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COUNT	WIRE COMMUNICATION	APPROXIMATE DATE OF WIRE COMMUNICATION	DEFENDANT
		Arco False Deduction	
23	wire transfer to Rescor of $2,716,510.00 by International: "Wind Escort"	August 27, 1981	Rich, Green, AG and International

(Title 18, United States Code, Sections 1343 and 2.)

COUNTS TWENTY-FOUR THROUGH THIRTY-EIGHT

THE SCHEME TO DEFRAUD THE DEPARTMENT OF ENERGY

The Grand Jury further charges:

24. Each and every allegation contained in Paragraphs 1 through 23, and all of subparts thereof, of Counts One through Twenty-three of this Indictment is realleged and incorporated by reference herein as if fully set forth.

25. From in or about January 1980, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL, the defendants, together with others known and unknown to the Grand Jury ("co-schemers"), unlawfully, wilfully and knowingly would and did devise and intend to devise a scheme and artifice to defraud the United States and an agency thereof, to wit, the Department of Energy, in its lawful governmental function of administering and overseeing the laws and regulations which provided for price controls and markup requirements for the sale of crude oil produced in or imported into the United States, and to obtain money and property by false and fraudulent pretenses, representations and promises.

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Methods and Means

26. It was part of the defendants' scheme and artifice to defraud the DOE that the huge profits of the defendant INTERNATIONAL held on the books of Listo and WTM were derived by the defendants through a deliberate attempt to violate and circumvent the price control and permissible average markup regulations of the DOE, through the methods and means described in Paragraphs 22 and 23, and the subparts thereof, above.

27. Among the additional methods and means employed by the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL and their co-schemers to carry out the scheme and artifice to defraud the DOE were the following:

(a) The defendants and their co-schemers would and did cause forms ERA-69 for the defendant INTERNATIONAL to be prepared and filed with the DOE for the months September 1980 through January 1981, which forms ERA-69 falsely failed to reflect the approximately $71 million of profits of the defendant INTERNATIONAL kept in the WTM and Listo "pots." Instead, these forms ERA-69 fraudulently stated that the defendant INTERNATIONAL was losing money on its crude oil sales for these months and that its average markup for crude oil sales was within its 20¢ per barrel permissible average markup.

(b) The defendants and their co-schemers would and did cause to be prepared and mailed to the defendant INTERNATIONAL the false and fraudulent invoices from WTM and from Listo described in Paragraphs 22(d) and 22(l) above.

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28. For the purposes of executing the scheme and artifice to defraud the DOE and attempting to do so, on or about the dates set forth below, the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL unlawfully, wilfully and knowingly, did place and cause to be placed in a post office and authorized depository for mail matter and did cause to be delivered by mail according to the directions thereon certain mail matter to be sent and delivered by the United States Postal Service, all as more particularly set forth in Counts 24 through 38 hereinbelow:

COUNT	MAIL COMMUNICATION	APPROXIMATE DATE OF MAILING	DEFENDANT
24	ERA-69 for September 1980 Sent by Express Mail to DOE	December 1, 1980	Rich, Green, Meltzer, AG and International
25	ERA-69 for November 1980 Sent by Express Mail to DOE	January 30, 1981	Rich, Green, Meltzer, AG and International
26	ERA-69 for December 1980 Sent by Express Mail to DOE	January 27, 1981	Rich, Green, Meltzer, AG and International
27	ERA-69 for January 1981 Sent by Express Mail to DOE	March 31, 1981	Rich, Green, Meltzer, AG and International
28	Invoice No. S9-041 mailed to International by WTM for 69,000 barrels at $2,280,450.00	October 7, 1980	Rich, Green, AG and International
29	Invoice No. S10-068 mailed to International by WTM for 83,700 barrels at $2,787,210.00	November 6, 1980	Rich, Green, AG and International
30	Invoice No. S10-069 mailed to International by WTM for 71,300 barrels at $2,374,290.00	November 6, 1980	Rich, Green, AG and International

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COUNT	MAIL COMMUNICATION	APPROXIMATE DATE OF MAILING	DEFENDANT
31	Invoice No. 811-051 mailed to International by WTM for 150,000 barrels at $4,995,000.00	December 4, 1980	Rich, Green, AG and International
32	Invoice No. 0989 mailed to International by Listo for 313,629 barrels at $9,879,313.50: "Sinclair Texas"	January 7, 1981	Rich, Green, Meltzer, AG and International
33	Invoice No. 1126 mailed to International by Listo for 261,486.49 barrels at $10,036,575.96: "Sinclair Texas"	January 21, 1981	Rich, Green, Meltzer, AG and International
34	Invoice No. 1138 mailed to International by Listo for 405,544.61 barrels at $15,714,853.64: "Prudhoe Bay"	January 26, 1981	Rich, Green, Meltzer, AG and International
35	Invoice No. 1139 mailed to International by Listo for 458,532 barrels at $15,360,822.00: "Overseas New York"	January 26, 1981	Rich, Green, Meltzer, AG and International
36	Invoice No. 1140 mailed to International by Listo for 53,844.39 barrels at $2,086,470.11: "Sinclair Texas"	January 26, 1981	Rich, Green, Meltzer, AG and International
37	Invoice No. 1271 mailed to International by Listo for 292,809 barrels at $10,043,348.70: "Arco Heritage"	February 24, 1981	Rich, Green, Meltzer, AG and International
38	Invoice No. 1267 mailed to International by Listo for 332,390.25 barrels at $11,068,595.33: "Arco Heritage	February 24, 1981	Rich, Green, Meltzer, AG and International

(Title 18, United States Code, Sections 1341 and 2.)

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COUNT THIRTY-NINE

RACKETEERING

The Grand Jury further charges:

29. Each and every allegation contained in Paragraphs 1 through 28, and all subparts thereof, of Counts One through Thirty-eight of this Indictment is realleged and incorporated by reference and the subparts thereof as if fully set forth.

30. From on and about January 1, 1980, up to and including the date of filing of this Indictment, in the Southern District of New York and elsewhere, MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL, the defendants, being individuals and entities employed by and associated with an enterprise, as defined in 18 U.S.C. § 1961(4), engaged in and the activities of which affect interstate and foreign commerce, to wit, AG and its wholly-owned subsidiaries, the defendant INTERNATIONAL, Rescor and Highams, together with others known and unknown to the Grand Jury ("co-racketeers"), unlawfully, wilfully and knowingly, did conduct and participate, directly and indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity, as defined in 18 U.S.C. § 1961(5), consisting of the acts of racketeering including wire fraud, indictable under Title 18, United States Code, Section 1343, as set forth in Paragraphs 1 through 23 and all subparts thereof, of Counts One through Twenty-three of this

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Indictment, and mail fraud, indictable under Title 18, United States Code, Section 1341, as set forth in Paragraphs 24 through 28 of Counts Twenty-four through Thirty-eight, all in violation of Title 18, United States Code, Section 1962(c).

31. The defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG, INTERNATIONAL together with their co-racketeers conducted the enterprise through a pattern of racketeering activity wherein the defendants and others concealed in excess of $100 million in taxable income of the defendant INTERNATIONAL by diverting it, through a series of sham transactions, offshore to the defendant AG. Most of this $100 million in taxable income was illegally generated through the defendants' violations of federal energy laws and regulations. The enterprise has been used by the defendants to enable the defendant INTERNATIONAL to evade in excess of $48 million in United States taxes for the 1980 and 1981 tax years.

The Pattern of Racketeering

32. It was a part of the pattern of racketeering activity that from on or about January 1, 1980, up to and including the date of the filing of this Indictment, MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG, and INTERNATIONAL, the defendants, together and with their co-racketeers, unlawfully, wilfully and knowingly, would and did devise and intend to devise schemes and artifices to defraud the United States, and agencies thereof, and to obtain money and property by means of false and fraudulent pretenses, representations and promises, to wit:

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(i) the Internal Revenue Service ("IRS") in its lawful governmental function of administering and overseeing the collection of taxes in the United States; and

(ii) the Department of Energy ("DOE") in its lawful governmental function of administering and overseeing the laws and regulations which provided for price controls and limited markups on the sale of crude oil produced in or imported into the United States.

33. It was part of the pattern of racketeering activity that MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL, the defendants, together and with their co-racketeers, unlawfully, wilfully, and knowingly:

(i) in executing the scheme to defraud the Internal Revenue Service, and attempting to do so, would and did commit the 24 acts of racketeering set forth below, and also set forth in detail in Paragraphs 1 through 23 of Counts One through Twenty-three; and

(ii) in executing the scheme to defraud the Department of Energy, and attempting to do, would and did commit the 15 acts of racketeering set forth below, and also set forth in detail in Paragraphs 24 through 28 of Counts Twenty-four through Thirty-eight .

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I. THE SCHEME TO DEFRAUD THE IRS

	RACKETEERING ACT	APPROXIMATE DATE	VIOLATION	DEFENDANTS
		WTM "Pot"		
(1)	wire transfer to AG of $12,507,818.40 (including $1,786,831.00 from the "pot") by WTM: "Arctic Star"	October 21, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(2)	wire transfer to AG of $4,050,000.00 by WTM from the "pot": "Norse King"	October 23, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(3)	wire transfer to AG of $5,384,217.00 by WTM from the "pot": "Olympic Bond"	January 5, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(4)	wire transfer to AG of $5,000,000.00 by WTM from the "pot": "Nia Rocco Piaggio" and "Okinoshima Maru"	January 30, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(5)	wire transfer to AG of $1,199,974.00 by WTM from the "pot": "Okinoshima Maru"	February 9, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(6)	wire transfer to AG of $5,141,709.00 by WTM from the "pot": "Romo Maersk"	February 23, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(7)	wire transfer to Highams of $1,215,000.00 by WTM from the "pot": "Philip of Macedon"	May 4, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(8)	telefaxes of handwritten notes re WTM pot from International to WTM	February 1, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(9)	telefax of typewritten summary re WTM pot from WTM to International	February 9, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International

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RACKETEERING ACT	APPROXIMATE DATE	VIOLATION	DEFENDANTS
(10) telefax of typewritten summary re WTM pot from International to WTM	February 10, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
	Listo "Pot"		
(11) wire transfer to AG of $32,950,790.78 (including $4,131,620.24 from the "pot") by Listo: "Montessa"	December 5, 1980	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(12) wire transfer to AG of $4,259,844.00 by Listo from the "pot": "Universe Explorer"	December 15, 1980	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(13) wire transfer to AG of $18,605,470.63 (including $2,241,743.45 from the "pot") by Listo: "Alnair II"	December 23, 1980	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(14) wire transfer to AG of $19,946,909.84 (including $2,266,694.30 from the "pot") by Listo: "Lamyra"	December 31, 1980	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(15) wire transfer to AG of $5,291,409.82 by Listo from the "pot": "Arctic Star"	January 27, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(16) wire transfer to AG of $3,349,660.34 by Listo from the "pot": "Ionian Commander"	January 30, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(17) wire transfer to AG of $1,873,584.45 by Listo from the "pot": "Jeci"	February 2, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(18) wire transfer to AG of $6,396,201.22 by Listo from the "pot": "Keiyoh Maru"	February 11, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International

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RACKETEERING ACT	APPROXIMATE DATE	VIOLATION	DEFENDANTS
(19) wire transfer to AG of $5,315,478.50 by Listo from the "pot": "White Gardenia"	March 3, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(20) wire transfer to AG of $9,452,307.00 by Listo from the "pot": "Jamunda" and "Norse King"	May 5, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(21) wire transfer to Rescor of $3,000,000.00 by Listo from the "pot": "Philip of Macedon" and "Okinoshima Maru"	May 14, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
	Charter False Deductions		
(22) wire transfer to AG of $29,157,628.90 by International: "Luna Mar", "Devali," "World Scholar" and "Ratna Jayshree"	September 29, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(23) wire transfer to AG of $1,659,472.80 by International: "Santamar"	April 7, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
	Arco False Deduction		
(24) wire transfer to Rescor of $2,716,510.00 by International: "Wind Escort"	August 27, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
	II. THE SCHEME TO DEFRAUD THE DOE		
(25) ERA-69 for September 1980 Sent by Express Mail to DOE	December 1, 1980	18 USC §§ 1341 and 2	Rich, Green, Meltzer, AG and International
(26) ERA-69 for November 1980 Sent by Express Mail to DOE	January 30, 1981	18 USC §§ 1341 and 2	Rich, Green, Meltzer, AG and International
(27) ERA-69 for December 1980 Sent by Express Mail to DOE	January 27, 1981	18 USC §§ 1341 and 2	Rich, Green, Meltzer, AG and International

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	RACKETEERING ACT	APPROXIMATE DATE	VIOLATION	DEFENDANTS
(28)	ERA-69 for January 1981 Sent by Express Mail to DOE	March 31, 1981	18 USC §§ 1341 and 2	Rich, Green, Meltzer, AG and International
(29)	Invoice No. S9-041 mailed to International by WTM for 69,000 barells at $2,280,450.00	October 7, 1980	18 USC §§ 1341 and 2	Rich, Green, AG and International
(30)	Invoice No. S10-068 mailed to International by WTM for 83,700 barrels at $2,787,210.00	November 6, 1980	18 USC §§ 1341 and 2	Rich, Green, AG and International
(31)	Invoice No. S10-069 mailed to International by WTM for 71,300 barrels at $2,374,290.00	November 6, 1980	18 USC §§ 1341 and 2	Rich, Green, AG and International
(32)	Invoice No. S11-051 mailed to International by WTM for 150,000 barrels at $4,995,000.00	December 4, 1980	18 USC §§ 1341 and 2	Rich, Green, AG and International
(33)	Invoice No. 0989 mailed to International by Listo for 313,629 barrels at $9,879,313.50: "Sinclair Texas"	January 7, 1981	18 USC §§ 1341 and 2	Rich, Green, Meltzer, AG and International
(34)	Invoice No. 1126 mailed to International by Listo for 261,486.49 barrels at $10,036,575.96: "Sinclair Texas"	January 21, 1981	18 USC §§ 1341 and 2	Rich, Green, Meltzer, AG and International
(35)	Invoice No. 1138 mailed to International by Listo for 405,544.61 barrels at $15,714,853.64: "Prudhoe Bay"	January 26, 1981	18 USC §§ 1341 and 2	Rich, Green, Meltzer, AG and International
(36)	Invoice No. 1139 mailed to International by Listo for 458,532 barrels at $15,360,822.00: "Overseas New York"	January 26, 1981	18 USC §§ 1341 and 2	Rich, Green, Meltzer, AG and International

RACKETEERING ACT	APPROXIMATE DATE	VIOLATION	DEFENDANTS
(37) Invoice No. 1140 mailed to International by Listo for 53,844.39 barrels at $2,086,470.11: "Sinclair Texas"	January 26, 1981	18 USC §§ 1341 and 2	Rich, Green, Meltzer, AG and International
(38) Invoice No. 1271 mailed to International by Listo for 292,809 barrels at $10,043,348.70: "Arco Heritage"	February 24, 1981	18 USC §§ 1341 and 2	Rich, Green, Meltzer, AG and International
(39) Invoice No. 1267 mailed to International by Listo for 332,390.25 barrels at $11,068,595.33: "Arco Heritage"	February 24, 1981	18 USC §§ 1341 and 2	Rich, Green, Meltzer, AG and International

(Title 18, United States Code, Sections 1962(c) and 2.)

COUNT FORTY

THE RACKETEERING CONSPIRACY

The Grand Jury further charges:

34. Each and every allegation contained in Paragraphs 1 through 33, and all subparts thereof, of Counts One through Thirty-nine of this Indictment is realleged and incorporated by reference herein as if fully set forth.

35. From on or about January 1, 1980, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG, and INTERNATIONAL, the defendants, being individuals and entities employed by and associated with an enterprise engaged in, and the activities of which affect, interstate and foreign commerce, to wit, AG and its wholly-owned subsidiaries, the defendant INTERNATIONAL, Rescor and Highams,

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together with their co-racketeers, unlawfully, wilfully and knowingly, did combine, conspire, confederate and agree together and with each other to commit an offense against the United States, to wit, a violation of Title 18, United States Code, Section 1962, that is, to conduct and participate, directly and indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity as defined in Title 18, United States Code, Section 1961(5).

36. The objects of the racketeering conspiracy were that the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL, together and with their co-racketeers, would and did commit and agree to commit the acts of racketeering, including wire fraud, indictable under Title 18, United States Code, Section 1343, as charged in Paragraphs 1 and 23 of Counts One through Twenty-three, and in Count Thirty-nine, and mail fraud, indictable under Title 18, United States Code, Section 1341, as charged in Paragraphs 24 through 28 of Counts Twenty-four through Thirty-eight, and in Count Thirty-nine, all in violation of Title 18, United States Code, Section 1962(c).

(Title 18, United States Code, Section 1962(d).)

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FORFEITURES

37. Each and every allegation contained in Paragraphs 1 through 36 of Counts One through Forty of this Indictment is hereby realleged and incorporated by reference herein as if fully set forth for the purpose of alleging forfeitures pursuant to the provisions of Title 18, United States Code, Sections 1963(a)(1) and 1963(a)(2).

38. The defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG, and INTERNATICNAL, now known as "Clarendon Ltd.", have acquired and maintained interests from violations of Title 18, United States Code, Section 1962, and have interests in, securities of, claims against and property and contractual rights affording each defendant a source of influence over the enterprise, which enterprise each defendant established, operated, controlled, conducted and participated, directly and indirectly, in the conduct of through a pattern of racketeering, and conspired to do so, in violation of Title 18, United States Code, Section 1962(c) and (d), thereby making all such interests, securities of, claims against, property and contractual rights, wherever located, in whatever names held, subject to forfeiture to the United States as of the date they were acquired, maintained and utilized.

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39. The interests of the defendants MARC RICH, PINCUS GREEN and CLYDE MELTZER, subject to forfeiture to the United States, include any interests and proceeds therefrom each defendant has acquired and maintained from violations of Title 18, United States Code, Section 1962, including but not limited to:

(a) dividends, salaries, bonuses, and pension benefits paid by any of the corporate entities comprising or associated with the enterprise; and

(b) any interests purchased or obtained with the monies set forth in subparagraph (a) above including, but not limited to personalty, real estate, and investments, wherever located and in whatever names;

and any interests in, securities of, claims against, property, contractual rights and rights of any kind affording a source of influence over the enterprise, including but not limited to all stock, securities, notes, rights, warrants, and options, wherever located and in whatever names, and all offices and titles, in any of the corporate entities comprising or associated with the enterprise.

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40. The interests of the defendant AG subject to forfeiture to the United States include any interests and proceeds therefrom that the defendant AG has acquired and maintained from violations of Title 18, United States Code, Section 1962, including but not limited to:

(a) all monies received and specified in this Indictment, including monies paid to Rescor, Inc. and Highams Consultants, AG's wholly-owned subsidiaries, and

(b) all assets, interests and investments, including loans and receivables, wherever located and in whatever names, purchased or obtained with the monies set forth in subparagraph (a) above and profits derived therefrom, including in excess of $37 million owed to the defendant AG by Guam Oil and Refining Company and the interests of Richco Holdings, B.V. in TCF Holdings, Inc.;

and any interests in, securities of, claims against, property, contractual rights and rights of any kind affording a source of influence over the enterprise, including but not limited to:

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(a) all stock, securities, notes, rights, warrants and options, wherever located and in whatever names, in the defendant INTERNATIONAL, Rescor, Inc. and Highams Consultants and any and all of their subsidiaries, including but not limited to Century Chartering Co., Inc.;

(b) all assets, wherever located and in whatever name, of the entities set forth in subparagraph (a) above, including but not limited to:

1. bank accounts
2. accounts receivables
3. securities, stock, notes, rights, warrants and options
4. contracts
5. leaseholds, including the leasehold at 650 Fifth Avenue, New York, New York
6. inventory
7. office equipment, furnishings and fixtures

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8. interests in realty and minerals, including oil and gas properties described in a Mortgage, Security Agreement, Financing Statement and Assignment dated August 4, 1983, by Clarendon Ltd. and Century Chartering Co., Inc. to and in favor of the United States of America.

9. Proceeds of any purported sale of any interest in the defendant INTERNATIONAL, including proceeds of a purported sale of the defendant INTERNATIONAL to Alexander Hackel and others on June 30, 1983.

41. The interests of the defendant INTERNATIONAL subject to forfeiture to the United States include any interests and proceeds therefrom that the defendant INTERNATIONAL has acquired and maintained from violations of Title 18, United States Code, Section 1962, including but not limited to

(a) all monies received and specified in this Indictment; and

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(b) all assets, interests and investments, including loans and receivables, wherever located and in whatever names, purchased or obtained with the monies set forth in subparagraph (a) above and profits derived therefrom or purchased or obtained with monies that were due and owing to the United States of America as a consequence of the violations of law set forth in this Indictment;

and any interests in, securities of, claims against, property, contractual rights and rights of any kind affording a source of influence over the enterprise, including but not limited to, all stock, securities, notes, rights, warrants and options, wherever located, in whatever names, in all subsidiaries, including but not limited to Century Chartering Co., Inc.

(Title 18, United States Code, Section 1963.)

THE INCOME TAX EVASION COUNTS

COUNT FORTY-ONE

Tax Evasion for 1980

The Grand Jury further charges:

42. Each and every allegation contained in Paragraphs 1 through 41, and all subparts thereof, of Counts One through

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Forty of this Indictment is realleged and incorporated by reference herein as if fully set forth.

43. On or about September 17, 1981, in the Southern District of New York, MARC RICH, PINCUS GREEN, CLYDE MELTZER, and INTERNATIONAL, the defendants, together with AG, not named as a defendant in this count, unlawfully, wilfully and knowingly did attempt to evade and defeat a large part of the income tax due and owing by the defendant INTERNATIONAL to the United States of America for the calendar year 1980, by preparing and causing to be prepared and by filing and causing to be filed a false and fraudulent income tax return for the defendant INTERNATIONAL, which return stated that the taxable income for said calendar year was $1,091,431.00 and that the amount of income tax due and owing thereon was $413,374.00, whereas, as the defendants then and there well knew, the true taxable income of, and the true income tax due and owing by the defendant INTERNATIONAL to the United States for said calendar year were substantially in excess of the amounts reported on said return, to wit, the defendant INTERNATIONAL's true taxable income for said calendar year was at least $53,650,947.07, upon which there was due and owing to the United States an income tax of approximately $24,590,751.65.

(Title 26, United States Code, Sections 7201 and 2.)

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COUNT FORTY-TWO

Tax Evasion for 1981

The Grand Jury further charges:

44. Each and every allegation contained in Paragraphs 1 through 43, and all subparts thereof, of Counts One through Forty-one of this Indictment is realleged and incorporated by reference herein as if fully set forth.

45. On or about September 22, 1982, in the Southern District of New York, MARC RICH, PINCUS GREEN, CLYDE MELTZER, and INTERNATIONAL, the defendants, together with AG, not named as a defendant in this count, unlawfully, wilfully and knowingly did attempt to evade and defeat a large part of the income tax due and owing by the defendant INTERNATIONAL to the United States of America for the calendar year 1981, by preparing and causing to be prepared and by filing and causing to be filed a false and fraudulent income tax return for the defendant INTERNATIONAL, which return stated that the taxable income for said calendar year was $2,424,172.00 and that the amount of income tax due and owing thereon was $235,525.00, whereas, as the defendants then and there well knew, the true taxable income, and the true income tax due and owing, by the defendant INTERNATIONAL to the United States for said calendar year were substantially in excess of the amounts reported on said return, to wit, the defendant INTERNATIONAL's true taxable income for said calendar year was at least $55,043,714.33, upon which there was due and owing to the United States an income tax of approximately $24,440,514.59.

(Title 26, United States Code, Section 7201 and 2.)

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COUNTS FORTY-THREE THROUGH FIFTY-SEVEN

THE SCHEME TO DEFRAUD THE DEPARTMENT OF TREASURY RE: IRANIAN DEALS

The Grand Jury further charges:

46. Each and every allegation contained in Paragraphs 1 through 45, and all subparts thereof, of Counts One through Forty-two of this Indictment is realleged and incorporated by reference herein as if fully set forth.

47. From in or about January 1980, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, MARC RICH and PINCUS GREEN, the defendants, unlawfully, wilfully and knowingly would and did devise and intend to devise a scheme and artifice to defraud the United States and agencies thereof, to wit, the Department of Treasury and its Office of Foreign Assets Control, in their lawful governmental function of administering and overseeing the laws and regulations which prohibited commercial transactions and credit transactions involving Iran during the American hostage crisis, and to obtain money and property by false and fraudulent pretenses, representations and promises.

Statutory Background

48. On November 4, 1979, Iranian nationals invaded the U.S. Embassy in Teheran, Iran. Thereafter, 53 American citizens were held hostage for over 14 months until their release on January 19, 1981.

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49. In response to the seizure of American hostages:

(a) On November 14, 1979, President Carter, under the International Economic Emergency Powers Act of 1977, issued Executive Order # 12170 to block and freeze all property and interests in property of the Government of Iran and any of its instrumentalities and controlled entities, including the National Iranian Oil Company ("NIOC"), which were or became subject to the jurisdiction of the United States or which were or came within the possession or control of persons subject to the United States.

(b) On November 15, 1979, the Department of Treasury through its Office of Foreign Assets Control issued regulations to implement President Carter's Executive Order # 12170. The effect of the regulations was that various transactions with Iran and its controlled entities were prohibited in the absence of a license from the Department of Treasury.

(c) On April 7, 1980, President Carter issued Executive Order # 12205 under the International Emergency Economic Powers Act which imposed a trade embargo on Iran. On April 9, 1980, the Department of Treasury through its Office of Foreign Assets Control issued regulations to implement President Carter's Executive Order # 12205.

(d) On April 17, 1980, President Carter issued Executive Order # 12211 to expand the provisions of Executive

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Orders # 12170 and # 12205 by prohibiting the payment or transfer of any funds from the United States to any Iranian person as well as the Government of Iran or any of its controlled entities, such as NIOC, as had been previously prohibited without license by Executive Order # 12170. On April 21, 1980, the Department of Treasury through its Office of Foreign Assets Control issued regulations which implemented President Carter's Executive Order # 12211.

(e) The various regulations required every individual and entity engaging in any transaction subject to the prohibitions to keep records to be available for examination by the Office of Foreign Assets Control.

50. During the hostage crisis and while the foregoing regulations were in effect:

(a) AG entered into contracts with the National Iranian Oil Company ("NIOC") to purchase Iranian crude and fuel oil, including contract # 244 on April 30, 1980, for the purchase of crude and fuel oil from May 1, 1980, through September 30, 1980. The terms of the contracts gave AG sixty days after the date of delivery to make payment to NIOC in American dollars through letters of credit posted by AG in favor of NIOC.

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(b) Beginning on or about May 1, 1980, prior to the delivery of this Iranian crude oil and fuel oil under the contracts AG had with NIOC, the defendants MARC RICH and PINCUS GREEN -- both United States citizens -- negotiated from the offices of International in New York, New York, with the principal of Transworld Oil, Bermuda, the sale of approximately 6,250,000 barrels of Iranian crude oil and fuel oil for approximately $202,806,291.00. The defendants MARC RICH and PINCUS GREEN would and did cause payment to be ultimately effected to NIOC with American dollars by using commercial credit arrangements involving United States banks and United States branch offices of foreign banks located in New York, New York, all in violation of the various Executive Orders of President Carter and the underlying regulations. These payment arrangements for the Iranian oil, which were effected through banks located in New York, New York, were consummated by "back to back" letters of credit wherein Transworld Oil would make payment to AG in United States dollars, normally within thirty days of delivery, and AG would then in turn make payment to NIOC in United States dollars within sixty days of delivery.

(c) To further the scheme, the defendants MARC RICH and PINCUS GREEN did not disclose to these banks in the United States -- which were also prohibited from knowingly transferring any funds to Iran -- that the ultimate beneficiary of the United States dollars was NIOC.

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(d) To further the scheme, in or about July 1980, the defendants MARC RICH and PINCUS GREEN devised a secret code for interoffice cable communications when referring to the illegal Iranian transactions, in order to disguise the participation of NIOC. Telexes containing this secret code were maintained in the New York records of International which, pursuant to the regulations, were subject to examination by the Department of Treasury's Office of Foreign Assets Control.

51. For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants MARC RICH and PINCUS GREEN unlawfully, wilfully and knowingly, did transmit and cause to be transmitted by means of wire, radio and television communication, in interstate and foreign commerce, certain telexes and wire and cable tranfers of monies, all as more particularly as set forth in Counts 43 through 57 herein below:

COUNT	WIRE COMMUNICATION	APPROXIMATE DATE OF WIRE COMMUNICATION	DEFENDANT
43	wire transfer of $8,239,385.90 from New York to Zurich, Switzerland	July 7, 1980	Rich and Green
44	wire transfer of $56,187,197.00 from New York to Zurich, Switzerland	July 7, 1980	Rich and Green
45	wire transfer of $56,356,234.00 from New York to Paris, France	July 14, 1980	Rich and Green
46	wire transfer of $8,408,685.00 from New York to Paris, France	July 17, 1980	Rich and Green
47	wire transfer of $7,745,130.00 from New York to Paris, France	July 31, 1980	Rich and Green
48	wire transfer of $4,671,022.50 from New York to Paris, France	September 2, 1980	Rich and Green

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COUNT	WIRE COMMUNICATION	APPROXIMATE DATE OF WIRE COMMUNICATION	DEFENDANT
49	wire transfer of $4,844,487.50 from New York to Paris, France	September 11, 1980	Rich and Green
50	wire transfer of $56,463,649.00 from New York to Paris, France	September 30, 1980	Rich and Green
51	Telex #NYC 143 from Pincus Green in New York to AG (London) and AG (Zug)	May 1, 1980	Rich and Green
52	Telex #NYC 171 from Marc Rich in New York to AG (London) and AG (Zug)	May 7, 1980	Rich and Green
53	Telex #NYC 138 from Pincus Green in New York to AG (London)	May 7, 1980	Rich and Green
54	Telex # NYC 139 from Pincus Green in New York to AG (London) and AG (Zug)	May 7, 1980	Rich and Green
55	Telex #NYC 174 from Marc Rich in New York to AG (London)	May 8, 1980	Rich and Green
56	Telex #NYC 042 from Marc Rich in New York to AG (London) and AG (Zug)	May 12, 1980	Rich and Green
57	Telex #NYC 146 from Pincus Green in New York to AG (London)	August 14, 1980	Rich and Green

(Title 18, United States Code, Sections 1343 and 2.)

TRADING WITH IRAN COUNTS

COUNTS FIFTY-EIGHT THROUGH SIXTY-FIVE

52. Each and every allegation contained in Paragraphs 1 through 51, and all subparts thereof, of Counts One through Fifty-seven of this Indictment is realleged and incorporated by reference as if fully set forth herein.

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53. During a period from in or about April 1980, up to and including January 19, 1981, in the Southern District of New York and elsewhere, at the time when United States citizens were being held hostage in Iran, MARC RICH and PINCUS GREEN, the defendants, who were United States citizens subject to the jurisdiction of the United States, unlawfully, wilfully and knowingly, in transactions involving Iran, an Iranian governmental entity, and an enterprise controlled by Iran and an Iranian governmental entity, did make and cause to be made payments, transfers of credit, and other transfers of funds and other property and interests to persons in Iran, to wit, the defendants MARC RICH and PINCUS GREEN caused United States dollars from banks located in the United States to be transferred to the National Iranian Oil Company ("NIOC") to pay for crude oil and fuel oil which AG had purchased directly from NIOC and which the defendants MARC RICH and PINCUS GREEN had pre-sold from the offices of International in the United States to third-party companies as more specifically set forth below:

Count	Quantity of Iranian Crude Oil or Fuel Oil Purchased and Sold	Third Party Purchaser	Description of Payment to NIOC	Date of Payment to NIOC
58	53,129 metric tons of fuel oil	TransWorld Oil	US $8,233,544.40 by Letter of Credit issued in favor of NIOC by Union Bank of Switzerland (UBS), Switzerland, covered through a bank in New York, New York to Bank Markazi, Iran acct. at UBS, Switzerland	July 7, 1980

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Count	Quantity of Iranian Crude Oil or Fuel Oil Purchased and Sold	Third Party Purchaser	Description of Payment to NIOC	Date of Payment to NIOC
59	',531,658 barrels of ude oil and 5990 tric tons of l oil	TransWorld Oil	US $56,186,536.00 by Letter of Credit issued in favor of NIOC by UBS, Switzerland, covered through a bank in New York, New York to Zurich, Switzerland to Bank Markazi, Iran Acct. at Midland Bank, London, England	July 7, 1980
60	1 3,430 barrels of c: s oil and 3158 m ic tons of f oil	TransWorld Oil	U.S. $56,356,234.00 by Letter of Credit issued by Banque de Paris et des Pays-Bas, Paris, covered through a bank in New York, New York to Banque de Paris et des Pays-Bas, Paris, France to Bank Markazi, Iran account at Midland Bank, London, England	July 14, 1980
61	3 418 barrels o uel oil	TransWorld Oil	US $8,334.40500 by Letter of Credit issued in favor of NIOC by UBS, Switzerland, covered through a bank in New York, New York, to Societe Generale, Paris, France, to UBS, Zug, Switzerland to Bank Markazi, Iran account at Midland Bank, London, England	July 17, 1980

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Count	Quantity of Iranian Crude Oil or Fuel Oil Purchased and Sold	Third Party Purchaser	Description of Payment to NIOC	Date of Payment to NIOC
65	1,607,887 barrels of crude oil	TransWorld Oil	US $56,463,649.20 by Letter of Credit issued in favor of NIOC by Societe General, France, covered through a bank in New York, New York, to Bank Markazi, Iran Acct. at Banque Nationale de Paris, Paris, France	September 30, 1980

(31 CFR §§ 535.206(a)(4), 535.208, 535.701; Title 50, United States Code, Section 1705; and Title 18, United States Code, Section 2.)

GRAND JURY FOREPERSON

RUDOLPH W. GIULIANI
United States Attorney

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

v. SS 83 Cr. 579

Marc Rich+ Co., AG,
Marc Rich International, Ltd.,
now known as Clarendon,
and Clyde Meltzer,

Defendants.

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October 11, 1984
10:00 a.m.

Before:

HON. SHIRLEY WOHL KRAM,

District Judge

APPEARANCES

RUDOLPH W. GIULIANI,
United States Attorney for the
Southern District of New York,
- and-
Morris Weinberg,
Martin Auerbach, and
Jane Parver,
Assistant United States Attorneys

Kostelanetz & Ritholtz,
Attorneys for Defendant Marc Rich, AG
Boris Kostelanetz,
Peter I. Zimroth, and
John J. Tigue, Jr.,
of Counsel

Curtis Mallet Prevost Colt & Mosle,
Attorneys for Defendant Marc Rich International

EXHIBIT
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Peter Fleming and
Daniel R. Lenihan,
of Counsel.

(Case called. All parties answered ready.)

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THE COURT: Will you proceed, please?

MR. GIULIANI: Good morning, your Honor. My name is Rudolph Giuliani. I am the United States Attorney for the Southern District of New York.

With me at counsel table are Morris Weinberg, the Assistant United States Attorney who has been in charge of this case from its inception, Martin Auerbach, who has worked in partnership with Mr. Weinberg preparing this case, Jane Parver, who is the Executive Assistant United States Attorney who supervised this case, and Morton Dick, a special agent of the IRS who has been the principal investigating agent in this case throughout.

This morning this proceeding is to dispose of the charges against Marc Rich & Company, AG, and Marc Rich International, and the defendant Clyde Meltzer. All three defendants propose to waive indictment and plead guilty to superseding information.

In the case of the corporate defendants, they will both plead to 38 counts of false statements, and International will also plead to two counts of evading in excess of $48 million in taxes.

They have also agreed to pay the United States Government $150 million in settlement of the charges and other claims against them, to waive any right to recover the $21 million in fines that has already been paid to the

United States, and to waive any right to use any of these payments an as an offset against past or future tax liabilities to the United States of America.

The total value to the government is approximately $200 million.

In exchange, the government will dismiss the pending charges against them in indictment S 83 Criminal 579, and lift the restraints imposed against them, as well as release them from liabilities as fully set forth in the memorandum that Mr. Weinberg will present to the court this morning.

It is also clear, your Honor, that the charges against Marc Rich and Pincus Green in the indictment will remain open and unaffected by these proceedings this morning.

This plea and settlement was contingent from the point of view of both sides on the action of the Swiss Government on our request to extradict Marc Rich and Pincus Green. With the refusal of the Swiss Government to extradict insofar as the Rich and Green aspects of the case are concerned, this became a case against corporations.

Corporations, as your Honor knows, cannot be put in prison. The maximum penalties are monetary. This plea and settlement is a truly exceptional result for the government. The government's interest in successfully

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prosecuting these corporations is fully satisfied. The $150 million payment and the total package of $200 million, as well as the exposure to $700,000 in maximum fines, constitutes the largest amount of money ever recovered by the United States in a criminal income tax evasion case, all this without in any way affecting the government's option his to proceed against Marc Rich and Pincus Green.

This morning, your Honor, we will proceed first with the waiver of indictment and then the filing of a superseding information, then with the entry of guilty pleas by the two corporations and the individual, and then with the sentencing of the two corporations.

In closing, your Honor, may I just add one personal word, and that is to commend the attorneys who have been involved in this for the government, for the defendants, for the banks. It really has been a very long and complex process, and all of it was handled in a highly professional manner.

I would just like to put that on the record.

I would now like to turn it over to Morris Weinberg, who handled the waivers and the pleas.

MR. WEINBERG: Good morning, your Honor.

Let me hand up to the clerk the superseding information with regard to Marc Rich & Company, AG, and International, along with each of their waivers of

indictment, as well as the superseding information against Clyde Meltzer, along with his waiver of indictment.

As well, your Honor, I will hand up and ask the clerk to mark as Exhibit 1 to this court proceeding a package of documents which includes a September 13, 1984 letter from the U. S. Attorney to the two defense lawyers in this case setting forth various understandings in this case which comprise the overall plea agreement.

Attached to that letter are a copy of the memorandum of understanding, which at the conclusion of these proceedings today we will ask your Honor to so order the original so it can be filed in court as an order.

That memorandum of understanding sets forth all of the terms and understandings to this plea including what the defendants will plead to, the payment of $150 million, and the other things that Mr. Giuliani spoke about, as well as providing for the conclusion of various other corollary proceedings that pend in this courthouse and in the Tax Court.

Also attached as an exhibit to that memorandum of understanding is a stipulation and order that provides for the resolution of litigation that has pended before Judge Owen in this courthouse between the United States of America and a consortium of banks. As a result of this plea, if it is accepted, and the payment of $150 million,

that lawsuit will be settled and the banks will be paid today, as I understand it, the $130,000-or-so that they are owed by the defendants International and Marc Rich & Company, AG,.

Previously, the government had been litigating against them to collect the same assets in order to satisfy our various liabilities.

Finally, attached as an exhibit of understanding is the information that AG and International propose to plea to today as well as a copy of a Tax Court decision that will be filed in Washington today resolving the Tax Court litigation between International and the United States Government concerning the $96 million in taxes, penalties and interest that has been assessed against International as a result of the underlying crimes in this case.

I hand this up and ask the court to mark it as Court Exhibit 1

THE COURT: It is to be so marked.

(Court Exhibit 1 was marked.)

MR. WEINBERG: I also ask the clerk to mark as Court Exhibit 2 corporate resolutions of both Marc Rich & Company, AG, and Clarendon Ltd., which is Marc Rich International, the name by which they gone now.

These corporate resolutions have been certified

and authorized.

It is by these resolutions the attorneys for AG and International appear today with the full authority to enter into the memorandum of understanding and to enter pleas to the superseding information.

THE COURT: That will be Mr. Kostelanetz and Mr. Fleming?

MR. WEINBERG: That's right.

I ask that be marked as Court Exhibit 2, your Honor.

(Court Exhibit 2 was marked.)

MR. WEINBERG: we will ask the court at this time to proceed with the waivers.

THE COURT: Mr. Kostelanetz, Mr. Fleming, would you stand, please.

THE CLERK: Mr. Kostelanetz, do you represent Marc Rich & Company, AG,?

MR. KOSTELANETZ: Yes. I'm Mr. Kostelanetz.

BY THE CLERK:

Q. Have you received a copy of the superseding information?

A. Yes.

MR. KOSTELANETZ: May I say this, your Honor? If it is satisfactory to the Court, my partner Peter Zimroth, will proceed with this portion of the business

this morning.

THE COURT: All right.

MR. ZIMROTH: Good morning, your Honor.

Q. Mr. Zimroth, do you represent Marc Rich & Company, AG?

A. Yes, as a partner of the firm of Kostelanetz & Ritholtz. We represent Marc Rich AG.

Q. Have you received a copy of the superseding information?

A. Yes.

Q. Have you read it?

A. Yes.

Q. Do you wish it read now or do you waive the reading?

A. We waive the reading.

Q. Have you signed the waiver of indictment on behalf of the corporation?

A. Mr. Kostelanetz had so done.

Q. Before signing it, did you discuss it with your attorney and did he explain it to you?

A. We are the attorney. This is a corporate resolution.

Q. Do you understand that you are not obligated to waive the indictment?

A. Yes.

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Q. Do you understand that if you do not waive the indictment and the government wanted to proceed against you that they would have to present your case to a grand jury?

A. Yes. The companies, that's right.

Q. I am sorry. Not indict you.

A. Yes.

Q. Do you realize that by signing this waiver you have given up your right to have your case --

A. Yes.

Q. Mr. Fleming, do you represent Marc Rich and Company International?

MR. FLEMING: Your Honor, I represent Marc Rich International, now known as Clarendon. I have heard all of the questions asked of Mr. Zimroth with regard to AG. My answers are the same.

I have read the proposed superseding information. I have executed the waiver of indictment on behalf of Clarendon. This has been discussed with my client who has fully authorized the conduct. I am aware of and my client is aware of the rights which we are waving by executing this waiver of indictment and consenting to the filing of this superseding indictment which, as I say, we have read, we do understand and the reading of which we waive.

THE COURT: All right.

I understand that you wish to enter a plea of

guilty to all counts of this superseding information this morning. Is that correct?

MR. ZIMROTH: Yes, it is, your Honor.

MR. FLEMING: Your Honor, in behalf of Clarendon we are named in counts 1 through 40. That corporation wishes to enter a plea of guilty to each of the counts 1 through 40.

MR. ZIMROTH: On behalf of AG, AG is not named in the last two counts, which are the tax evasion counts, and so with respect to the others, the first 38, we do intend to enter a plea of guilty.

THE COURT: I may be repeating some of the information which you have given me, but I want to make sure the record is clear on the allocution.

MR. FLEMING: Yes, your Honor.

THE COURT: Who represents the defendant Marc Rich & Company, AG?

MR. ZIMROTH: The firm of Kostelanetz & Ritholtz, your Honor.

THE COURT: And the defendant Marc Rich and Company International Ltd. now known as Clarendon?

MR. FLEMING: The firm of Curtis Mallet Prevost Colt & Mosle by me, Peter Fleming,, a partner in that firm.

THE COURT: Do the respective corporations which you represent wish to enter a plea of guilty to the

charges contained in the superseding indictment?

MR. ZIMROTH: Superseding information.

The first 38 counts insofar as Marc Rich & Company, AG, are concerned, yes.

MR. FLEMING: To each of the 40 counts for Clarendon.

THE COURT: And you have been authorized to enter such a plea?

MR. ZIMROTH: Yes, and I believe your Honor has the corporate resolution

MR. FLEMING: I have been, your Honor.

THE COURT: As the attorneys for the defendant corporations, have you informed your clients, and do they understand each and every part of the following:

1. That they are entitled to have the evidence in the possession of the government presented to a grand jury which would then decide whether to indict them; and

2. Have you informed them and do they understand that by waiving indictment that process will not occur?

MR. ZIMROTH: Yes, your Honor

MR. FLEMING: Yes, your Honor.

THE COURT: That they are entitled under the constitution and laws of the United States to a trial by a jury on the charges contained in the superseding

information?

MR. ZIMROTH: Yes, your Honor.

MR. FLEMING: Yes, your Honor.

THE COURT: That at that trial they would be present, and that the government would be required to prove them guilty beyond a reasonable doubt before they could be found guilty, and that they would not have to prove that they were innocent?

MR. ZIMROTH: Yes, your Honor

MR. FLEMING: Yes, your Honor

THE COURT: That in the course of that trial the witnesses for the government would be required to come to court and testify in their presence, and that you could cross examine those witnesses, object to evidence offered by the government, and offer evidence in your clients' behalf?

MR. ZIMROTH: Yes, your Honor.

MR. FLEMING: Yes, your Honor.

THE COURT: And that they have the right to be represented by counsel at every stage of the proceedings?

MR. ZIMROTH: Yes, your Honor.

MR. FLEMING: Yes, your Honor.

THE COURT: And that the government would be required to prove its case against them beyond a reasonable doubt to all the jurors?

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MR. ZIMROTH: Yes, your Honor.

MR. FLEMING: Yes, your Honor.

THE COURT: If you enter a guilty plea on their behalf to all the charges contained in the superseding information, they will waive a trial and all the other rights I have just discussed, that I will enter a judgment of guilty against them on all the charges, and will sentence them on the basis of the guilty plea.

MR. ZIMROTH: I did, your Honor, with respect to AG insofar as the counts in which we are named, not the last two, the tax evasion counts.

THE COURT: No, I understand that doesn't apply to AG.

MR. ZIMROTH: Yes, your Honor.

MR. FLEMING: We are named in all.

Yes, your Honor.

THE COURT: That if you enter guilty pleas on their behalf, that I may ask questions about the nature of the charges against them and what they did, and that these questions must be answered by you?

MR. ZIMROTH: Yes, your Honor.

MR. FLEMING: Yes, your Honor.

THE COURT: That both corporate defendants are charged with making false statements to an agency or department of the United States Government on 38 separate

occasions and that Marc Rich and Company International, Ltd., now known as Clarendon, is also charged with two counts of tax evasion -- that is, with criminal failure to pay taxes due you to the United States of America.

MR. ZIMROTH: Yes, your Honor.

MR. FLEMING: I understand that, your Honor.

THE COURT: Now that I have informed you in your capacity as representatives of the corporate defendants of your clients' rights, do you still wish to enter guilty pleas on their behalf?

MR. ZIMROTH: Yes, your Honor.

On the basis of the corporate resolutions that you have before your Honor, I am authorized to do that.

MR. FLEMING: Yes, your Honor.

THE COURT: All right.

As a representative of Marc Rich & Company, AG, does your client understand that the maximum penalty under the 38 counts of making false statements is $10,000 per count, or an aggregate maximum penalty of $38,000?

MR. ZIMROTH: Yes, your Honor.

THE COURT: Mr. Fleming, as a representative of Marc Rich and Company International, Ltd., now known as Clarendon, does your client understand that the maximum penalty under the 38 counts of making false statements is $10,000 per count, and that the maximum penalty under the

two counts of tax evasion is $10,000 per count, plus the cost of the prosecution, or an aggregate maximum penalty of $400,000, plus the cost of prosecution?

MR. FLEMING: Yes, your Honor. I believe there has been a stipulation as to costs.

THE COURT: Has anyone threatened your client or forced them in any way to plead guilty?

MR. ZIMROTH: There have been no threats, your Honor.

MR. FLEMING: No, your Honor.

THE COURT: Has there been any agreement other than that which was presented to this court at the outset of this proceeding entered into between you or on behalf of your clients and counsel for the government?

MR. ZIMROTH: All of the agreements are in the documents that have been presented to you, your Honor.

MR. FLEMING: That is correct, your Honor.

THE COURT: Has anyone made any promise to you or your clients other than in the agreement presented to this court to induce you to plead guilty?

MR. ZIMROTH: No, your Honor.

MR. FLEMING: All the promises are reflected in the agreement filed with the court.

THE COURT: Has anyone made any prediction, prophecy, or promise to you or to your clients as to what

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sentence I will impose?

MR. ZIMROTH: No, your Honor. All of the agreements between the parties are in the documents before you.

MR. FLEMING: The answer is no, your Honor.

THE COURT: Do your clients understand that notwithstanding any other agreement I may impose the maximum possible sentence?

MR. ZIMROTH: Yes, your Honor.

MR. FLEMING: Absolutely, your Honor.

THE COURT: All right.

Now, Mr. Zimroth, on behalf of your client would you describe to me, please, for the record, what it is your client did?

MR. ZIMROTH: May I defer to Mr. Fleming for the moment, and ask that he speak first on this issue, and then I will speak second?

MR. FLEMING: That was agreed upon by both counsel with counsel for the government. Marc Rich and Company International, Ltd. is the subsidiary and the U. S. taxpayer, so we thought it appropriate if I made allocution in the first instance.

Your Honor, in 1980 and 1981 Marc Rich and Co. International, Ltd., which is now known as Clarendon, Ltd., and which I will refer to as International during the

course of this allocution, was a wholly owned Swiss corporate subsidiary of Marc Rich+ Co. AG which I will refer to as AG.

International was doing business on a worldwide basis, including the United States. Because of its United States business, International filed United States federal income tax returns for 1980 and 1981.

A substantial portion of International's United States income in those years came from crude oil trading.

AG, Mr. Zimroth's client, which is a Swiss corporation, is not an U. S. taxpayer and does not file U. S. tax returns or pay U. S. taxes.

Beginning in September 1980 International generated millions of dollars of income from crude oil transactions which International should have disclosed but intentionally did not disclose to the Internal Revenue Service and the Department of Energy.

That income was ultimately transferred to AG in Switzerland through transactions by AG with West Texas Marketing and Listo.

Your Honor, the documents enumerated in counts 1 through 23, and counts 29 through 38 of the superseding information were prepared in connection with those transactions, as were the ERA 69 forms enumerated in counts 24 through 28 of the superseding information.

In connection with matters within the jurisdiction of agencies of the United States, specifically the Department of Energy and the Internal Revenue Service, International and AG knowingly and wilfully made those documents and the ERA 69s filed with the Department of Energy which were false in that they failed to disclose material facts regarding the actual income from those crude oil transactions, in violation of Title 18, United States Code, Section 1001, which is the charging statute of counts 1 through 38.

Your Honor, I heard Mr. Giuliani say that this plea was to the evasion of $48 million of taxes. I am not here to contest the numbers contained in the indictment, but I want to be clear, and the government has agreed to this allocution, that the tax plea is based upon the following allocution.

In addition, by knowingly and wilfully failing to report at least $50 million of taxable income generated from these transactions for the years 1980 and 1981, International committed income tax evasion for these years in violation of Title 26, United States Code, Section 7201.

The charges of tax evasion are set forth in counts 39 and 40.

Based on these facts, International pleads guilty to each and every one of counts 1 through 40

contained in information SS 83 Cr. 579, which has been filed with this court today, together with the other agreements filed by Mr. Weinberg.

THE COURT: Thank you.

Mr. Zimroth.

MR. ZIMROTH: Yes, your Honor.

As you know, AG is charged only in counts 1 through 38 of this information, and AG adopts Mr. Fleming's statements in connection with those counts.

On the basis of those statements, it hereby pleads guilty to counts 1 through 38.

THE COURT: All right.

Is there any statement the government wishes to make at this point?

MR. WEINBERG: Yes, your Honor.

Very briefly, we believe, your Honor, that the allocutions have set forth a sufficient factual basis with regard to the crimes that are charged, and the government was prepared to prove at trial, your Honor, by overwhelming evidence, the charges that are contained in the superseding information.

We would have proved these charges largely through the testimony of employees and former employees of the corporate defendants.

We would have established at trial that at least

$100 million worth of taxable income was hidden, that much of this income was earned illegally in violation of legal regulations which restricted the amount of profit during the energy crisis that crude oil resellers were allowed to earn during that period of time, that this income was covered up and concealed through the preparation of the false invoices that are set forth in the superseding information, that the income was hidden in what were called pots at West Texas Marketing and Listo for the International and the income was ultimately sent offshore to AG through a series of sham transactions, the invoices of which form the basis of the counts the corporate defendants pled guilty to today.

Ultimately, the government was prepared to prove that as a result of this activity International evaded $50 million worth of taxes in 1980 and 1981.

Thank you, your Honor.

THE COURT: Does counsel for the corporate defendants agree with the government's summary of the evidence?

MR. FLEMING: If your Honor please, I have given allocution on behalf of Clarendon. I have noted, your Honor, with regard to tax evasion counts, the failure to report at least $50 million of taxable income.

I stand on that allocution, which was discussed

with the government.

THE COURT: I accept that.

MR. ZIMROTH: I adopt that statement.

Our plea of guilty is based on our allocution and not on the government's statement, your Honor.

THE COURT: All right.

I now indicate that I find that on behalf of Marc Rich Company AG and Marc Rich Company International Ltd., now known as Clarendon Ltd., you are competent to plead, that you are aware and understand your rights, and that these pleas are voluntary.

Therefore, I accept these pleas.

At this point we will proceed with the allocution of Mr. Meltzer.

MR. AUERBACH: Good morning, your Honor. Martin Auerbach for the government.

I believe your Honor has already received a copy of superseding information SSS 83 Cr. 579, which charges Mr. Meltzer with one count of making false statements to the IRS in violation of 26 U. S. C. Section 7206(2).

At this time we would ask that we proceed.

THE COURT: All right.

Will you swear the defendant, please.

(Defendant sworn.)

THE COURT: Mr. Meltzer, the Court is informed

you wish to plead guilty this morning.

MR. MELTZER: That is correct.

THE COURT: Before I accept such a plea there are a number of questions I must ask you to ascertain whether your plea is valid.

If you do not understand any of these questions or at any time wish to consult with your attorney, please say so, since it is essential to a valid plea that you understand each question before you answer it.

BY THE COURT:

Q. Mr. Meltzer, how old are you?

A. 38.

Q. And how many grades have you completed in school?

A. Through college.

Q. Is there any problem about your being able to communicate with your attorney?

A. None whatsoever.

THE COURT: Mr. Lawler, have you encountered any problem in communicating with your client?

MR. LAWLER: None, your Honor.

BY THE COURT:

Q. Have you taken any drugs, medicine, or pills or drunk any alcoholic beverages in the past 24 hours?

A. No, your Honor.

Q. Do you understand what is happening here today?

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be presumed to be innocent and the government would be required to prove you guilty by competent evidence beyond a reasonable doubt before you could be found guilty, and that you would not have to prove you were innocent?

A. Yes.

Q. Do you understand that in the course of that trial the witnesses for the government would have to come to court and testify in your presence and your attorney could cross examine the witnesses for the government, object to evidence offered by the government, and offer evidence in your behalf?

A. Yes.

Q. Do you understand that at that trial, while you would have the right to testify if you wanted to do so, you also would have the right not to testify, and that no inference or suggestion of guilt could be drawn from the fact that you did not testify?

A. Yes.

Q. Do you understand that you have a right to be represented by an attorney at every stage of these proceedings?

A. Yes.

Q. And you have been so represented?

A. Yes, I have.

Q. Do you understand that the government would have

A. Yes.

THE COURT: Is there any question as to the defendant Meltzer's competence to plead here today?

MR. AUERBACH: None that the government is aware of, your Honor.

THE COURT: In that event, I make a finding for the record that the defendant Meltzer is competent to plead.

BY THE COURT:

Q. Now, you have an attorney, Mr. Lawler?

A. Yes.

Q. And you have discussed your case with Mr. Lawler?

A. Yes.

Q. Do you feel you have discussed it adequately with him?

A. Yes, I have.

Q. Are you satisfied with your attorney's representation?

A. Yes.

Q. I am now going to ask you a series of questions to make sure you understand your constitutional rights.

Do you understand that under our constitution and the laws of the United States you are entitled to a trial by jury on the charges contained in this information?

A. Yes.

Q. Do you understand that at that trial you would

to prove its case against you beyond a reasonable doubt to all of the jurors?

A. Yes.

Q. If you plead guilty, and I accept your plea, do you understand that you will waive your right to a trial and all the other rights I have just discussed, there will be no trial, and I will enter a judgment of guilty, and sentence you on the basis of your guilty plea after considering a presentence report?

A. Yes.

Q. If you plead guilty, and I accept your plea, do you understand that you will also have to waive your right not to incriminate yourself since I may ask you questions about what you did in order to satisfy myself that you are guilty as charged, and you will have to acknowledge your guilt to me?

A. Yes.

Q. Now that I have told you your rights. Do you still wish to plead guilty?

A. Yes, I do.

MR. LAWLER: May I point out the information has not been filed as of this moment.

MR. AUERBACH: Your Honor, I believe a copy of the information has been handed up to the clerk of the court, and at this time we would ask it be officially filed.

THE CLERK: I have it.

THE COURT: Any further question about that?

MR. LAWLER: There is no question. I didn't know whether your Honor wanted to follow up to make sure that the waiver of the indictment was voluntary, such as your Honor did with the corporations.

THE COURT: Why don't we conclude this and proceed to the other?

MR. LAWLER: Fine.

BY THE COURT:

Q. You have received a copy of the information?

A. Yes.

Q. And you have discussed that information with attorney?

A. Yes.

Q. And you have discussed the specific charges in the information to which you are pleading guilty?

A. Yes.

Q. Do you want to have that information read to you now?

A. No.

Q. You understand the charges in that information?

A. Yes, I do.

MR. AUERBACH: Your Honor, you might also advise the defendant as to the maximum penalties to which he is

subject.

THE COURT: I will do so. I want to make sure there is no further problem.

BY THE CLERK:

Q. Mr. Meltzer, have you signed the waiver of indictment?

A. Yes, I have.

Q. Before signing it did you discuss it with your attorney, and did he explain it to you?

A. Yes.

Q. Do you understand you are not obligated to waive the indictment?

A. Yes.

Q. Do you understand that if you do not waive the indictment and the government wanted to proceed against you they would have to present your case to a grand jury which might or might not indict you?

A. Yes.

Q. Do you realize by signing this waiver you have given up your right to have your case presented to the grand jury?

A. Yes.

THE COURT: All right.

BY THE COURT:

Q. Mr. Meltzer, do you understand that you are

pleading guilty to one count of making a false statement to the Internal Revenue Service?

A. Yes.

Q. And that the maximum penalty is 3 years in prison, $5000 fine, plus the costs of this prosecution?

A. Yes.

Q. Has anyone threatened you or anyone forced you in any way to plead guilty?

A. No.

Q. Has there been any plea agreement entered into between you and counsel for the government?

MR. LAWLER: I believe Mr. Auerbach will state our agreement.

MR. AUERBACH: It is very brief.

First, we have agreed there will be no further prosecution with respect to the charges in the underlying indictment, if Mr. Meltzer pleads guilty to the information.

Second, we will not make a recommendation as to the length or type of sentence which should be imposed on Mr. Meltzer.

However, third, we reserve the right to bring to the Court's attention all facts which are relevant to his sentencing and reserve the right to respond to any post-sentencing motions he may make.

There are no other understandings beyond that.

THE COURT: Is that correct, Mr. Lawler?

MR. LAWLER: That is correct.

BY THE COURT:

Q. Have there been any promises other than the plea agreement that induced you to plead guilty?

A. No.

Q. Has anyone made any prediction, prophecy, or promise to you as to what your sentence will be?

A. No.

Q. Do you understand that any recommendation of sentence agreed to, or any agreement that the prosecution will not oppose your attorney's request at sentence, or anyone's predictions, are not binding on the court and that you might on the basis of your guilty plea receive up to the maximum sentence that I described to you earlier?

A. Yes.

Q. Mr. Meltzer, will you explain to me in your own words what it is you did and how you violated the law?

A. Your Honor, in 1980 I was vice president in charge of crude oil trading for Listo Petroleum located at Houston, Texas.

In my capacity as vice president of crude oil trading I engaged in crude oil transactions with Marc Rich and Company International Ltd.

I caused Listo employees to prepare false

invoices which made it appear that International had purchased crude oil from Listo at a higher market price than that which Listo was to retain. Listo was paid the higher price by International and Listo held the difference.

These moneys were ultimately transferred to Marc Rich & Company, AG, in Switzerland through transactions with AG.

I understood that the information contained in the invoices would affect International's cost of goods sold as ultimately reflected in International's corporate tax returns.

Based on these facts, I plead guilty to the one-count information charging a violation of Title 26, United States Code, Section 7206(2).

THE COURT: All right.

Mr. Auerbach,, would you give me a summary of what the government's evidence would be in this case?

MR. AUERBACH: Yes, your Honor.

The government would have offered evidence to prove all of the facts that Mr. Meltzer has just outlined. Included among that would be testimony of employees of Marc Rich+ Co. International, testimony of employees of Listo Petroleum, as well as the various documents themselves which were prepared to conceal and ultimately transfer out of the United States approximately $50 million of the

illegal income which Mr. Weinberg alluded to with respect to International and AG.

THE COURT: Mr. Lawler, do you agree with that summary?

MR. LAWLER: Your Honor, the plea is based upon the allocution Mr. Meltzer has given.

THE COURT: You do not wish to say anything further?

MR. LAWLER: Well -- I do not wish to say anything further.

THE COURT: All right.

Mr. Meltzer, how do you plead to the charges against you?

MR. MELTZER: I plead guilty.

MR. LAWLER: It is a single charge, your Honor.

THE COURT: I find that you are competent to plead, that you know your rights, and that your are plea is voluntary.

Therefore, I accept your plea of guilty.

I will set December 15 as the date --

MR. LAWLER: In looking at my diary the 15th is a Saturday. Could we have the 17th instead?

THE COURT: Let's be certain that date is available.

(Pause)

THE COURT: December 17 at 10 a.m..

I will order a presentence report.

MR. AUERBACH: In light of that fact I assume you have, of course, found there is a factual basis for Mr. Meltzer's plea.

THE COURT: Yes. I would indicate so.

MR. WEINBERG: If I may, your Honor, at this time we would ask that, one, Mr. Meltzer be dismissed, and he can go down to probation to do what he has to do, and, secondly, we would ask for a very short adjournment before the sentencing of AG and International, which I believe can proceed very shortly while we execute some documents.

THE COURT: All right.

Mr. Lawler, will you accompany your client to the office of probation, please.

It is now approximately 10:30. We will return at 11.

Does that give you adequate time?

MR. WEINBERG: That's too much.

If we could take 15 minutes, that would be satisfactory.

THE COURT: 10:45.

MR. FLEMING: If your Honor please, I am sorry, but I am presently engaged on trial before Mr. Justice Baer in New York County. It may be that I will not be able to

return for the --

THE COURT: Is there someone else from your office?

MR. FLEMING: There is Mr. Lenihan from my office.

THE COURT: Thank you very much, Mr. Fleming:

MR. FLEMING: Thank you, your Honor.

(Recess)

THE COURT: On the consent of all parties we are going to proceed with the sentencing at this point.

Is there something that defense counsel wishes to indicate to the court?

MR. ZIMROTH: Yes.

If I may just begin on a personal note, not having to do with the sentencing, as you know this has been a very long and arduous case for counsel, and I want to thank your Honor for her indulgence and her patience. You have certainly made it much easier for us to proceed in this matter, and I know I speak for all the attorneys who have appeared before you in this matter and most especially for my senior partner, Boris Kostelanetz, and Jack Tigue, sitting here. I know I speak for all counsel sitting before you in this matter.

THE COURT: May I reciprocate and say I in turn have appreciated the high standard of professional and

courteous personal conduct on the part of counsel. Mr. Auerbach, Mr. Weinberg, Mr. Giuliani, have really behaved in a way professionally and personally I greatly appreciated, and that certainly is true of all the defense counsel as well.

It has made a very difficult situation a great deal easier.

MR. ZIMROTH: Now to proceed the the question of sentence, your Honor, I could stand here and discuss with your Honor the defendant's view of this case and comment on what Mr. Weinberg said this morning in his statement.

I think, however, that that would be counter productive, it would invite a response and counter responses and we would end up with a mini trial on this question of sentencing, especially counter productive for my client because, as I am sure is evident from the voluminous documents that appear before you in this matter, our goal in entering into this settlement was to put an end to the disputes that are before your Honor, and indeed not only to put an end to the dispute in the criminal case but civil matters as well, all which is set forth in the papers.

Everything, virtually everything, in the settlement of this case has been negotiated with the government, including the allocution, the timing of filings, and so forth.

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Again, as it should be obvious to your Honor from the reading of the papers, our goal is to put disputes behind us and to go about the business of doing business on a worldwide basis free of the restraints that have previously been imposed.

The government in Paragraph 15 of the memorandum of understanding as set forth in that agreement agreed to that provision.

It is in that spirit, your Honor, of avoiding further disputes that my client is prepared to commend to your Honor the imposition of a $10,000 fine on each count of the information, which as your Honor knows this morning is the maximum allowable fine under the law.

With that statement, I will forebear from commenting further on any of the statements made earlier this morning and simply reserve, if I might, a minute or two to respond to anything government counsel might say.

THE COURT: Is there anyone here from Mr. Fleming's office who wishes to speak?

MR. LENIHAN: Yes.

As you know, Mr. Fleming is presently conducting trial before Justice Baer, and in his stead, I would like to say on behalf of Clarendon I fully adopt Mr. Zimroth's statements wholeheartedly.

Thank you, your Honor.

THE COURT: Does the government have any recommendation as to sentence?

MR. WEINBERG: We do.

THE COURT: Do you have a bill of costs?

MR. WEINBERG: Yes, your Honor.

Given the extent of these crimes that were committed by these two corporations, along with their fugitive principals. Marc Rich and Pincus Green, which have been characterized as the largest tax evasion tax fraud case in the history of the United States, stealing $18 million, tax money most of which was illegally earned in violation of various energy regulations during the energy crisis, we believe and endorse what Mr. Zimroth said as to the effect that nothing less than the maximum fines are appropriate in this case.

Therefore, we urge your Honor to impose the maximum fine of $38,000 on AG, the maximum fine of $400,000 on International, and approve the bill of costs which has been stipulated to for International which is --

THE COURT: What's the amount of the bill of costs?

MR. WEINBERG: $32,847.03.

THE COURT: How do you arrive at that total? What does that include?

MR. WEINBERG: There are limited statutory costs

permitted under Title 26 for tax evasion pleas, so the costs consist of various witness fees, cost of preparation of charts for trial, fees of court reporters for various proceedings, and some reproduction costs, all of which comes to the bottom line amount.

Your Honor, I will hand up to you the stipulated bill of costs which we ask your Honor to sign, and date, and as well the original memorandum of understanding which is the basis for this plea which has been signed by all the parties, and we ask your Honor to so order that so it can be filed as a court document with the clerk's office.

THE COURT: All right.

Is there anything further?

MR. ZIMROTH: Yes, just briefly.

Mr. Weinberg in his statement used the word fraud, tax fraud, and I just wanted to say this, your Honor, that as I said earlier everything about the settlement has been negotiated including the charges, the allocution, and the information, and I think you will see if you look at the information the word fraud is no where in the charges filed against us, nor in our allocution, and if you compare the original indictment with the information you will see that that was a purposeful omission.

Also, as is evident from the paper before you the wire fraud and the mail fraud counts have been dropped

and substituted for those counts dealing with filing false statements with the government.

Having said all of that, I do not wish to retract what I said earlier. We do not wish to prolong long this for a further moment in disputes with the government, and I do not withdraw from the statements I made earlier concerning the fine.

THE COURT: I am not going to address myself to that at all. I am not going to make any further comment.

I have heard counsels' statements and considered them, and I am going to proceed to impose the maximum sentence.

As regards Marc Rich & Company, AG,, $38,000 fine.

As regards Marc Rich and Company International Ltd., now known as Clarendon Ltd., $400,000 fine, plus the total costs of the prosecution.

I am going to so order this memorandum agreement, and make that part of the record.

What about the indictment, the parts of the indictment that refer to the corporate defendants?

MR. WEINBERG: We would ask your Honor to dismiss those counts in the underlying indictments which is in the original indictment 83 Cr. 579 and superseding indictment S 73 Cr. 579.

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We would ask your Honor to dismiss those counts as to AG and International only, making it clear that, obviously, there continue to be outstanding charges in those indictments against the fugitive defendants Marc Rich and Pincus Green, and until sentencing of Mr. Meltzer the counts that are in those indictments as to him at which time we will make a similar application as to those counts regarding Mr. Meltzer and the underlying indictments.

THE COURT: Very well. The application is granted as to the corporate defendants, and the charges against the fugitives, Marc Rich and Pincus Green, remain in effect, as does the bench warrant that I have issued for those defendants.

MR. LENIHAN: Your Honor, is it dismissed with prejudice?

THE COURT: Yes.

I think that this concludes this proceeding.

Thank you very much

I (We) hereby ... is a true and ... of my (our) ... stenographic ...

Official Court Reporter
U. S. District Court

Ma'ariv Weekend Magazine *"Sof Shevua"*, October 1st, 1999

A first exclusive interview with Marc Rich: the version of the billionaire wanted by the FBI

Rich as Korach[1]

Bo'az Ga'on, Luzern

The American billionaire of Jewish extraction Marc Rich is a wanted man: in Israel he is wanted for his money and Habima, the Cameri Theater, Beit Tzvi, the Tel-Aviv Museum, the Israel Museum, the Ha'aretz Museum, the Israel Philharmonic Orchestra and many hospitals are among the beneficiaries of his generosity; in the U.S. he is wanted by the FBI for tax evasion, fraud and trading with an enemy country. Rich, who resides in Switzerland, refuses to return to the United States to stand trial. He is convinced that years of hostile media coverage, his Jewish origins and the eagerness of the judicial system to convict him will jeopardize his chances of getting a fair trial. In a first and rare interview with an Israeli newspaper in particular and with the media in general, Rich relates to Ma'ariv Weekend Supplement reporter Bo'az Ga'on how he lives and feels, after his country cruelly denied him the opportunity to visit his daughter dying of leukemia and prevented him from attending her funeral.

(Photograph by Avner Azulay: Villa Rose, Marc Rich's home in Meggen, Switzerland. A private beach on Lake Luzern, original works by Van Gogh, Monet and Picasso and video-cameras monitoring visitors.)

The big and luxurious Volvo of the ex-Mossad operative in Beirut, Avner Azulay, sped along the smooth highway along the shores of Lake Luzern. The cool Swiss sun was slowly fading behind the mountaintops and the windscreens of the cars, making their way from Luzern to the surrounding villages, reflected its golden rays. Azulay blinked behind his thick sunglasses.

"Let me tell you something about Marc Rich", Azulay lowered the volume of Mozart playing on his expensive stereo system. "I have the impression that, behind the tough image, he is a very sensitive, warm-hearted person, who is deeply concerned for people who have been unlucky in life. When I asked him to define his policy for managing his foundations, he replied: 'I want to help people who have had no luck in life. I would like to give back part of what I have earned to the society from which I came'".

A ninety minutes drive from Luzern, on the outskirts of the picturesque township of Meggen, Azulay gently braked and made a sharp left turn. Passing a sign marked "Villa Rose", we drove up a private road until we reached an electric gate. "It's Mister Azulay", said Azulay to the electronic camera, as he took off his shades. The gate slowly opened. The front door to the house opened quickly. The chief housekeeper brought Azulay a cup of his favorite coffee. Azulay left his coffee in the living room and took me on a short tour of the chateau.

"This is where Marc Rich lives". Azulay showed me a huge residence with a private beach on Lake Luzern; with cream-colored walls adorned with original works of Van Gogh, Monet and Picasso; behind me the video cameras monitoring the visitors.

Marc who? Marc Rich.

Rich paid for compensation to the victims of Ras Burka

Very few people are aware of the fact that, in the course of the last 15 years, Marc Rich was the biggest donator to artistic and cultural institutions in Israel. A partial list of his beneficiaries: the Nissan Nativ Acting Studio; the Be'er Sheva Theater; the Beit Tzvi Acting School; the Gesher Theater; the Habima Theater; the Haifa Theater; the IPO; the Khan Theater in Jerusalem; the Bat Sheva Dance Company; the Ha'aretz Museum; the Tel-Aviv Museum; the Cameri Theater.

The Tel Aviv Cinematheque, sponsored by Marc Rich, received a donation of a million dollars. The Israel Museum decided they wanted to open another wing, so Marc Rich donated 1.4 million dollars. The Sha'arei Tzedek Hospital urgently needed medical equipment, so Marc Rich contributed 1.1 million dollars.

[1] Korach is the Hebrew name of Croesus, king of Lydia, of fabulous wealth

EXHIBIT 6
FRIGAD-Agoura, N.J.

Rich works through two foundations: the Doron Foundation and the Rich Foundation. Ex-Mossad operative Avner Azulay manages the foundations – from behind an anonymous door in Asia House.

Up to 1997 Rich's donations in Israel – through the Doron Foundation –totaled 27.7 million dollars. His contributions towards the strengthening of the ties between Israel and the Diaspora through the Rich Foundation amounted to 20 million dollars.

All the beneficiaries of the above-mentioned funds through Rich's Israeli representative are aware of the facts. Others also, especially those dependent for support on Israel's destitute arts scene, but for the average Israeli the name Marc Rich does not ring a bell. 'It sounds familiar somehow, I'm not quite sure'. Besides his well-known largesse, it is doubtful whether anybody realizes that it was Marc Rich who financed the payment of compensation to the Israeli families of the victims of the Ras Burka incident.

Attorney Len Garment, a close friend and one of the last of those who were involved with ex-President Richard Nixon in the Watergate affair, was the official American intermediary between Egypt and Israel; he approached Rich and requested his help. Rich consented and forked over 400 thousand dollars.

Following is a quotation from a personal letter sent by Osama El-Baz (the Egyptian Assistant Minister of Foreign Affairs at the time) to Len Garment on the conclusion of the affair:

"I am pleased that during the past weekend we were able to finalize the last details of the Ras Burka incident. The assistance we received from your European partner was a critical factor for solving the controversy on Ras Burka last year. We wish to express our gratitude, to you also, especially in view of the fact, that, one week later, the solving of the Ras Burka issue helped create the climate contributing to the solving of the difficult controversy surrounding the Taba issue. I want you to know that Mr. Mubarak greatly appreciates your input and your substantial contribution to helping the two sides to finalize this matter".

Following is a story known only by those people who were in the know on an "eyes only" basis: Marc Rich helped the State of Israel finance the 'aliya' of the Ethiopian Jews. Rich also contributed to and helped bring over Jews from Yemen.

He is a personal friend of Zubin Mehta, who, about a month ago, paid him a visit at his residence.

Rich is an infrequent visitor to Israel. Whenever he comes here, once a year or so, ex-Prime Ministers, Ministers and Mayors come to see him at the King David Hotel in Jerusalem, all of them trying to convince him to invest in a forthcoming exhibition, in a planned building, in a promising performance or in an historical project with all the required authorizations, even the blessing of the Ministry of Education and Culture. However, the Ministry of Education and Culture, or the Ministry of Finance, or the Ministry of Housing and Construction, wish to inform the parties involved that the budget for the coming year has run out.

Rich listens, takes decisions and passes everything on to his executive director, Avner Azulay, to work out the details.

They called him "a financial gladiator" and "a shady character"

Unlike other big donors, the Ministers and Mayors who meet with Rich are in no hurry to advertise the fact of their meetings with him. Rich remains anonymous. You won't find photographs of him in the archives of the press enjoying a drink with the country's elite and their spouses. Nobody catches him having a good laugh at a joke he heard from Ron Lauder, Jean Friedman or Danny Abrahams. There are several reasons for this.

Marc Rich does not contribute to election campaigns. Rich is known to jealously protect his privacy. Except for one interview, many years ago, to a Spanish paper (that was held by fax), Rich does not give interviews. He doesn't like it, he doesn't think it's important, especially since, over the last 20 years, the media have given him a very hard time.

They called him all kinds of names: "a financial gladiator"; "a cruel businessman; "a shady character". They wrote that he laundered drug money in Russia and loaned money to Saddam Hussein. Rich did not respond. And above all – the FBI and Interpol have been trying to get their hands on Marc Rich for the last ten years, accusing him of tax-evasion, fraud and trading with an enemy country (Iran).

The indictment: concealing 84 million dollars from the tax authorities

He was born in Antwerp, Belgium, as Marc Reich, the son of David Reich, a businessman originally from Germany. Until the outbreak of WWII the family lived a relatively peaceful life.

One night the Reich family woke up to the sound of bombs exploding over the Antwerp docks. Father Reich bundled his family into their car and fled to France. Unlike many others, Reich did not stop until the wheels of his car had left the European continent. In the early forties the Reich family made their way to the United States.

David Reich started building up his fortune engaging in commerce in Kansas City. After he had amassed sufficient funds, the family moved to New York. Young Marc attended a Jewish school in Queens.

After he studied for a degree in Business Management at New York University, Marc (who had changed his name to Rich) joined the Phibro trading firm. His promotion in the firm was meteoric. It was there he patented the invention of the spot market, a system allowing the rapid pinpointing of a demand for oil anywhere in the world.

In 1974 Rich left the company, slamming the door behind him. He claimed that Phibro owed him money, following huge profits they made on sales of Iranian oil, purchased just before the Gulf states declared an oil embargo on the West, on the eve of the Yom Kippur War. Phibro, on the other hand, were outraged by Rich's taking with him classified information to his new company, which he set up together with other employees (senior among whom was Pincus Green, an orthodox Jew).

In the early eighties everything seemed just perfect. Rich and his friends were young, hungry and aggressive; the growth of their business was spectacular; American oil companies began losing customers to the new kids on the block, who were willing to do almost anything in order to succeed. They cut prices, flew all over the world and worked 19-hour days. In 1982 everything started to fall apart.

In the seventies the American oil market was a Wild West of transient companies, sting operations and Texas oil giants, who could not figure out how the market – once their monopoly – was slipping through their fingers and was being taken over by foreigners. President Carter tried to sort out the mess. He determined that every company would get a PAM – an authorized average price.

An especially complicated system of laws separated between taxation of old oil (pumped by companies established prior to '72), new oil (pumped by companies after '73) and stripper oil (marketed by companies producing ten barrels of oil a day or less). This gave the veteran companies a distinct advantage.

Immediately after the authorization of these regulations, companies looked for ways and means to bypass these laws. Tax experts made a lot of money thinking up legal means to continue selling oil while paying less taxes. The American Justice Department waited patiently in the wings.

In 1982 John Trulland, the general manager of WTM (West Texas), confessed to offences in connection with false registration of oil deals. As part of a plea bargain, Trulland confessed that he had business dealings with, inter alia, Marc Rich International and AG and that these companies evaded full payment by handling oil deals outside the United States.

In September 1983, after a strenuous investigation, a criminal indictment was filed against Rich International, Marc Rich and Pincus Green. The indictment was filed by the attorney general of New York's southern precinct, who would one day become the Mayor of New York, Rudolph Giuliani. Giuliani decided to make an example of the Rich case. To bring him to trial he used the RICO, a legal system established to eliminate organized crime in America.

The indictment included the following felonies: tax evasion, fraud and misdemeanors of trading with the enemy (for oil deals with Iran during the American hostage crisis). The indictment specified the amount of 84 million dollars of unpaid taxes.

Rudolph Giuliani against Marc Rich

Just before the collapse of his business following an edict freezing all his assets, a compromise agreement was reached. The AG company confessed to having made a false statement and to tax evasion, and it paid 200 million dollars to the United States government. In exchange, the government withdrew the edict freezing the company's assets and the ban prohibiting the company from doing business in the US. All that remained was solving the matter of the criminal indictment against Marc Rich and Pincus Green.

Rich sought to make a compromise with the American government. His American lawyers warned him that this was the worst thing he could do. They told him that the American government only understood the use of force. As a result, the Rich camp and the Giuliani camp clashed head-on. The results were disastrous.

Rich's lawyers refused to carry out an order by the American court to hand over all the company's documents from Switzerland. Judge Leonard Sand ordered that, unless the documents were handed over, the company would have to pay a fine of 50 thousand dollars a day. The lawyers continued trying to manipulate the situation.

Time went by; the fines kept on growing, and the local New York papers had a field day. The Giuliani-Rich war had everything: a good (American) sheriff, the bad guy - a (non-American) businessman and a great deal of oil.

The affair reached a climax after a report appeared in the American press about a Swissair flight from the United States, that was prevented from leaving for Switzerland, after which two suitcases full of documents were unloaded. Rich claimed there wasn't a grain of truth in the whole affair, and that the above were copies of original documents already in the possession of the American authorities.

Judge Sand was annoyed by the delaying tactics of Rich and his lawyers and he took out his anger by rejecting all their appeals. The affair was called "one of the largest cases of tax evasion in the history of the United States"; the faces of the judge, the prosecutor and the defendant were known to every Tom, Dick and Harry and everybody was waiting for the day Marc Rich would enter the court room and get his come-uppance.

During all this time Marc Rich was staying at his residence in Switzerland, which refused to extradite him to the U.S., and he was very angry - at Giuliani, at himself, but most of all at his lawyers. Since then 15 years have gone by and nothing has changed. The American indictment and the extradition warrant are still valid; Rich refuses to turn himself in; the American authorities are unwilling to withdraw the criminal indictment.

At the moment the extent of Rich's business affairs are evaluated at 33 billion dollars.

In June 1994 the Israeli attorney general at the time, Michael Ben-Ya'ir, was asked to respond to a request for Rich's extradition on behalf of the American government. Ben-Ya'ir replied that the extradition agreement between Israel and the United States did not include fiscal offenses, same as in Switzerland and Spain. Israel rejected the American extradition request as invalid.

His daughter Gabrielle died of leukemia four years ago

Marc Rich's offices are situated less than ten minutes drive from his pastoral home in the small town of Meggen, in a modern glass and aluminum palace in the township of Zug. There is no guard or information desk at the entrance. Rich's name is indicated only in the elevator. The entrance is from the third floor. I accompanied Azulay straight up to the fifth floor, where the top management has its offices.

The wall and the doors are plain and the only indication that the floor is not deserted are two electronic triangles with an intercom button. The door opens and we are led to Marc Rich's office.

His office is very spacious, but not ostentatious. As Rich sits behind his heavy desk, he can observe a long shelf adorned with photographs of his wife, his three daughters and his parents. The photograph of his daughter Gabrielle stands out slightly, situated nearer the edge of the shelf. She died of leukemia four years ago, at the age of 29, in a New York hospital. Rich requested permission from the American authorities to come and visit his sick daughter. The Americans refused. He was not at her bedside as she was dying, nor was he present at her funeral, just as he could not attend the funeral of his father, who also died in the States.

The long shelf in his office boasts enlargements of photographs of Rich's daughters embracing Al Gore and Bill Clinton. These photographs were taken during a fund-raiser for leukemia research.

Rich received us at the appointed time. He is slightly bent and somewhat red-faced, speaking quietly with a German accent. He led us to his private dining room. That is where the interview took place - between dishes of pate de foie gras on a base of Italian risotto and calf prepared in wine.

This is the first personal interview Marc Rich has given in the last 20 years, including his first version to the indictment that has been haunting him for 15 years. During the interview I tried to find out why he doesn't terminate the affair by turning himself in to the American authorities.

"An especially nasty article was published in Israel" (headline)

You didn't give interviews for over 20 years. Why is that?
"It's a matter of personal taste. I don't think publicity is important. What's important are the facts on the ground. Obviously I am very unhappy with the things they wrote about me. I have hardly ever been interviewed, enabling all kinds of people to write things about me based on all kinds of ideas they had or things they thought or heard. After all, reporters write copy that will sell their newspaper and they look for dramatic topics. You sell more newspapers if you write: 'This man beats his wife'. You won't sell a damn thing if you write: 'This man is a devoted husband'.

"From among all things written about me, one of them especially stands out. I refer to the old case in the States, which started in '82. This case was blown up out of all proportion and it got a great deal of publicity. This was one of those cases that reporters tend to home in on. I was very sorry about the publicity in the press. Why? Because there are so many other, positive things to write about".

Do you think that you honestly and truly tried to refute the things written about you? After all, you chose to stay out of the limelight, you didn't react to appeals and you acted as if you couldn't care less about what they wrote about you.

"I don't think it's possible to change impressions created by the media. If somebody asks you: You don't beat your wife, right? You can answer this question again and again for over 20 years, and it won't change a thing. You will always have the image of somebody who beats his wife. Otherwise they wouldn't have asked you this question.

"The other reason for my decision not to give interviews was my wish to see things calm down. I didn't want to fan the flames. In the early days of the trial everything was hot and there was a lot of publicity. I figured that it was better to keep quiet and let matters cool off.

I remember one particularly nasty article published in Israel about a year ago. Here I am, after years of trying to do good things for Israel, and one day a reporter turns up and twists everything around, as if I was some kind of devil or I don't know what".

Rich is referring to an article by Hanna Kim of Ha'aretz from May '98, which dealt with Rich's donation of three million dollars for the opening of a new wing at the Tel-Aviv Museum. The wing, to be opened in about a month, will be named after his late daughter Gabrielle. The headline of the article that aroused Rich's ire: "The Tel-Aviv Museum is naming a wing after a fugitive from the United States". To set the record straight, Ha'aretz gave Prof. Mordechai Omer, the curator of the museum, the opportunity to publish a response to Kim's article a week later.

Did you speak to the reporter? Did you try and rectify the impression?
"No". **Why?** "I told you already. The way things are, negative topics get publicity, not positive ones. Four years ago I lost a daughter to cancer. She had leukemia. At a meeting in Tel-Aviv with Roni Milo, the option of financing a new wing in the Tel-Aviv Museum came up. My daughter loved art and I thought it would be appropriate. I agreed to the proposal to name the new wing after my daughter. To write about the opening of a new wing at the museum the way the Ha'aretz reporter did is just garbage".
In other words, you still read material written about you? "Yes".
That's rather surprising, considering your views on the media. "I read the papers just as you would read something written about you. But I'm telling you, of all the stuff written about me over the years, maybe ten percent is correct and 90 percent is not".

"I don't think this juridical situation will ever be resolved" (headline)

In 1982 an indictment was filed against you in an American court of law, which included the following clauses: avoidance of tax, fraud and trading with an enemy contrary to the American embargo. "I'm convinced that the fact that I was a foreigner and a relative newcomer on the oil-trading market and Jewish influenced the manner in which my case was handled. Without getting into the complicated legal details of the indictment, which is still pending, I can tell you that it concerns an alleged violation of particularly complicated regulations in the energy field, which at the time caused a lot of problems to a lot of people,

some of whom did not quite understand the complexity of those regulations. These regulations were cancelled after President Ronald Reagan entered the White House.
"I was successful, I was Jewish, the whole affair attracted a lot of publicity and the whole matter got out of control. To be honest with you, I am sure that we also made mistakes, which only added to the negative press we got. One of my mistakes was choosing the wrong lawyers. I wanted to try and talk to the prosecution, but the lawyers told us that we had to stonewall and confront them head-on. That was a mistake that greatly exacerbated the problem.

"Since then we have made several attempts to talk to the government, including several meetings in Switzerland with one of the senior members of the legal department of New York's southern district. I think the meetings were positive. The man listened patiently, he notified us of his instructions and explained our situation to us. However, at the end of the meeting he said: 'Our hands are tied. Everything that has been done so far reflects office policy, and if this is the way you feel, the only solution is to return to the United States and turn yourself in.'

"That was the end of the meeting. I told him that we initiated an in-depth legal investigation by a team of prominent and independent lawyers. The conclusion reached by this investigation was that there was nothing criminal in what had been done in those years. We told them that the investigation was available and we offered to send it to the American authorities. Their reply was: 'We're not interested'".

If you're convinced of your innocence, return to the States and stand trial.
"Considering the amount of publicity the affair has received so far and the amount of attention we would get if we took this step, it would be very risky for us and I do not want to take this risk.

"I don't think this juridical situation will ever be resolved. Of course, I hope it will, I hope we will be able to resolve the problem, but I don't think it's going to happen. This makes me very sad and disappointed. You can print those two words".

"We don't want to change the way things are done in the country" (headline)

When did you start getting philanthropically involved in Israel?
"From before the establishment of the state; first by my father and later on by me. I am a Jew and Jews are important to me. I always thought that the State of Israel was very important to Jews and to the whole world in general. I always wanted to help".

You refuse to contribute to political campaigns; that is an anomaly on the Israeli philanthropic scene.
"We try and help by donations in the field of the arts, health, medicine and education. We try to help people. As far as politics is concerned, I think that should be left to the people who live in the country, without any outside interference.

"Our philosophy has always been to spread our help as much as possible and not to just one field. This is the topic closest to my heart. The combination of aims and their diversity is the way we try to help. The bottom line is that we are not trying to change the way things are done here. Therefore I do not want to be involved in politics, in Israel or anywhere else".

Have you met Ehud Barak?
"Yes".
What do you think of him?
"He makes a very good impression".

Out of all your numerous donations, which one gave you the most satisfaction?
"The establishment of the Judaica wing in the Israel Museum. This was Teddy Kollek's project. We received this proposal at a special time, when we wanted to honor a friend of ours, for whom the department was named. I always considered Judaica an important part of the Jewish heritage.

"I am a Jew and I grew up in an orthodox family with a traditional education. Although I grew up and lived in several countries, Judaism was always a part of me. I remember when as a child we left Belgium during the Second World War. My father immediately got a car and

we left with the whole family. We even took my nanny, a German woman. On the French border she was not allowed to cross over with us and she stayed behind, and I was very sad".

Is it these memories that motivate your donations to Israel?

"No. My donations are not connected to the memories of my childhood, but to the basic understanding of what it means to be Jewish. At first in Belgium and later on in the United States, in Kansas City and Queens, New York. My father David had a decisive influence on my life at the time. He was a German Jew, extremely erudite, very exacting with himself, with his religion and with his work. He was my model. He was a very honest man and appreciated as such by all those who came in contact with him".

Two years ago, in the framework of the regular activities of his foundations, Rich established a special project for the financing of scientific research on leukemia. This year a new foundation, named after his daughter Gabrielle, will be set up. This foundation will increase the scope of its investments in the field of leukemia research in Israel, in the U.S. and in Europe. Total annual investments will amount to two million dollars.

"As my daughter died of leukemia", says Rich, "I decided that this was one of the fields on which I wanted to focus my foundations. Together with Mr. Azulay we developed a program, which granted 14 research grants to scientists from Israel, Europe and the States. They held a symposium on the subject and they reached the conclusion that cooperative work can be very beneficial. Following the symposium, we now decided to develop four or five bigger programs, as a substitute for the present method, which will provide a regular income to a fixed number of beneficiaries. The aim is to enable them to work for an extended period and to produce results".

(In a boxed section of the article)

The woman with him
Gisela Rich, his wife and companion

Marc Rich's divorce from his first wife Denise, the mother of his three daughters, was widely covered by the media. His second wife, Gisela Rich, kept her silence. In the framework of his exclusive interview to the Maariv Weekend Supplement, his spouse decided to come to her husband's aid.

"The main problem", she says, "is not the restriction of movement imposed on my husband and not the fact that the family and our close friends have suffered a great deal from this affair. The sad thing is to see a person who has contributed so much to society, who provided work to thousands of people, stuck in this situation for such an extended time. I really think this is all very unfair.

"The problem is, the way the system works nowadays you are guilty until you prove otherwise. The media doesn't do its job properly. They are all engaged in endlessly repeating the same old story from ten years ago again and again, without checking the facts. Marc consulted two independent advisors, and they came to the conclusion that there is not a single clause in the whole indictment that would carry criminal responsibility in a court of law. The whole affair started with Mr. Giuliani, a person known for his proclivity for getting his name in the papers. Over the years the story kept on growing until it snowballed.

"Let's get this straight: in the eighties all the oil companies did what Marc did. But only Marc was indicted, because he was an easy target.

"We have a friend in the States, a manager of a medical clinic. A few years ago he was forced to fire several employees, as a result of the economic situation. They got back at him by spreading rumors of sexual harassment and the story ended up in court. In the end he was acquitted. But the damage to his family and his reputation had been done. The media had made their profit. What did they care about the guy and his family?".

Your husband gives the impression that he is already indifferent to the stories about him.

"Marc says 'I don't care anymore'. But there is no such things as a person who doesn't care".

What was the most difficult moment in all the years of this affair?

"When Gabrielle died. She was hospitalized in New York and in Seattle. Marc wanted to go and visit her but the American authorities refused, despite the fact that it was obvious that she was dying. That was terrible".

(In a boxed section of the article)

The man with him
Avner Azulay – his executive director

Avner Azulay manages the daily operations of the Rich and Doron Foundations. Azulay left a senior position in the Mossad after the Lebanon War and established a security consultancy in European countries. Marc Rich retained his services. In '93 Rich suggested that he replace attorney Mordechai Mevorach as manager of the foundations.

I asked Azulay about the connection between Rich's hefty donations to Israel and to Jews in the Diaspora and to the fact that Israel refuses to extradite him to the United States.

Azulay: "The Doron Foundation started its operations in '81 in Israel and has been doing so ever since. The Rich Foundation was set up in '88 following the success of the Doron Foundation and was slated for investments in the Diaspora, wherever there were Jewish communities. So the donations commenced before the legal entanglements. Donations to Israel and Marc Rich's involvement in aid to Israel and the Diaspora started before the establishment of the state. Not just financially, but in any way he could help. From the moment he started working, he helped the Jewish people. He inherited this from his father.

"Since '96 two foundations, Doron and Rich, have been operating from Israel. This year we decided to merge them into one foundation, which will operate at the same level, and to transform the leukemia research project into a separate and independent foundation".

Weren't you deterred from working with Rich by the publicity surrounding him?

"Not at all. I had decided to work with Rich even before it all started. In my opinion the harsh and vicious way his case has been handled is unprecedented and unjustified. Over the years I was personally presented with legal opinions, stating that no crime had been committed in this entire complicated case. The only reason for his refusing to stand trial up to now is that he is convinced that, considering the circumstances – the wide and malicious publicity the affair has had and the mistakes made by his former lawyers – the chances that he will get a fair trial in an American court are slim".

How many requests a year do you receive?

"We receive approximately 800 requests a year. From this we choose about a 100 projects amounting to a total of six million dollars a year".

How often do you meet with Rich?

"We are in almost daily contact by phone or by e-mail. We meet on an average of once a month".

If Israel is so important to Rich, why doesn't he come on aliya?

"He once weighed the possibility of moving the focus of his business to Israel, according to the Eisenberg law. However, the business environment in Israel is very different from the Swiss system. As you noticed, Rich doesn't waste words and he talks to the point. In the period that Rich was weighing the possibility of doing business here, he found out that there were all kinds of reports in the media even before they had been presented to him. He is not considering moving to Israel".

DO NOT FILE UNITED STATES GOVERNMENT

UNCLASSIFIED

memorandum

DATE: August 25, 1983

REPLY TO ATTN OF: Amembassy, Madrid

SUBJECT: CPAS, SP (RICH, Marc) - Loss of Nationality

TO: Department of State (CA/OCS/CCS/EUR)

Marc Rich DPOB December 18, 1934, Antwerp, Belgium, acquired derivative U.S. citizenship through his parents' naturalization in 1945 at Kansas City, Missouri. He began residing in Spain in 1967 and has been registered with this Embassy since that date. However, Embassy learned through Spain's Official Bulletin (BOE), #36 of Feb. 11, 1983, that Marc Rich had become a naturalized Spaniard. We attempted to contact Mr. Rich to have him fill out the "Information for Determining U.S. Citizenship" questionnaire, but he never responded to our inquiries. We were informed by his secretary that he had left Spain. Embassy obtained from Spanish Central Civil Registry the certification showing Mr. Rich acquired Spanish nationality on September 3, 1982.

Post is of the opinion that Marc Rich expatriated himself on September 3, 1982 under provisions of Section 349(a)(1) of the INA by obtaining naturalization as a Spanish citizen on his own volition. Consular officer recommends that CLN executed on Mr. Rich be approved.

Enclosures:
FS-348 (original & 2 copies).
Certification from Spanish Central Civil Registry re acquisition of Spanish nationality w/translation (original & 2 copies).
Emb/'s ltr. of March 25, 1983 to Mr. Rich w/registered, return receipt.
Emb.'s ltrs.of April19,1983 to Central Civil Registry and of May 9, 1983.
Spanish Central Civil Registry's replies of April 26,1983 and June 17, 1983.
B.O.E. N°. 36 of Feb. 11,1983.

CONS:

UNCLASSIFIED

OPTIONAL FORM NO. 10 (REV. 1-80) GSA FPMR 5010-114

EXHIBIT 7

*U.S. GOVERNMENT PRINTING OFFICE : 1982 0 -

H

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MARC RICH
[redacted]

27th October, 1992

REGISTERED MAIL

AMERICAN CONSULATE GENERAL
28 OCT 1992
ZURICH, SWITZERLAND

Ruth H. Van Heuven
U.S. Consul General
United States Consulate
Zollikerstrasse 141

8008 Zürich

Dear Madam Consul,

I am responding to your letter of April 15, 1992. The State Department's position that I remain a U.S. citizen is extremely surprising in light of the fact that the State Department failed for seven and one-half years to respond to my November 23, 1984 letter which stated under oath my decision to give up U.S. citizenship. I firmly disagree with the State Department's position, and this letter will make clear the reasons for my disagreement.

It is not in question that in 1982 I was naturalized under the laws of Spain, swore an oath of allegiance to the King of Spain, and formally stated that I thereby renounced U.S. nationality. I performed all these acts voluntarily with the purpose of taking Spanish nationality and renouncing my United States citizenship.

As a result of these acts, and the publication in the Official State Gazette of Spain of my acquisition of Spanish nationality, Julian Bartley, the U.S. Consul in Madrid, and a Department of State officer, wrote me on March 25, 1983, stating that I may have lost my U.S. citizenship and asking me to complete an "Information



for Determining U.S. Citizenship" form. Paragraph 9 of this form stated that if I signed a statement that "I (name) performed the act of expatriation indicated in Item 7 (a, b, c, d, or e) voluntarily and with the intention of relinquishing my U.S. nationality," then the Department of State "will prepare the necessary forms to document your loss of U.S. citizenship."

In response, I wrote to the U.S. Consul in Madrid in November 1984 reaffirming my prior intent and renunciation of U.S. citizenship by submitting a letter with an executed oath of renunciation and statement of understanding. Both of these documents followed the form which the State Department itself uses for citizens who wish to expatriate themselves. I have not since held myself out as a U.S. citizen or claimed any benefit of U.S. citizenship.

In addition, my signed November 1984 letter to the U.S. Consul also purposefully contained the statement requested in Paragraph 9 of the "Information for Determining U.S. Citizenship" form. I stated that "I performed my act of expatriation . . . voluntarily and with the intention of relinquishing my United States nationality and citizenship." Upon receipt of that statement, the Department of State's procedures provide for it to "prepare the necessary forms to document (my) loss of U.S. citizenship." Your April 15, 1992 letter, asserting that I have not given up that citizenship is, therefore, inconsistent with the State Department's own practices and procedures.

The sum of these actions by me (including the letter and documents submitted by me to the U.S. Consul in November 1984) have unambiguously expressed my relinquishment of U.S. citizenship. It has always been my belief that I had expatriated myself and that I am not -- nor do I have any wish to be -- a U.S. citizen. Prior to surrendering my U.S. citizenship and from time to time thereafter, I have been advised by both U.S. and Spanish

MARC RICH
[redacted]

counsel regarding the status of my citizenship. Since receiving your letter dated April 15, 1992, I have had my renunciation of U.S. citizenship reviewed by expert counsel and their advice is unqualified - - my acts effectively and legally caused relinquishment of my U.S. citizenship.

Yours very truly,

M. Rich

Bern, Switzerland

December 19, 1983

REGISTERED

Mr. Pincus Green
Industriestrasse 9
6300 Zug

Dear Mr. Green:

It has come to our attention that on May 27, 1983 you were naturalized as a Bolivian citizen. It is possible that by performing this act you may have lost your U.S. citizenship under Section 349(a)(1) of the Immigration and Nationality Act. An excerpt containing this provision of law is enclosed.

It will be helpful in determining your present citizenship status if you would complete the enclosed "Information for Determining U.S. Citizenship" form. Please return the completed form within 30 days in the enclosed envelope. If no reply is received, the Department of State may make an official determination of your U.S. citizenship status on the basis of all available information.

You may want to discuss this matter with a consular officer before filling out this form. We will be pleased to arrange an appointment if you do wish to consult a member of our consular staff. Our office telephone number is (031)43 72 29.

Your cooperation will be appreciated.

Sincerely yours,

American Consul

Enclosures:
As stated

cc: Amcongen Zurich

EXHIBIT 9

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CONFIDENTIAL

Department of State

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C O N F I D E N T I A L LA PAZ 06431

EXDIS

E.O. 12356: OADR
TAGS: CPAS, CFED, BL
SUBJECT: FINANCIAL FRAUD/CITIZENSHIP MARC RICH, ... PINCUS GREEN

1. ON OCTOBER 11, POST RECEIVED NOTIFICATION FROM THE MINISTRY OF INTERIOR, SUB-SECRETARY OF IMMIGRATION, THAT AMERICAN CITIZENS MARC RICH AND PINCUS GREEN HAD RENOUNCED THEIR U.S. CITIZENSHIP AND HAD BEEN NATURALIZED AS BOLIVIAN CITIZENS.

2. ATTACHED TO THE NOTIFICATIONS WERE THE FOLLOWING U.S. PASSPORTS: MARC RICH, [redacted] BELGIUM, ISSUED SEPTEMBER 19, 1980 IN NEW YORK; PINCUS GREEN, [redacted] NEW YORK, ISSUED AUGUST 12, 1981 IN NEW YORK.

3. BOTH PASSPORTS HAVE VARIOUS ENTRY AND LATER RESIDENCY STAMPS FOR BOLIVIA WHICH WE HAVE NOT VERIFIED. NEITHER PASSPORT WAS VALID FOR TRAVEL TO BOLIVIA SINCE EACH IS RESTRICTED "ONLY VALID FOR TRAVEL TO SOUTH AFRICA." THE EMBASSY WILL AWAIT GUIDANCE FROM THE DEPARTMENT BEFORE TAKING ANY ACTION. WE SUSPECT THAT A CASE COULD BE MADE THAT BOTH RICH AND GREEN ENTERED BOLIVIA ILLEGALLY GIVEN THE RESTRICTION ON USE OF U.S. PASSPORTS. THIS COULD JEOPARDIZE THEIR CLAIM TO BOLIVIAN CITIZENSHIP. WE ALSO SUSPECT THAT BOTH RICH AND GREEN ARE STILL IN POSSESSION OF VALID U.S. PASSPORTS. PLEASE ADVISE ASAP. CORR

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2-
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EXHIBIT
10

Republic of Bolivia
Ministry of Interior
Immigration and Justice

H

La Paz, 9 September 1983

Mr. Consul General of the United States of America

presente

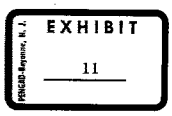
Mr. Consul General:

Permit me to communicate to this consular representation, that by means of Supreme Resolution Nò. 198044 of the 27th of May, 1983, the privilege of Bolivian nationality has been given to Pincus Green Bergstein, who previously renounced his nationality of origin and complied with the required procedures determined by current legal regulations.

Consequently, upon bringing this referenced change of nationality to your attention, I remit the passport No. 2315501 for the corresponding purpose of annulment and control.

With this purpose, it is my pleasure to renew to you assurances of my distinguished consideration.

Dr. Emilio Perez Barrios
Sub-Secretary of Immigration



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

November 21, 1991

The Honorable Robert E. Wise, Jr.
Chairman of the Subcommittee on
Subcommittee on Government Information, Justice,
and Agriculture
Committee on Government Operations
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Al McCandless
Ranking Minority Member
Subcommittee on Government Information,
Justice and Agriculture
Committee on Government Operations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman and Congressman McCandless:

Enclosed please find our response to the questions concerning Marc Rich and Pincus Green that you sent to the Department of Justice on October 16, 1991.

We regret that the Department was not able to respond in the time frame agreed to in this matter, however, the volume of questions coupled with the work demands on various Department components, precluded that from happening. The enclosed forty pages are a partial response to your letter of October 16, 1991. The Department will respond to the remaining questions as promptly as possible.

Similarly, the answers to the questions on this matter posed in your letter of October 22, 1991, should also be transmitted to you shortly.

Sincerely,

W. Lee Rawls
Assistant Attorney General

Enclosure

EXHIBIT
12

DOJ/SDNY-MR-00034

Answers to Questions
Submitted to the Department of Justice
by the
Subcommittee on Government Information,
Justice, and Agriculture
Regarding Marc Rich and Pincus Green

1. According to news reports, a reward is being offered for assistance in locating the fugitives Marc Rich and Pincus Green.

a) Please submit copies of all wanted posters and similar publications issued to publicize the fact that Marc Rich and Pincus Green are wanted, and/or that a reward is being offered.

b) If the publications are not dated, please indicate the date of publication.

c) For each poster or other publication, indicate the date/dates and manner of distribution and the audience to whom distributed.

d) For each publication, describe the response received and the results.

Answer:

There is no published reward for the capture of Green and Rich. No wanted posters have been printed or distributed. Red notices have been distributed through Interpol.

2. Have Marc Rich and Pincus Green been charged with violations of any of the criminal statutes relating to obstruction of justice or unlawful flight to avoid prosecution?

a) If so, identify the statutory provisions and the dates on which these charges were brought.

b) If not, why not?

Answer:

No.

a) Not applicable.

b) There is no factual basis for such charges. Neither defendant was the subject of criminal charges at the time that he left the country.

3. During a Congressional hearing, Richard Crowder, Undersecretary of Agriculture for International Affairs and Commodity programs, testified that he "didn't even know of Marc Rich or Richco."[1] Richco was a beneficiary of an export subsidy program administered by the USDA. News stories have suggested that the Federal government has contracted with Marc Rich related companies. Accordingly, for each of the years 1988, 1989, 1990, and 1991, describe the actions taken by officials of the Department of Justice to bring to the attention of other Federal agencies the fugitive status of Marc Rich and his connection with companies interested in continuing to do business with the United States, whether directly or indirectly.

Please be specific indicating the person or persons at Justice responsible for such actions, the nature of the investigation conducted by Justice to determine whether or not control exists, the Departments and agencies to whom such information was transmitted, and the results.

Answer:

During 1988-91, the United States Attorney's Office in the Southern District of New York periodically received inquiries for U.S. governmental agencies inquiring about the status of Rich and Green as well as that of Clarendon International (formerly Marc Rich and Co., International) and Marc Rich and Co. A.G. In response to these inquiries, the practice of the United States Attorney's Office was to notify the agency that both individual defendants are fugitives but that neither corporate entity is the subject of pending criminal charges. Further, it was and remains the practice of the Office to advise agencies of its belief that Rich still maintains interests in those entities and that it is in the best interest of the fugitive investigation to bring economic pressure to bear on Rich and Green by not doing business with companies connected to them.

Although the United States Attorney's Office does not maintain records of such contacts, the Assistant U.S. Attorney handling the case spoke during February 1989 to an employee of the Department of the Interior concerning Clarendon's interest in purchasing a Martin

[1] "Letters from Home," Forbes, June 12, 1989, at 38-39.

Marietta aluminum plant in the Virgin Islands. The Assistant U.S. Attorney may have also spoken to employees of the United States Mint and the Department of Agriculture concerning Rich and Green during 1988-91, although he has no record or a more specific recollection of any such conversations.

In April 1991, and possibly on a second occasion, an official of the United States Treasury Department telephoned the office of Deputy Assistant Attorney General Mark Richard in the Criminal Division of the Department of Justice to inquire about the status of Marc Rich. Mr. Richard was led to believe that Treasury was considering awarding a contract to a metal firm in Rich owned an interest. Treasury was advised by Mr. Richard of Rich's status as a fugitive.

The Department of Justice has also notified the Department of State of Rich's fugitive status.

4. At anytime during the years 1988, 1989, 1990, and 1991, did officials of other Federal agencies contact the Department of Justice, including, but not limited to the Criminal Division, to seek information regarding the eligibility for the award of government contracts of companies suspected of having connections with the fugitives Marc Rich or Pincus Green?

(1) If so, what was the result?

Answer:

As noted in the previous response, the Assistant U.S. Attorney handling the case believes he may have spoken to employees of the Mint and the Department of Agriculture concerning Rich. He has no specific recollection of the content of the conversations and maintained no record of the contacts.

Also, as previously noted, Deputy Assistant Attorney General Mark Richard received one or possibly two telephone calls from an official of the United States Treasury concerning Marc Rich. Please see the previous answer for further details.

In November 1989, Inspector Hill of the United States Marshals Service received a call from the Department of Agriculture who was inquired into a certain company that was paid 65 million in wheat subsidies. Inspector Hill advised the Department of Agriculture that the company may be owned or controlled by Rich and Green.

In 1989, it was reported to the United States Marshals Service that the Department of the Interior declined a 75 million dollar loan guarantee by Rich between Reynolds Aluminum and the Virgin Islands.

5. At anytime during the years 1988, 1989, 1990, and 1991, did officials of other Federal agencies contact the Department of Justice, including, but not limited to the Criminal Division, to provide information regarding suspected connections between companies seeking to do business with the government and the fugitives Marc Rich or Pincus Green?

(1) If so, what action did the Department of Justice take?

Answer:

Not except to the extent indicated in the answers to questions three and four.

6. For each of the years 1984-1990, identify the person, his or her position, and the component represented, who had primary responsibility for coordinating and overseeing efforts to have Messrs. Rich and Green returned to the United States for trial.

a) For each of the years 1984-1990, identify by name the Assistant U.S. Attorney or Attorneys in the Southern District of New York responsible for the prosecution of Marc Rich and Pincus Green.

Answer:

1984-87: AUSAs Morris Weinberg and Martin Auerbach.

Sept. 1987: AUSA Linda Imes.

Oct. 1987 to present: AUSA James B. Comey.

b) For each of the years 1984-1990, identify by name the individual at the Office of International Affairs assigned the case.

Answer:

From late 1984 until mid 1987, the Director of the Office of International Affairs was Philip T. White. He was succeeded by Drew C. Arena, the current Director.

Trial Attorney Larry Chamblee was assigned the case during 1984. Mr. Chamblee is no longer with the Office of International Affairs. Since then, and depending on the country involved, Rex Young, currently a Deputy Director, John Harris, also a Deputy Director, Mary Jo Grotenrath, Matt Bristol, and Linda Candler, currently Associate Directors, Murray Stein, currently a Senior Attorney Advisor, Robin Boylan, currently a Special Counsel, and former Trial Attorneys Patricia Gunn, Wendy Blank and Roger Yochelson have been assigned responsibility for and/or worked on various aspects of the case.

c) For each of the years 1984-1990, identify the case agent at INTERPOL--U.S. National Capitol Bureau assigned to the case.

Answer:

Case number 1, case agents:

Peter J. Keenan - 1984
Peter J. Keenan - 1985
Peter J. Keenan - 1986
Peter J. Keenan - Jan. 1 to Sep. 27, 1987
Albert R. Matney - Sep. 28 to Dec. 31, 1987
Albert R. Matney - 1988
Albert R. Matney - 1989
Albert R. Matney - 1990
Albert R. Matney - Jan. 1 to July 12, 1991
Donald S. Donovan - July 13 to present

Case number 2, case agents:

Risden B. Wall - 1990
Risden B. Wall - 1991

d) For each of the years 1984-1990, identify by name the individuals at the U.S. Marshals Service responsible for this case, including, but not necessarily limited to:

(a) The Associate Director for Operations

Answer:

Howard Safir, 1984 - 1990

(b) The individual heading up enforcement operations

Answer:

Thomas C. Kupferer	1984 - 1987
Louie McKinney	1987 - 1990

(c) The "desk officer" in Washington

Answer:

Don Ferrarone	1985 - 1986
Larry Homenick	1986 - 1987
John Pascucci	1987 - 1989
Al Trujillo	1989 - 1990

(d) The case agent or agents

Answer:

Kenneth Hill	1985 - Present

~~7.~~ Does the Department of Justice have a list of countries with whom the United States has treaties which will allow extradition for violations of the United States tax laws?

a) If so, please list the countries.
b) If so, indicate whether and when it was provided to the U.S. Marshals responsible for this case.
c) If not, explain why not.

Answer:

A list of extradition treaties is published in Title 18 United States Code following Section 3184. The Department has published an expanded version of that list in its handbook, "Procedure for Requesting International Extradition." There is, however, no list of countries specifying which will or will not grant extradition for selected offenses. The Department has made a deliberate decision not to create such a list.

The Department frequently receives requests from, among others, private attorneys and private citizens for such lists. If the Department were to create such a list, it is believed that it would be compelled by law to release it. The law, however, does not require the Department to bring such a list into being. Therefore, since it is in the interest of law enforcement for fugitives to know less than the Department about which

countries will be more or less likely to return fugitives accused of various offenses, the Department has not created such lists. Instead, the Department works with the prosecutors and agents in cases such as this to establish on a country-by-country basis the possibilities of securing a fugitive's return through extradition or other appropriate means.

8. After the Swiss government denied the 1984 extradition request for Marc Rich and Pincus Green, did officials of the Department of Justice recommend to the officials of the Department of State that a protest be submitted to the Swiss government regarding the denial of the extradition request for Marc Rich and Pincus Green?

a) If not, why not?
b) If so, when?
c) What was the result?

Answer:

The Department of Justice did not recommend to the Department of State that a protest be submitted to the Swiss government regarding the denial of the extradition request for Marc Rich and Pincus Green because it is the understanding of the Department of Justice that a protest is appropriate when a treaty obligation has been violated. In these cases, extradition was denied by Switzerland in accordance with article two of the 1900 extradition convention between the United States and the Swiss Confederation (31 Stat. 1928; TS 354; 11 Bevans 904, as amended by supplementary conventions of 1935 and 1940, 49 Stat. 3192; TS 889; 11 Bevans 924, and 55 Stat. 1140; TS 969; 11 Bevans 938), which limits extradition to the crimes and offenses included in the treaty. The list does not and has never included tax offenses. Denial of extradition for tax offenses was and is consistent with Swiss law and practice, which does not permit extradition for such offenses.

9. At any point since 1984, has the Department of Justice requested that the Department of State again seek extradition of Marc Rich and Pincus Green from Switzerland?

a) If not, why not?
b) If so, when?
c) What was the result?

Answer:

The Department of Justice has not at any time since 1984 requested that the Department of State again seek the extradition of Marc Rich and Pincus Green because it is the understanding of the Department of Justice that there has been no change in the facts underlying the request for extradition or the law underlying its denial since the time that extradition was refused, thus leaving no basis for re-opening the matter.

10. At any point has the Department of Justice requested that the Department of State seek extradition from Switzerland of Marc Rich and Pincus Green on only selected counts of the indictment?

a) If so, when?
b) What was the result?
c) If not, why not?

Answer:

The Department of Justice has not at any point requested that the Department of State seek extradition from Switzerland of Marc Rich and Pincus Green on only selected counts of the indictment. The initial request for extradition to Switzerland was based on all counts of the indictment. In denying the request, Switzerland denied it as to all counts. Resubmitting the request in part would not be any more justified than submitting it in full for the reasons explained in our response to question 9.

11. A letter from the Department of Justice to this Subcommittee dated September 18, 1991 states that "Israel...indicated that Green's citizenship would present a problem were he located there..."

a) When did Pincus Green acquire Israeli citizenship?
b) If the date is not known, has the Department of Justice sought information regarding the date on which he acquired such citizenship?
c) If not, why not?

Answer:

Pincus Green received Israeli citizenship on July 17, 1983. He has Israeli passport No. [redacted], issued in Jerusalem on August 23, 1982. It expires July 15, 1992.

12. Identify those countries other than the United States in which Marc Rich is a citizen?

a) When did he obtain such citizenship/citizenships?
b) If the status of Marc Rich's citizenships is not known, what action has the Department of Justice taken to obtain information regarding his status?

Answer:

Rich received Israeli citizenship on July 18, 1983. He has an Israeli passport, [redacted], valid until July 3, 1994.

He also obtained Spanish citizenship on July 26, 1982.

He is also Belgian, by virtue of his birth in that country on [redacted].

13. According to news reports, in the fall of 1989, Mr. Rich applied for Swiss citizenship.

a) Did that occur?
b) Was he granted Swiss citizenship?
c) What effect does this have on the ability of the United States to bring Mr. Rich back to the United States for trial?

Answer:

According to our information, Marc Rich has not applied for Swiss citizenship. We understand that foreigners must live in Switzerland for 10 years before becoming eligible to apply for Swiss citizenship.

14. According to news reports, Marc Rich travels frequently to Spain, where he has a house.

a) Why has the United States government not sought extradition from Spain?

Answer:

Spain has notified the United States that as a Spanish citizen Rich is not subject to extradition.

15. Have any letters rogatory been submitted to the Spanish government regarding Marc Rich?

a) If so, when and what was the result?
b) If not, why not?

Answer:

Letters rogatory have not been submitted to the Spanish government regarding Marc Rich. All necessary information has been obtained through other methods.

16. Has the American legal attaché responsible for Spain been requested to assist in the matter of Marc Rich and/or Pincus Green?

a) If so, when was such assistance requested?
b) For each year, beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

17. At any time beginning in 1984 and extending through the year 1990, did the United States government submit letters rogatory related to the Marc Rich and/or Pincus Green matter to the government of the Federal Republic of Germany?

a) If so, when did this occur and what was the result?
b) If not, why not?

Answer:

The United States Government has not submitted letters rogatory related to the Marc Rich and/or Pincus Green matter to the government of the Federal Republic of Germany. All necessary information has been obtained using other methods.

18. At any time during the years 1984-1990, was the American legal attaché responsible for the Federal Republic of Germany requested to provide assistance regarding Marc Rich and/or Pincus Green?

a) If so, when was such assistance requested?
b) For each year, beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

19. At any time during the years 1984--1990, did the United States government submit letters rogatory to the government of Italy regarding Messrs. Rich and/or Green?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Italy regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

20. What action has been taken by the Department of Justice's representative for the Office of International Affairs located in Rome, Italy to facilitate efforts to return Marc Rich and Pincus Green to the United States for trial?

a) What was the result?

Answer:

To date there has been no occasion for the Rome representative to take any action. In view of the outstanding Red Notice, however, we could anticipate the temporary detention of either, and immediate notification, if either should appear in Italy.

21. At any time during the years 1984-1990, was the American legal attaché responsible for Italy requested to provide assistance regarding Marc Rich and/or Pincus Green?

a) If so, when was such assistance requested?
b) For each year beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?

d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

22. At any time during the years 1984-1990, did the U.S. Government submit letters rogatory to Albania regarding Mr. Green and/or Mr. Rich?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Albania regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

23. At any time during the years 1984-1990, did the U.S. Government submit letters rogatory to the government of Australia regarding Mr. Green and/or Mr. Rich?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Australia regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

24. At any time during the years 1984-1990, was assistance sought from the legal attaché in Australia regarding Mr. Green and/or Mr. Rich?

a) If so, when was such assistance requested?
b) For each year, beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

25. At any time during the years 1984-1990 did the U.S. Government submit letters rogatory to the government of Austria regarding Mr. Green and/or Mr. Rich?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Austria regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

26. At any time during the years 1984-1990 did the Department of Justice seek assistance from the American legal attaché responsible for Austria regarding Mr. Green and/or Mr. Rich?

a) If so, when was such assistance requested?
b) For each year, beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

27. At any time during the years 1984-1990, did the U.S. Government submit letters rogatory regarding Mr. Green and/or Mr. Rich to the government of Belgium?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Belgium regarding Messrs. Rich and/or Green. All

necessary information has been obtained using other methods.

28. At any time during the years 1984-1990, was the assistance of the American legal attaché responsible for Belgium sought regarding Mr. Green and/or Mr. Rich?

a) If so, when was such assistance requested?
b) For each year, beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

29. At any time during the years 1984-1990, did the U.S. Government submit letters rogatory regarding Mr. Green and/or Mr. Rich to the government of Bolivia?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Bolivia regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

30. At any time during the years 1984-1990, did the Department of Justice seek the assistance of the American legal attaché responsible for Bolivia regarding Mr. Rich and/or Mr. Green?

a) If so, when was such assistance requested?
b) For each year, beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

31. At any time during the years 1984-1990, did the U.S. Government submit letters rogatory regarding Mr. Green and/or Mr. Rich to the government of Czechoslovakia?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Czechoslovakia regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

32. At any time during the years 1984-1990 did the U.S. Government submit letters rogatory regarding Mr. Green or Mr. Rich to the U.S.S.R. seeking information regarding their activities in the geographic areas which are now Estonia, Latvia, and Lithuania?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to the U.S.S.R. regarding the geographic areas which are now Estonia, Latvia, and Lithuania concerning Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

33. At any time during the years 1984-1990 did the U.S. Government submit letters rogatory regarding Mr. Green and/or Mr. Rich to the Government of Finland?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Finland regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

34. At any time during the years 1984-1990, was the assistance of the American legal attaché responsible for Finland requested regarding either Mr. Green and/or Mr. Rich?

a) If so, when was such assistance requested?
b) For each year, beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

35. At any time during the years 1984-1990 did the U.S. Government submit letters rogatory regarding Mr. Green and/or Mr. Rich to the Government of Liechtenstein?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Liechtenstein regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

36. At any time during the years 1984-1990 was assistance in the matter of Marc Rich and/or Pincus Green sought from the American legal attaché responsible for Liechtenstein?

a) If so, when was such assistance requested?
b) For each year, beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.
a) If so, when?

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

37. At any time during the years 1984-1990 did the U.S. Government submit letters rogatory to the Government of Luxembourg regarding Mr. Rich and/or Mr. Green?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Luxembourg regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

38. At any time during the years 1984-1990 was the assistance of an American legal attaché responsible for Luxembourg sought regarding the matter of Mr. Rich and/or Mr. Green?

a) If so, when was such assistance requested?
b) For each year, beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

39. At any time during the years 1984-1990 did the U.S. Government submit letters rogatory to the Government of Malaysia regarding the matter of Mr. Rich and/or Mr. Green?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Malaysia regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

40. At any time during the years 1984-1990 was the assistance of an American legal attaché responsible for Malaysia sought in the matter of Pincus Green and/or Marc Rich?

a) If so, when was such assistance requested?
b) For each year beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?

e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

41. At any time during the years 1984-1990 did the U.S. Government seek assistance from the Netherlands through the mutual legal assistance treaty regarding the matter of Marc Rich and/or Pincus Green?

a) If so, when?
b) What was the result?

Answer:

The United States has not sought assistance from the Netherlands through the mutual legal assistance treaty regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

42. At any time during the years 1984-1990, was assistance in the matter of Marc Rich and/or Pincus Green sought from the American legal attaché responsible for the Netherlands?

a) If so, when was such assistance requested?
b) For each year beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

43. At any time during the years 1984-1990 did the U.S. Government submit letters rogatory regarding Mr. Green and/or Mr. Rich to the government of Romania?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Romania regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

44. At any time during the years 1984-1990 did the U.S. Government submit letters rogatory regarding Mr. Green and/or Mr. Rich to the government of Sweden?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Sweden regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

45. At any time during the years, did the Department of Justice seek the assistance of the American legal attaché responsible for Sweden in the matter of Mr. Rich and/or Mr. Green.

a) If so, when?
b) For each year beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

46. At any time during the years 1984-1990 did the U.S. Government submit letters rogatory regarding Mr. Rich and/or Mr. Green to the United Kingdom?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to the United Kingdom regarding Messrs. Rich and/or Green.

All necessary information has been obtained using other methods.

47. At any time during the years 1984-1990 was the assistance of an American legal attaché in the United Kingdom sought regarding Mr. Rich and/or Mr. Green?

a) If so, when?
b) For each year beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

48. At any time during the years 1984-1990 did the U.S. Government submit letters rogatory regarding either Mr. Rich and/or Mr. Green to the Government of South Africa?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to South Africa regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

49. At any time during the years 1984-1990, did the U.S. Government submit letters rogatory regarding either Mr. Rich and/or Mr. Green to the Government of Thailand?

a) If so, when?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Thailand regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

50. At any time during the years 1984-1990 was assistance regarding Marc Rich and/or Pincus Green requested from the American legal attaché responsible for Thailand?

a) If so, when?
b) For each year beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

51. At any time during the years 1984-1990, did the U.S. Government submit letters rogatory regarding either Mr. Rich and/or Mr. Green to the Government of Hungary?

a) If so, when did this occur?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Hungary regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

52. At any time during the years 1984-1990, did the U.S. Government submit letters rogatory regarding either Mr. Rich and/or Mr. Green to the Government of Japan?

a) If so, when did this occur?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Japan regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

53. At any time during the years 1984-1990, was assistance regarding the matter of Marc Rich and/or Pincus Green sought from the American legal attaché responsible for Japan?

a) If so, when?
b) For each year beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

54. At any time during the years 1984-1990, did the U.S. Government submit letters rogatory regarding Mr. Rich and/or Mr. Green to the Government of the Dominican Republic?

a) If so, when did this occur?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to the Dominican Republic regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

55. At any time during the years 1984-1990, was assistance regarding Marc Rich and/or Pincus Green matter sought from the American legal attaché in the Dominican Republic?

a) If so, when?
b) For each year beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

56. At any time during the years 1984-1990, did the U.S. Government submit letters rogatory regarding either Mr. Rich and/or Mr. Green to the Government of Ireland?

a) If so, when did this occur?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Ireland regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

57. At any time during the years 1984-1990, was assistance regarding Marc Rich and/or Pincus Green matter requested from the legal attaché responsible for Ireland?

a) If so, when?
b) For each year beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

58. At any time during the years 1984-1990, did the U.S. Government submit letters rogatory regarding Mr. Rich and/or Mr. Green to Venezuela?

a) If so, when did this occur?
b) What was the result?

Answer:

The United States has not submitted letters rogatory to Venezuela regarding Messrs. Rich and/or Green. All necessary information has been obtained using other methods.

59. At any time during the years 1984-1990, was assistance requested from the legal attaché responsible for Venezuela regarding the matter of Marc Rich and/or Pincus Green?

a) If so, when?
b) For each year beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

60. Are there other legal attachés from whom assistance has been requested regarding the matter of Marc Rich and/or Pincus Green?

a) If so, please identify the country and the dates on which such assistance was sought.
b) For each year beginning in 1985, how many leads were submitted?
c) How many leads have been acted upon?
d) How many are currently pending?
e) Describe generally the results of these efforts.

Answer:

[The answer to this question is not available as of this writing; we will forward the information as soon as possible.]

61. According to news reports, Mr. Rich travels on a Gulfstream airplane. At any time prior to 1991, did the Department of Justice request assistance from the Federal Aviation Administration (FAA) to contact FAA's international counterparts to seek assistance in locating the plane or planes on which the fugitives Marc Rich and Pincus Green travel?

a) If so, when did this occur?
b) What were the results?
c) If not, why not?

Answer:

The United States Marshals Service has contacted FAA several times over the years and found that no aircraft was registered to Rich or Green. The FAA also stated that they could not help us with any international requests.

The Federal Bureau of Investigation is aware that Rich travels on a jet aircraft owned by a foreign corporation. However, the plane is not used exclusively by Rich, and the FBI has no way of learning in advance of a particular flight whether Rich will be on board.

62. At any time prior to 1991, did the Department of Justice seek assistance from the State Department in making contacts with international flight regulatory authorities to locate and track the planes on which the fugitives Marc Rich and Pincus Green travel?

a) If so, when?
b) What were the results?
c) If not, why not?

Answer:

We are unable to answer this question completely. There are no records indicating such contacts, but such contacts would normally have been made orally without written records thereof. Insofar as Departmental personnel recall, contacts were made with foreign regulatory authorities directly (and not through the Department of State) regarding specific flights. The foreign authorities were helpful, providing complete information, insofar as we were able to determine.

63. Prior to 1991, were letters rogatory seeking information regarding the plane or planes used by these fugitives (including but not limited to flight log information) submitted to any foreign government?

a) If so, when and to whom?
b) What were the results?
c) If not, why not?

Answer:

Letters rogatory seeking such information have not been issued by the United States. All necessary information was obtained using other methods.

64. For each of the years 1985-1990, how many leads have been submitted to Department of State's Bureau of Diplomatic Security to seek the assistance of the Office of Foreign Mission and other relevant offices in investigating such leads?

a) Of these, how many have been acted upon?
b) How many have been responded to?
c) How many are pending?

Answer:

According to the Department of State, the Bureau of Diplomatic Security has never had leads or any other type of investigative information on either Marc Rich or Pincus Green.

65. For each of tne years 1984-1990, what was the total of the amount of overtime charged by U.S. Marshals to the matter of the pursuit of Marc Rich and Pincus Green?

a) What was the total transportation cost charged?

Answer:

The investigation is estimated to have used 19.2 man years at the GS/GM 13 level or higher. There has been no sub-classification for overtime.

(a) Official Travel and Per Diem is estimated at $55,000.

66. At any point during the years 1984-1990 was a U.S. Marshal or Marshals in the Federal Republic of Germany seeking the return of or information about Pincus Green and Marc Rich?

a) If so, when?
b) Did they have authority from the appropriate officials?

Answer:

(a) During the 1984--1986 time period the Associate Director for Operations, Howard Safir, made trips to the Republic of Germany. Liaison with various German law enforcement officials was made regarding this and other fugitive cases.

(b) Official Travel, as a matter of the policy of the Marshals Service, must receive appropriate approval.

67. At any time during the years 1984-1990 was a U.S. Marshal or Marshals in Italy seeking the return of or information about Messrs. Rich and Green?

a) If so, when?
b) Were all appropriate officials contacted for host country clearance?

Answer:

Case files do not reflect travel to or requests for investigative information from Italy by personnel of the United States Marshals Service.

68. At any time during the years 1984-1990, was a U.S. Marshal or Marshals seeking information about or pursuing Marc Rich and Pincus Green in Ireland?

a) If so, when?
b) Were all appropriate officials contacted for host country clearance?

Answer:

Case files do not reflect travel to or requests for investigative information from Ireland.

69. At any time during the years 1984-1990, was a U.S. Marshal or Marshals seeking information about or pursuing Marc Rich and Pincus Green in Switzerland?

a) If so, when?
b) Were appropriate officials contacted for host country clearance?

Answer:

a) In 1985, Associate Director of Operations for the Marshals Service, Howard Safir, travelled to Switzerland to make law enforcement liaison with the Swiss.

In October 1985, Chief Inspector Ferrarone and Associate Director Safir of the Marshals Service went to Switzerland on other government business and while there they travelled to Zug.

In the Summer of 1986, Chief Inspector Matney visited family in Germany on annual leave. While still on leave in Switzerland he went to see the Marc Rich offices in Zug. He took pictures and obtained Chamber of Commerce brochures about Zug.

b) As a matter of policy of the Marshals Service, official travel must receive appropriate approval.

70. At any point during the years 1984-1990, was a U. S. Marshal or Marshals seeking information about or pursuing Marc Rich and Pincus Green in Finland?

a) If so, when?
b) Were the appropriate officials contacted for host country clearance?

Answer:

Case files of the Marshals Service reflect no activity with or travel to Finland in connection with Rich or Green from 1984 to 1990.

71. At any point during the years 1984-1990, were a U.S. Marshal or Marshals in the Netherlands seeking information about or pursuing Marc Rich and Pincus Green?

a) If so, when?
b) Were the appropriate officials contacted for host country clearance?

Answer:

Case files of the Marshals Service reflect no activity with or travel to the Netherlands in connection with Rich or Green from 1984 to 1990.

72. At any point during the years 1984-1990, was a U.S. Marshal or Marshals seeking information about or pursuing Marc Rich and Pincus Green in Israel?

a) If so, when?
b) Were the appropriate officials contacted for host country clearance?

Answer:

Case files of the Marshals Service reflect no activity with or travel to Israel in connection with Rich or Green from 1984 to 1990.

73. At any point during the years 1984-1990, was a U.S. Marshal or Marshals in Venezuela seeking information about or pursuing Marc Rich and Pincus Green in Venezuela?

a) If so, when?
b) Were the appropriate officials contacted for host country clearance?

Answer:

Case files of the Marshals Service reflect no activity with or travel to Venezuela in connection with Rich or Green from 1984 to 1990.

74. When did the U. S. Government request issuance of the Red Notice through INTERPOL?

b) When was the Red Notice issued?

Answer:

The U.S. Government requested issuance of a Red Notice through INTERPOL for Pincus Green and Marc Rich on March 4, 1987.

The Red Notices were issued April 1987.

75. a) Does INTERPOL have information regarding Denise Rich on the Red Notice for Marc Rich?

b) Does INTERPOL have information regarding Denise Rich in all relevant tracking/information systems?

Answer:

No. INTERPOL does not have information regarding Denise Rich on the Red Notice for Marc Rich.

76. During any year subsequent to 1984, did the U.S. Government seek information from Switzerland regarding Marc Rich and Pincus Green utilizing the treaty for Mutual Assistance in Criminal Matters?

a) If so, when?
b) What was the result?

Answer:

The U.S. Government sent a mutual legal assistance request to Switzerland on behalf of the Securities and Exchange Commission in 1990 in connection with its continuing investigation of Ellis A.G. Marc Rich and Pincus Green were both mentioned in the request, together with a lengthy list of other persons and corporations.

Inasmuch as this investigation is under the control of the SEC, any further requests for information should be directed to that agency.

*** Questions 77 through 1103 are not reproduced. The following answers are provided by INTERPOL ***

77. No.

78. No. Andorra did not become a member of Interpol until 1987.

79. No.

80. No. Antigua and Barbuda did not become members of Interpol until 1986.

81. No.

82. No. Aruba did not become a member of Interpol until 1987.

83. through 89. No.

90. No. Belize did not become a member of Interpol until 1987.

91. through 96. No.

97. No.

98. through 122. No.

123. No. Gambia did not become a member of Interpol until 1986.

124. through 126. No.

127. No. Grenada did not become a member of Interpol until 1986.

128. through 143. No.

144. No.

145. No.

146. No. Kiribati did not become a member of Interpol until 1985.

147. through 161. No.

162. No. The Marshall Islands did not become members of Interpol until 1990.

163. through 183. No.

184. No. Poland did not become a member of Interpol until 1990.

185. through 188. No.

189. No. St. Kitts and Nevis did not become members of Interpol until 1987.

190. No.

191. No. St. Vincent and the Grenadines did not become members of Interpol until 1985.

192. through 223. No.

224. No. Andorra did not become a member of Interpol until 1987.

225. No.

226. No. Antigua and Barbuda did not become members of Interpol until 1986.

227. No.

228. No. Aruba was not a member of Interpol until 1987.

229. through 235. No.

236. Belize did not become a member of Interpol until 1987.

237. through 243. No.

244. No.

245. through 269. No.

270. No. Gambia did not become a member of Interpol until 1986.

271. through 273. No.

274. No. Grenada was did not become a member of Interpol until 1986.

275. through 308. No.

309. No. The Marshall Islands did not become members of Interpol until 1990.

310. through 334. No.

335. No. St. Kitts and Nevis did not become members of Interpol until 1987.

336. through 369. No.

370. No. Andorra did not become a member of Interpol until 1987.

371. through 373. No.

374. No. Aruba did not become a member of Interpol until 1987.

375. through 381. No.

382. No. Belize did not become a member of Interpol until 1987.

383. through 451. No.

452. No. The Marshall Islands did not become members of Interpol until 1990.

453. through 596. No.

597. No. The Marshall Islands did not become members of Interpol until 1990.

598. through 739. No.

740. No. The Marshal Islands did not become members of Interpol until 1990.

741. through 820. No.

821. DELETED.

822. through 886. No.

887. No. The Marshall Islands did not become members of Interpol until 1990.

888. through 1103. No.

1104. In 1984, how many leads did the Department of Justice subnit for investigation through Interpol?

a) How many were "Critical-Urgent"?
b) How many were "Urgent"?
c) For each category, including those not designated as "urgent" or "critical-urgent", for how many did the Department receive a response?
d) How many were acted upon?
e) How many of these leads are currently pending?[2]

Answer:

Interpol (an acronym for the International Criminal Police Organization) is an international organization that links the criminal investigative agencies of its member countries. Each member country designates a National Central Bureau to serve as its point of contact in the Interpol network. The United States National Central Bureau (USNCB) of Interpol is a separate organization within the Department of Justice under the supervision of the Attorney General's designee in consultation with the Secretary of the Treasury's designee on certain organizational matters. The USNCB does not maintain statistics on the agencies that originate requests for investigation. It is therefore unable to state how many such requests were sent abroad on behalf of the Department of Justice.

The precedence indicators (critical/urgent, urgent and routine) on Interpol communications are not recorded in any data base that could be searched by Interpol to obtain the answers to subparts a) and b) of the question. There is also no source for the response to subparts c), d) and e), other than a physical examination of thousands of case files, because Interpol does not in its data base correlate incoming messages with outgoing queries.

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[2]Please note that we have answered this question as it was written. On the assumption, however, that the question was intended to refer only to messages sent or received by the U.S. National Central Bureau (USNCB) of Interpol in connection with the cases of Marc Rich and Pincus Green, the USNCB is reviewing its files on those matters to extract responsive data. It will be provided as soon as it is available.

During the calendar year 1984, the USNCB opened 8,669 cases involving 8,084 requests for investigation. During that year 3,393 cases were closed.[3]

1105. In 1985, how many leads did the Department of Justice submit for investigation through Interpol?

a) How many were "Critical-Urgent"?
b) How many were "Urgent"?
c) For each category, including those not designated as "urgent" or "critical-urgent", for how many did the Department receive a response?
d) How many were acted upon?
e) How many of these leads are currently pending?

Answer:

Please see footnotes 2 and 3, above, and the first two paragraphs of the response to question 1104.

During the calendar year 1985, the USNCB opened 9,907 cases involving 10,669 requests for investigation. During that year 8,899 cases were closed.

1106. In 1986, how many leads did the Department of Justice submit for investigation through Interpol?

a) How many were "Critical-Urgent"?
b) How many were "Urgent"?
c) For each category, including those not designated as "urgent" or "critical-urgent", for how many did the Department receive a response?
d) How many were acted upon?
e) How many of these leads are currently pending?

Answer:

Please see footnotes 2 and 3, above, and the first two paragraphs of the response to question 1104.

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[3]INTERPOL-USNCB's data for 1984 through 1988 reflect the number of inquiries per year, the number of cases opened resulting from inquiries and the number of cases closed in a particular year. Not every inquiry required a case to be opened. (E.g., requests for information concerning motor vehicles did not normally result in the opening of a case.) For 1989 through the first half of 1991 the data also include the number of messages sent by the USNCB, information which is not available for prior years.

During the calendar year 1986, the USNCB opened 10,814 cases involving 15,322 requests for investigation. During that year 9,687 cases were closed.

1107. In 1987, how many leads did the Department of Justice submit for investigation through Interpol?

a) How many were "Critical-Urgent"?
b) How many were "Urgent"?
c) For each category, including those not designated as "urgent" or "critical-urgent", for how many did the Department receive a response?
d) How many were acted upon?
e) How many of these leads are currently pending?

Answer:

Please see footnotes 2 and 3, above, and the first two paragraphs of the response to question 1104.

During the calendar year 1987, the USNCB opened 9,694 cases involving 14,002 requests for investigation. During that year 7,366 cases were closed.

1108. In 1988, how many leads did the Department of Justice submit for investigation through Interpol?

a) How many were "Critical-Urgent"?
b) How many were "Urgent"?
c) For each category, including those not designated as "urgent" or "critical-urgent", for how many did the Department receive a response?
d) How many were acted upon?
e) How many of these leads are currently pending?

Answer:

Please see footnotes 2 and 3, above, and the first two paragraphs of the response to question 1104.

During the calendar year 1988, the USNCB opened 9,850 cases involving 14,111 requests for investigation. During that year 3,925 cases were closed.

1109. In 1989, how many leads did the Department of Justice submit for investigation through Interpol?

a) How many were "Critical-Urgent"?
b) How many were "Urgent"?

c) For each category, including those not designated as "urgent" or "critical-urgent" for how many did the Department receive a response?
d) How many were acted upon?
e) How many of these leads are currently pending?

Answer:

Please see footnotes 2 and 3, above, and the first two paragraphs of the response to question 1104.

During the calendar year 1989, the USNCB transmitted 42,449 messages through Interpol channels and opened 9,404 cases involving 11,019 requests for investigation. During that year 19,090 cases were closed.

1110. In 1990, how many leads did the Department of Justice submit for investigation through Interpol?

a) How many were "Critical-Urgent"?
b) How many were "Urgent"?
c) For each category, including those not designated as "urgent" or "critical-urgent" for how many did the Department receive a response?
d) How many were acted upon?
e) How many of these leads are currently pending?

Answer:

Please see footnotes 2 and 3, above, and the first two paragraphs of the response to question 1104.

During the calendar year 1990, the USNCB transmitted 39,612 messages through Interpol channels and opened 10,268 cases involving 11,705 requests for investigation. During that year 12,276 cases were closed.

1111. During the first 6 months of calendar year 1991, how many leads did the Department of Justice submit for investigation through Interpol?

a) How many were "Critical-Urgent"?
b) How many were "Urgent"?
c) For each category, including those not designated as "urgent" or "critical-urgent" for how many did the Department receive a response?
d) How many were acted upon?
e) How many of these leads are currently pending?

Answer:

Please see footnotes 2 and 3, above, and the first two paragraphs of the response to question 1104.

During the first 6 months of calendar year 1991, the USNCB transmitted 21,335 messages through Interpol channels and opened 3,339 cases involving 5,301 requests for investigation. During that year 12,268 cases were closed.

1112. In the matter of the fugitives Marc Rich and Pincus Green, please describe the responsibility of the Federal Bureau of Investigation.

Response: We cannot answer the question because it is unclear. Do you wish to know the role that the Federal Bureau of Investigation played in the case before the indictment or after Rich and Green became fugitives?.

1113. For purposes of NCIC and similar communications systems, which agency is identified as the "originating" agency in the matter of Marc Rich/Pincus Green?

Answer: NCIC is a data base, not a communications system. As of this writing, we have not determined how the cases of Rich and Green are listed in NCIC but will provide you with the information as soon as it is available. NLETS (the National Law Enforcement Telecommunications System) is a communications system. In NLETS, the sender of a message is the originator; thus, the "originating agency" varies depending on who is sending a message through NLETS. We have no means of determining what agencies have used NLETS in connection with the cases of Rich and Green.

1114. Has the Department of Justice worked with appropriate authorities to utilize the reporting requirements of the Bank Secrecy Act, 31 U.S.C. 5313, as a means of identifying and tracing the activities of Marc Rich and Pincus Green?

a) If not, why not?
b) Has an investigation been conducted to determine whether or not individuals who may be aiding and abetting Mr. Rich and Mr. Green could be prosecuted utilizing the Bank Secrecy Act provisions--for example, by using 31 U.S. C. Sec. 5313 with 18 U.S.C. Sec. 2(b))?

Answer:

a) No. Such investigation for purposes of locating Rich and Green was not believed necessary.

b) No. The U.S. Attorney's Office completed its substantive investigation of Rich and Green in 1984.

1115. Has the Department of Justice worked with appropriate authorities to utilize information contained in disclosures under Section 1953 of the Money Laundering Control Act of 1986 to determine if such information may be helpful in the prosecution of Mr. Rich and Mr. Green?

a) If not, why not?

Answer:

No. The U.S. Attorney's Office completed its substantive investigation of Rich and Green in 1984.

1116. News reports have described Marc Rich as seeking to gain control of the international aluminum market. Mr. Rich is also involved in extensive dealings in copper, zinc, and uranium. After 1984 and prior to 1991, did the Department of Justice undertake an investigation to determine whether he or his companies have been engaged in violations of the Federal antitrust laws?

a) If so, when?
b) What was the outcome?
c) Has the Department of Justice communicated with any international organizations regarding the implications and appropriate response to such actions?
d) If so, what was the outcome?

Answer:

No. The U.S. Attorney's Office completed its substantive investigation of Rich and Green in 1984.

1117. According to a story which appeared in Regardie's magazine in February 1990, Marc Rich has "expressed a desire to return home-as long as he had written assurance from the Justice Department that he wouldn't have to spend any time in the slammer." Since the appearance of this story in February 1990, have officials of the Department of Justice been contacted by a representative of Mr. Rich and/or Mr. Green in an effort to make an arrangement to facilitate their return to the United States without spending "anytime in the slammer?"

a) If so, who made the contact?
b) To whom was the contact made?
c) What was the result?

Answer:

The Department of Justice has had contact with representatives of Rich and Green concerning the possible terms of a plea and/or surrender. It is not appropriate to disclose the particulars of any such contacts. All representatives have been informed of our general view that Rich and Green must be prepared to surrender and enter guilty pleas before any other terms and conditions would be discussed.

1118. According to the same Regardie's article, in 1987 a U.S. Marshal went England to "meet with members of the crack British Fraud Squad".

a) Is this a correct report?
b) What was the result of this trip?

Answer:

(a) Personnel from the Marshals Service travelled to the United Kingdom in November 1987. (A previous report of this trip as taking place in November 1986 was incorrect due to a typographical error.)

(b) (1) Liaison was made with the Metropolitan Police Company Frauds Unit and Extradition Unit.

(2) Investigations were conducted at airports and other locations in cooperation with the Metropolitan Police.

(3) Interviews were conducted in cooperation with the Metropolitan Police.

(4) Liaison and legal process between the United States Attorney and the U.K Office of the Public Prosecutor was established.

1119. a) What is the status of Marc Rich's United States citizenship and passport?

b) What is the status of Pincus Green's United States citizenship and passport?

Answer:

The status of Rich's U.S. citizenship is unknown. On January 20, 1988, U.S. District Judge for the Southern District of New York Thomas P. Griesa determined that Rich's efforts to renounce his U.S. citizenship at the time of his 1982 acquisition of Spanish citizenship were ineffective. The Court's decision, however, is limited to its conclusion that Rich had not effectively renounced his U.S. citizenship as of August 29, 1983, when he was joined as a party to the civil action before Judge Griesa. We are not aware of subsequent steps taken by Rich to renounce his citizenship. Rich's U.S. passports have expired.

1120. Has the Department of Justice initiated any communication through appropriate channels to the European Commission, the European Parliament, the European Council of Ministers, the European Court of Justice or any other European Community office regarding Messrs. Rich and or Green?

a) If so, how?
b) If not, why not?

Answer:

No. At present none of those bodies has a role to play in helping the U.S. obtain the return of a fugitive. The Court of Justice, however, can hear appeals from fugitives seeking to avoid extradition, in certain situations.

1121. Has any component or representative of the European Community made an inquiry to the Department of Justice for any information regarding Messrs. Rich and or Green?

a) How was it handled?

Answer:

Our records do not reflect receipt of any such inquiry.

1122. Has the Department of Justice communicated to the United States Ambassador to the European Community (or his representative) the desire of the U.S. Government to bring Messrs. Rich and Green to justice?

a) If so, how?
b) If not, why not?

Answer:

No. Please see the answer to question 1120.

EMBASSY OF THE
UNITED STATES OF AMERICA

Madrid, Spain

March 25, 1983

Mr. Marc Rich
[redacted]

Dear Mr. Rich:

It has come to our attention that on July 26, 1982 you were naturalized as a Spanish citizen. . It is possible that by performing this act you may have lost your U.S. citizenship under Section 349(a)(1) of the Immigration and Nationality Act. An excerpt containing this provision of law is enclosed.

It will be helpful in determining your present citizenship status if you would complete the enclosed "Information for Determining U.S. Citizenship" form. Please return the completed form within 30 days in the enclosed envelope. If no reply is received, the Department may make an official determination of your U.S. citizenship status on the basis of all available information.

You may want to discuss this matter with a consular officer before filling out this form. We will be pleased to arrange an appointment if you do wish to consult a member of our consular staff. This office is open from 9:00 a.m. to 12:30 pm. . It is closed on Saturdays, Sundays, American and Spanish holidays. Our office telephone number is 2-76-34-00, extension 330.

Your cooperation will be appreciated.

Sincerely yours,

Julian L. Bartley
Consul

Enclosures:
As stated.

Note: Please submit the official Spanish document showing your acquisition of Spanish nationality, and your valid U.S. Passport N°. [redacted].

EXHIBIT
13

PAGE 01 STATE 278996
ORIGIN PPT-01

IN OCT-00 ADS-00 L-03 OCS-06 JUSE-00 /010 R

DRAFTED BY PPT/C:
APPROVED BY PPT/C: YC
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TO AMCONSUL ZURICH PRIORITY
INFO AMEMBASSY BERN PRIORITY
AMEMBASSY MADRID PRIORITY

UNCLAS STATE 278996

PASSPORTS

E.O. 12356:N/A
TAGS:CPAS RICH, MARC)
SUBJECT: PASSPORT REVOCATION

1. THE DEPARTMENT IS REVOKING THE PASSPORTS OF MARC RICH, PURSUANT TO THE PROVISIONS OF 22 CFR 51.70 ( ) BECAUSE HE IS THE SUBJECT OF AN OUTSTANDING FEDERAL WARRANT OF ARREST FOR A SERIES OF FELONIES.

RICH, WHO WAS BORN ON [redacted] IN BELGIUM, IS THE BEARER OF PASSPORT [redacted], ISSUED MARCH 3, 1982. RICH MAY ALSO STILL HAVE IN HIS POSSESSION PASSPORTS [redacted], ISSUED 9/19/80, AND [redacted], ISSUED 4/16/80.

3. RICH MAY BE AT THE FOLLOWING ADDRESS:

C/O MARC RICH & CO.

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 278996

[redacted]

RICH SHOULD BE GIVEN A LETTER INCORPORATING THE FOLLOWING LANGUAGE.

THE DEPARTMENT OF STATE HAS REQUESTED THIS OFFICE TO INFORM YOU THAT IT HAS REVOKED PASSPORTS [redacted] ISSUED TO YOU ON MARCH 3, 1982, [redacted] ISSUED TO YOU ON SEPT. 19, 1980, [redacted] ISSUED TO YOU ON APRIL 16, 1980

RECEIVED
SEP 30 5 49 PM '83
OFFICE OF INTERNATIONAL AFFAIRS

DEPT. OF JUSTICE
83 SEP 29 PM 10 16

EXHIBIT
14

51.70 DENIAL OF PASSPORTS, NDERLINE)
) A PASSPORT, EXCEPT FOR DIRECT RETURN TO THE UNITED
T S, SHALL NOT BE ISSUED IN ANY CASE IN WHICH:)
4. PLICANT IS THE SUBJECT OF AN OUTSTANDING FEDERAL
ANT OF ARREST FOR A FELONY;...'
1./1 REVOCATION OR RESTRICTION OF PASSPORTS. UNDERLINE)
PASSPORT MAY BE REVOKED, RESTRICTED OR LIMITED WHERE:
) THE NATIONAL WOULD NOT BE ENTITLED TO ISSUANCE OF
EW PASSPORT UNDER 51.70;....'

THE DEPARTMENT'S ACTION IS PREDICATED UPON EVIDENCE THAT
OU ARE THE SUBJECT OF AN OUTSTANDING FEDERAL FELONY
ARRANT OF ARREST ISSUED BY THE U .S. DISTRICT COURT FOR
HE SOUTERN DISTRICT OF NEW YORK ON SEPTEMBER 19, 1983.

YOU ARE ADVISED OF YOUR RIGHT TO A HEARING UNDER SECTIONS
1.80 THROUGH 51.89 OF THE PASSPORT REGULATIONS, COPIES
F WHICH ARE ENCLOSED. SHOULD YOU DESIRE SUCH A HEARING

UNCLASSIFIED

UNCLASSIFIED

03 STATE 278996

OU MUST FIRST NOTIFY THIS OFFICE WITHIN SIXTY DAYS AFTER
ELIVERY OF THIS NOTICE.

NOTHING CONTAINED IN THIS LETTER SHOULD BE CONSIDERED
S A DENIAL OF DOCUMENTATION FOR YOUR DIRECT AND IMMEDIATE
ETURN TO THE UNITED STATES. SHOULD YOU DESIRE SUCH
ACILITIES, PLEASE NOTIFY THIS OFFICE.

OU ARE REQUESTED TO SURRENDER YOUR PASSPORT TO THIS
FFICE. IN THAT CONNECTION, PLEASE NOTE SECTIONS 51.9
ND 51.76 OF THE PASSPORT REGULATIONS PERTAINING TO THE
URRENDER OF A PASSPORT UPON DEMAND. ANY FURTHER USE OF
HE PASSPORTS ISSUED TO YOU WOULD CONSTITUTE A VIOLATION
F SECTION 1544 OF TITLE 18, UNITED STATES CODE, A FELONY"

. COPIES OF THE REGULATIONS TO ACCOMPANY THE LETTER MAY
E MADE FROM THOSE APPEARING IN FAM 241.11 AWS AND
EGULATIONS). AT TIME DELIVERY IS EFFECTED, OR ATTEMPTED,

ICH SHOULD BE REQUESTED TO SURRENDER HIS PASSPORT.

. A UNITED STATES ATTORNEY WORKING ON THE RICH
CUTION HAS ALSO REQUESTED THAT THE DEPARTMENT ATTEMPT
IVER TO RICH A COPY OF THE WARRANT FOR HIS ARREST
A RESTRAING ORDER WHICH LIMITS HIS BUSINESS ACTIVITY.
WARRANT AND ORDER WILL BE TRANSMITTED TO POST BY O.M.

. POST IS REQUESTED TO ADVISE THE SWISS GOVERNMENT THAT
ICH'S PASSPORTS HAVE BEEN REVOKED. IT WOULD ALSO BE
PPRECIATED IF POST COULD ADVISE THE DEPARTMENT AS TO THE
WISS GOVERNMENT'S ATTITUDE TOWARD UNDOCUMENTED ALIENS

(1) ACTION: CONS-2 INFO: AMB DCM CHRON ZURICH/FL

VZCZCLXQ134FSC071 — LOC: 052 341 — 30 SEP 83 0520 — CN: 35045 — CHRG: PROG — DIST: CONS

PP RUEKEFQ
DE RUEEC #8995 2722132
ZNR UUUUU ZZH
P 291823Z SEP 83
FM SECSTATE WASHDC
TO RUEKEFQ/AMCONSUL ZURICH PRIORITY 7509
INFO RUEKEFQ/AMEMBASSY BERN PRIORITY 2181
RUEHML/AMEMBASSY MADRID PRIORITY 7221
IT
UNCLAS STATE 278995

PASSPORTS

EO. 12356 N/A
TAGS: CPAS (GREEN, FINCUS)
SUBJE :PASSPORT REVOCATION

1. THE DEPARTMENT IS REVOKING THE PASSPORTS OF FINCUS GREEN, PURSUANT TO THE PROVISIONS OF 22 CFR 51.70)) BECAUSE HE IS THE SUBJECT OF A FEDERAL WARRANT OF ARREST FOR A SERIES OF FELONIES.

2. GREEN, WHO WAS BORN ON [redacted] IN NEW YORK IS THE BEARER OF PASSPORT [redacted] ISSUED ON AUGUST 24, 1982 PASSPORT [redacted], ISSUED MARCH 12, 1982. GREEN MAY ALSO HAVE IN HIS POSSESSION PASSPORT [redacted] ISSUED AUGUST 12, 1981 AND PASSPORT [redacted], ISSUED AUGUST 25, 1979.

3. GREEN MAY BE AT THE FOLLOWING ADDRESS:

C/O MARC RICH & CO.
[redacted]

4. GREEN SHOULD BE GIVEN A LETTER INCORPORATING THE FOLLOWING LANGUAGE:

"THE DEPARTMENT OF STATE HAS REQUESTED THIS OFFICE TO INFORM YOU THAT IT HAS REVOKED PASSPORTS [redacted] ISSUED TO YOU ON AUGUST 24, 1982, [redacted], ISSUED TO YOU ON MARCH 12, 1982, [redacted], ISSUED TO YOU ON AUGUST 12, 1981, [redacted], ISSUED TO YOU ON AUGUST 25, 1979 AND ANY OTHER PASSPORTS WHICH MAY HAVE BEEN ISSUED TO YOU, UNDER PROVISIONS OF SECTIONS 51.70 AND 51.71 OF TITLE 22, CODE OF FEDERAL REGULATIONS, WHICH READS AS FOLLOWS:

'51.70 DENIAL OF PASSPORTS. (UNDERLINE)
) A PASSPORT, EXCEPT FOR DIRECT RETURN TO THE UNITED STATES, SHALL NOT BE ISSUED IN ANY CASE IN WHICH: (1) THE APPLICANT IS THE SUBJECT OF AN OUTSTANDING FEDERAL WARRANT OF ARREST FOR A FELONY,...'

51.71 REVOCATION OR RESTRICTION OF PASSPORTS. (UNDERLINE)
A PASSPORT MAY BE REVOKED, RESTRICTED OR LIMITED WHERE:

UNCLASSIFIED STATE 278995

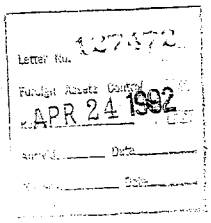
EXHIBIT 15

PRN
(A5)

United States Department of State

Washington, D.C. 20520

April 14, 1992



Mr. Richard Newcomb
Director
Office of Foreign Assets Control
Department of the Treasury
Washington, D.C. 20220

Dear Mr. Newcomb:

I refer to your inquiry of November 21, 1991, concerning the current citizenship status of Marc Rich. Since receiving your letter we have reviewed the evidence concerning Mr. Rich's citizenship and have made a final determination that he is a U.S. citizen.

Mr. Rich, born on [redacted] in Belgium, acquired United States citizenship in 1945 by virtue of his parents' naturalization. He became a Spanish citizen in 1982. A Certificate of Loss of Nationality under Section 349(a)(1) of the Immigration and Nationality Act was prepared in his name by our Embassy at Madrid, Spain on June 23, 1983, and again on April 17, 1985 but neither CLN was was approved by the Department.

We have now determined that the evidence does not adequately support a conclusion that Mr. Rich intended to relinquish his U.S. citizenship at the time he became a Spanish national. Such intent is required under Section 349(a)(1) in order for a U.S. citizen to lose his U.S. citizenship through obtaining naturalization in a foreign state. Our decision that Mr. Rich did not have the requisite intent is based in part on evidence that he used his U.S. passport to travel to the United States subsequent to his becoming a Spanish citizen. In a letter of November 23, 1984, to Embassy Madrid Mr. Rich stated that he did intend to divest himself of U.S. citizenship when he became a Spanish citizen, but this post hoc statement is outweighed by his continued use of his U.S. passport between the time he became a Spanish citizen and the time of this letter.

Our records also contain a purported renunciation of U.S. citizenship executed by Mr. Rich before a Swiss notary. This renunciation does not conform to the statutory requirements for formal renunciation of citizenship under Section 349(a)(5) of the Immigration and Nationality Act. That section requires that an oath of renunciation be in the form specified by the Secretary of State and that it be taken before a diplomatic or consular officer of the United States.

000860



As Mr. Rich's case does not fall within the parameters of either Section 349(a)(1) or Section 349(a)(5), we have determined that Marc Rich remains a United States citizen. We are asking our Consul General in Zurich, Switzerland, to advise Mr. Rich of the Department's decision in his case and of his right to renounce his U.S. citizenship under Section 349(a)(5) if he wishes to do so.

We hope this information will be helpful.

Sincerely,

Carmen A. DiPlacido
Director
Office of Citizens Consular Services

~~WANTED INTERNATIONAL CRIMINAL~~

[Arrest with a view to extradition]

FORM No. 1

ENDER: U.S.NATIONAL CENTRAL BUREAU INTERPOL	DATE: October 9, 1985 NCB REFERENCE NO. [redacted] b, c
DDRESSEE: NTERNATIONAL CRIMINAL POLICE RGANIZATION - INTERPOL ENERAL SECRETARIAT 6 RUE ARMENGAUD .P. 205 2212 SAINT CLOUD RANCE	CAUTION: THIS PERSON IS CONSIDERED VIOLENT ☐ INFECTIOUS ☐ MENTALLY ILL ☐ SUICIDAL ☐ ADDICTED TO DRUGS ☐ ARMED ☐ OTHER ☐ (EXPLAIN IN ITEM NO.24)

. PRESENT FAMILY NAME (1): RICH

FAMILY NAME AT BIRTH (1):
(PREVIOUS FAMILY NAME[S]) REICH

. FORENAME[S]/GIVEN NAME[S](1): MARC

. ALSO KNOWN AS:(ALIASES, NICKNAMES, ETC.)
(SPECIFY IF USING A PERSONS REAL IDENTITY)

. SEX: MALE ☒ FEMALE ☐

. DATE OF BIRTH:
(DAY, MONTH(WRITE IN FULL),YEAR) [redacted]

. PLACE OF BIRTH:
(TOWN, COUNTRY) Belgium

THER'S FAMILY NAME AND FORENAME[S]/GIVEN NAME[S]: DAVID RICH

. MOTHER'S MAIDEN NAME AND FORENAME[S]/GIVEN NAME[S]:
PAULA WANG

. NATIONALITY: UNITED STATES/AMERICAN (ALSO SPANISH)

(1) WHERE APPLICABLE, QUOTE THE CHINESE COMMERCIAL CODE TRANSCRIPTION

EXHIBIT
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11. RESULT OF NATIONALITY CHECK: VERIFIED ☐ NOT VERIFIED ☐

RESULT OF IDENTITY CHECK: VERIFIED ☐ NOT VERIFIED ☐

3. OCCUPATION:
(INDICATE ALL KNOWN SKILLS OR PROFESSIONAL TRAINING)
COMMODITIES TRADER/ BUSINESSMAN

4. AREAS/PLACES FREQUENTED OR COUNTRIES HE/SHE MAY VISIT:

ZUG, SWITZERLAND; MADRID, SPAIN; TEL AVIV, ISRAEL; ABU DHABI

5. PHOTOGRAPHED (DATE): 1983 PASSPORT
(ATTACH TWO COPIES) 1984 MAGAZINE

6. FINGERPRINTED: ☐ YES (ATTACH TO COPIES) ☒ NO

7. IDENTITY DOCUMENTS (PASSPORT, IDENTITY CARD, ETC.):

	TYPE	NO.	DATE AND PLACE OF ISSUE
1.	Passport	[redacted]	Switzerland
2.	Passport	[redacted]	Spain
3.	Passport	[redacted]	Spain
4.	Identity Card	[redacted]	Israel
5.	Passport	[redacted]	U.S.

8. DESCRIPTION:
(AS FULL AS POSSIBLE) HEIGHT 177.8 CMS BUILD/WEIGHT 81 KGS

HAIR BLACK EYES BROWN

DISTINGUISHING MARKS: SLIGHT RED MARK ON LEFT CHECK
(SCARS, TATTOOS, DEFORMITIES, AMPUTATIONS, SPECTACLES, ETC.)

9. CHARACTERISTICS:
(BEARING, GAIT, SPEECH, MANNERISMS, HABITS, ETC.)

2

0. LANGUAGES SPOKEN:
(USUAL) (OTHERS)
ENGLISH RENCH, SPANISH

REASON FOR NOTICE:
WANTED ON ARREST WARRANT[S] NO[S] W321531799
(OR COURT DECISION[S])

ISSUED ON: (DAY) 19 (MONTH IN FULL) September (YEAR) 1983

BY JUDICIAL AUTHORITIES IN: TOWN/DISTRICT Southern Judicial District of New York

COUNTRY United States

FOR: (TYPE OF OFFENCE)
Wire Fraud; Mail Fraud; Income Tax Evasion
Racketeering; Racketeering Conspiracy;
Trading with the Enemy.

---

2. SUMMARY OF FACTS OF THE CASE:

DATE/PERIOD 1980-1981

PLACE New York, New York, USA

MODUS OPERANDI The subject, in conspiracy with others devised a scheme to defraud the United States of income taxes by concealing in excess of $100 million in taxable income generated by the firm INTERNATIONAL, LTD., most of which was generated through the subject's violations of Federal energy laws and regulations. The scheme enabled INTERNATIONAL to evade in excess of $48 million in taxes for the years 1980 and 1981. To carry out the scheme, $71 million in domestic profits of INTERNATIONAL were diverted by wire transfers to foreign bank accounts of wholly-owned subsidiaries of third party companies.

---

3. ACCOMPLICE[S]:

NAME GREEN, Pincus NOTICE YES [X] NO [ ] NO. _____

NAME _____ NOTICE YES [ ] NO [ ] NO. _____

NAME _____ NOTICE YES [ ] NO [ ] NO. _____

MAXIMUM PENALTY POSSIBLE

325 YEARS' IMPRISONMENT AND/OR $100 MILLION US FORFEITURE AND/OR FINES

PENALTY IMPOSED (IF ALREADY CONVICTED)

3

24. REMARKS: (e.g. PREVIOUS CRIMINAL ACTIVITY, ETC.)

25. EXTRADITION WILL BE REQUESTED:

A) ANYWHERE IN THE WORLD (1) WITH THE EXCEPTION OF

B) IN (CONTINENT) (1) WITH THE EXCEPTION OF

C) IN ANY OF THE FOLLOWING COUNTRIES (1)

D) From any country having an extradition treaty with the United States covering the crimes specified.

26. IF FOUND, PLEASE DETAIN:

A) ANYWHERE IN THE WORLD (1) WITH THE EXCEPTION OF

B) IN (CONTINENT) (1) WITH THE EXCEPTION OF

C) IN ANY OF THE FOLLOWING COUNTRIES (1)

D) In any country having an extradition treaty with the United States covering the crimes specified.

- IF FOUND IN ANY OTHER COUNTRY, PLEASE KEEP A WATCH ON HIS MOVEMENTS AND ACTIVITIES. (1)

- IN EITHER CASE INFORM: (ADDRESS OF REQUESTING NCB)

U.S. NCB - INTERPOL
Department of Justice
Washington, D.C. 20530

AND ALSO THE I.C.P.O. - INTERPOL GENERAL SECRETARIAT,
26 RUE ARMENGAUD, 92210 SAINT CLOUD (INTERPOL PARIS S.G.)

Richard C. Stiener
SIGNATURE
(HEAD OF NCB)

(1) DELETE ITEMS NOT APPLICABLE

4

060592 1637
OO [redacted] d
INFORM [redacted] d
..
OUR REFERENCE: [redacted] b, c

ASF - NO
********** C R I T I C A L U R G E N T **********

YOUR REFERENCE: NR 1207/12 DATED 06/04/92

CONCERNING RICH, F/N MARC DAVID, BORN [redacted] IN BELGIUM (U.S. NATIONAL), SUBJECT OF INTERPOL INTERNATIONAL RED NOTICE FILE NUMBER 5031/87, CONTROL NUMBER A-147/4/1987, WANTED IN THE UNITED STATES FOR FRAUD.

THE FOLLOWING MESSAGE IS FORWARDED TO YOU FROM THE OFFICE OF INTERNATIONAL AFFAIRS, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE, WHICH COORDINATES ALL EXTRADITIONS TO AND FROM THE UNITED STATES.

THIS MESSAGE IS TO CONFIRM THE CONVERSATION BETWEEN MARY JO GROTENRATH, ASSOCIATE DIRECTOR, OFFICE OF INTERNATIONAL AFFAIRS, AND BORIS SENCHUKOV, INTERPOL [redacted] OF 06 MAY 1992. d

AN AMERICAN CITIZEN TRAVELING THROUGH MOSCOW SHEREMETYEVO II INTERNATIONAL AIRPORT ON 5 MAY 1992 NOTICED IN THE AIRPORT ARRIVAL AREA A SIGN WELCOMING MARC RICH. WE REQUEST YOUR ASSISTANCE IN DETERMINING WHETHER OR NOT RICH HAS BEEN LOCATED IN MOSCOW.

WE APPRECIATE YOUR COOPERATION IN THIS MATTER.

SIGNED: GEORGE W. PROCTOR, DIRECTOR, OFFICE OF INTERNATIONAL AFFAIRS, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE, BY MARY JO GROTENRATH, ASSOCIATE DIRECTOR, TELEPHONE NUMBER 1-202-514-0041.

END OF TEXT.

YOUR ASSISTANCE IN THIS MOST URGENT MATTER IS GREATLY APPRECIATED. BEST REGARDS.

IN ANY REPLY, PLEASE QUOTE: [redacted] b, c

FOR POLICE COURT/USE ONLY
INTERPOL WASHINGTON



INTERNATIONAL CRIMINAL POLICE ORGANIZATION
INTERPOL
UNITED STATES OF AMERICA

□ COMMUNICATIONS:
TELEPHONE 202-272-8383
TELEX 64329
NLETS DCINTEROO
PHOTOFAX 202-272-8148
FACSIMILE 202-272-5941

□ ADDRESS
INTERPOL—WASHINGTON
NATIONAL CENTRAL Bureau
BICENTENNIAL BLDG., ROOM 600
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

CABLE

TO: NCB in [redacted] d

FROM: Darrell W. Mills
Chief, INTERPOL-USNCB

REFERENCE: 3148/91/PK; Your Communication to INTERPOL-USNCB Dated 9/21/91

In your referenced communication, you inquired about Finnish citizen, [redacted]art in this investigation. I apologize for a
the delay in responding but there were a number of individuals from several agencies involved in this matter and it took several days to gather all the necessary information.

We now determine that the first contact by the United States with [redacted] was on September 17, 1991 when he called FBI a
Headquarters asking to be contacted by an FBI agent concerning a Mr. Rich. The individual who received the call determined that there was a pending investigation on Marc Rich in the New York office of the FBI. He contacted the supervisor who instructed the investigative agent to return [redacted] phone call. Contact was a
made at approximately 9:00 p.m. [redacted] by the FBI agent. [redacted] indicated that Marc Rich was to be involved in the a
purchase of a large portion of stock in the company "Neste" and that he and other Finnish citizens were concerned because of Rich's reputation for being connected with illegal activities in the past. [redacted] said that he was aware that the United States had a warrant a
outstanding for Rich and that he had information that Rich would be travelling to Finland and Portugal. [redacted] requested that the agent a
call him back following day, September 18th and that he would provide Rich's itinerary.

The FBI agent advised his U.S. Marshal counterpart, also in New York, of the telephone call and on September 18th, both called [redacted] who said that he had been in contact with another Finnish a

EXHIBIT
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citizen named [redacted] who was in London working in the "Neste" deal. [redacted] also said that he was working with the newspaper reporter and that he and the reporter were going to the Helsinki Airport on Friday morning to look for the jet that Rich normally travelled on.

On the same date, September 18th, the Deputy U.S. Marshal called the Office of International Affairs, United States Department of Justice, which is the office that handles international legal matters, including extraditions. The purpose of the call was to request through the appropriate channels that Rich be arrested and extradited to the United States. The Office of International Affairs asked the USNCB to relay the request for assistance which was done by facsimile on September 19, 1991. Unfortunately, this communication did not provide the background which was the basis to believe that Rich might travel to Finland.

Most of this activity occurred outside normal business hours when experienced investigative agents were not physically present. However, due to the sensitivity and the urgency of this matter, our normal procedures were not followed resulting in this misunderstanding. There was no attempt on the part of the USNCB or any of our associates to circumvent the normal process or to infringe upon the sovereignty of our Finnish colleagues.

Again, we apologize for this misunderstanding and can assure you that appropriate measures have been taken to ensure that a similar situation does not occur in the future.

Best Copy Available

Msg: 92_09_01_20_34_56_A1_Msg_05562 Line: 03 Hdr: 001

**INP
ZCZC WASHIN 062 010992 2041
PP [redacted] d
..
OUR REFERENCE: 84-03-03617/CAF

REFERENCE IS MADE TO YOUR MESSAGE NUMBER NR 2384 DATED 11 JUNE 1992 CONCERNING RICH FN MARC DAVID, BORN [redacted] IN ANTWERP, BELGIUM (U. S. NATIONAL).

THE FBI HAS RECEIVED RELIABLE INFORMATION THAT RICH WILL TRAVEL TO MOSCOW ON OR ABOUT SEPTEMBER 6, 1992, FOR MEETINGS IN MOSCOW ON SEPTEMBER 7, 1992, POSSIBLY UNTIL SEPTEMBER 11, 1992. HE WILL REPORTEDLY STAY AT THE METROPOLE HOTEL IN MOSCOW.

d INTERPOL [redacted] IS REQUESTED TO CONTACT APPROPRIATE OFFICIALS TO ASCERTAIN IF RICH REGISTERS AT THE METROPOLE HOTEL ON OR ABOUT SEPTEMBER 6, 1992. IT IS NOTED RICH MAY REGISTER UNDER A FICTITIOUS NAME AT THE HOTEL SO USE OF HIS PHOTOGRAPH LEFT WITH d INTERPOL [redacted] DURING JUNE OF 1992 WILL BE ESSENTIAL.

CONTACT HAS BEEN MADE WITH THE OFFICE OF INTERNATIONAL AFFAIRS, U. S. DEPARTMENT OF JUSTICE, TO INSURE A PROVISIONAL ARREST WARRANT IS IN PLACE SHOULD SUBJECT APPEAR IN MOSCOW.

RICH SHOULD BE CONSIDERED ARMED AND DANGEROUS BECAUSE HE ALLEGEDLY TRAVELS WITH ARMED BODY GUARDS AND MAY UTILIZE, IN ADDITION TO HIS OWN PERSONAL STAFF, HIRED UNIFORMED PRIVATE ARMED SECURITY GUARDS WHO REPORTEDLY TRAVEL WITH RICH IN A MOTORCADE THROUGH THE STREETS.

d INTERPOL [redacted] IS REQUESTED TO BRING THE ABOVE INFORMATION TO THE ATTENTION OF [redacted] SENIOR SPECIAL OFFICER OF THE NATIONAL BUREAU OF INTERPOL. REGARDS. END.

IN ANY REPLY, PLEASE QUOTE: [redacted] b, c

FOR POLICE COURT/USE ONLY
INTERPOL WASHINGTON

NNNN

Time: 01 Sep 92 20:56:49 EDT
Connect Time: 249 Seconds

EXHIBIT 20

Best Copy Available

Rich is also the subject of Interpol International [redacted][1]

On March 27, 1992, U.S. Attorney for the SDNY, the Office of International Affairs (OIA), through Interpol channels, requested the assistance of Interpol [redacted] in relaying a message to the independent Republic of Tajikistan, a former Soviet Republic. We informed them that we had information that Rich was to allegedly meet with the prime minister of Tajikistan, in Dushanbe, on or about April 2, 1992. Because Tajikistan is not presently a member of Interpol, the USNCB asked the assistance of Interpol [redacted] in relaying a U.S. request for expulsion or deportation in the event that Rich attempted to enter Tajikistan.

In an exchange of several messages with Interpol [redacted] the Russian government agreed to assist in every way possible. In fact, Interpol [redacted] dispatched a senior officer directly to Dushanbe, carrying the United States provisional arrest request, to assist on our behalf. It was later learned by Russian investigators that Rich was scheduled to attend the meeting in Dushanbe; however, the meeting was canceled by the Tajik Party due to "instability in social-political situation in Republic." Interpol [redacted] has discussed with OIA the possibility

(*) [redacted]

[1] Rich and his co-defendant Pincus Green have been the subject of numerous Congressional inquiries and at least one hearing sponsored by Congressman Wise inquiring into [redacted] to apprehend these fugitives.

(*) Final Enforcement Confi Meth

EXHIBIT 21

INTERNATIONAL CRIMINAL POLICE ORGANIZATION
INTERPOL
U.S. NATIONAL CENTRAL BUREAU

TELEFAX - TRANSMITTAL SHEET

PRIORITY: URGENT

DATE: 21 February 92 PAGES TRANSMITTED (TOTAL): 2

TO (NAME): (1) Headquarters, USMS; Attention: Deputy Chief Don Ward
ORGANIZATION: (2) Office of International Affairs; Attention: Mary Jo Grotenrath

YOUR FAX#: YOUR PHONE#:

YOUR REFERENCE:

SUBJECT(S) NAME: RICH, Marc David

DATE OF BIRTH: [redacted]
PLACE OF BIRTH: Belgium
ALIAS(ES):

FROM: Donald S. Donovan, Assistant Chief
INTERPOL/USNCB CASE#: [redacted] b, c

MESSAGE/INSTRUCTION: Attached is an URGENT message from Interpol [redacted] d regarding the above captioned subject and our most recent request for provisional arrest in Czechoslovakia. Please advise, if necessary, any proposed response to their message. Regards.

OPERATOR'S INITIALS:

U. S. DEPARTMENT OF JUSTICE
INTERPOL - USNCB
WASHINGTON, DC 20530

TELEPHONE NO: (202) 272-8383 (FTS 272-8383)
TELEFAX NO : (202) 272-594[illegible]
PHOTOFAX NO : (202) 272-81[illegible]
NLETS ORI: DC1[illegible]

EXHIBIT 22

URGENT

Best Copy Available

WASHINGTON REF. [redacted] b, c

[illegible] REF. P/S-0044/E/IV.92

SUBJ. ==RICH== F/N MARC DAVID, US NATIONAL, BORN [redacted]

SUBJECT OF INTERPOL INTERNATIONAL RED NOTICE FILE NO. 5031/87,

CONTROL NO. A 167/4/1987 WANTED FOR FRAUD.

OUR CRIMINAL POLICE HAVE FOUND OUT THE ABOVE SUBJECT SET UP

BRANCH OF THE 'MARC RICH' COMPANY AT ADDRESS AS FOLLOWS:

STEPANSKA 34, PRAGUE 1/CZECHOSLOVAKIA. ROOMS WHERE THE BRANCH

RESIDES ARE OWNED BY THE 'METALIMEX A.S.' COMPANY (SHARE COMPANY

THE METALIMEX A.S. KEEPS BUSINESS CONTACTS WITH THE ABOVE

==RICH== THE 'MARC RICH' COMPANY IS REPRESENTED BY CERTAIN ING.

==SMUTNY== AND CERTAIN ING. ==ZABUKROSKY==. BUSINESS LINKS AND

COMMUNICATION BETWEEN THE ABOVE RICH'S BRANCH IN PRAGUE AND

'MARC RICH' COMPANY RESIDING AT ZUG/SWITZERLAND IS CARRIED OUT

THROUGH RICH'S REPRESENTATIVES MOSTLY A CERTAIN ==GREEN== FINLAY

[illegible] FOUND OUT IN A BUSINESS MEETING [illegible]

[illegible]

[illegible] SUPPOSED [illegible]

FORFEITURE OF BAILS WITH VIEW OF EXTRADITION. BY INFORMING YOU

THE NECESSARY MEASURES HAVE BEEN TAKEN TO ARREST HIM IN CASE HE

ARRIVES IN [illegible]

THANK YOU FOR YOUR [illegible]

REGARDS.

11

Identifiers on Mr. Marc Rich per Interpol advisement on November 19, 1991, Mr. Joe Ferguson.

Marc Rich
[redacted]

[redacted]
POB BELGIUM
New York State Drivers License no. [redacted]

HT. 5' 9" or 5 '10" WT 178 LBS.

BROWN EYES
BLACK HAIR

INTERPOL ADDRESS Suite 600, 600 E STREET NW WASHINGTON, D.C.
CURRENTLY RED NOTICE STATUS.
INTERPOL CASE NO. 84 03-03617
Donald Donavan currently case agent.

Donavan advises that there are several Provisional Arrest Warrants out for the countries of France, Portugal and Norway.
On November 22, 1991, Ms. Joan Oliver, Consulate Officer, Department of State advises in response to the fax memorandum on the citizenship status of Marc Rich is that he is still a U.S. citizen as defined by the Secretary of State. She further advised that a written response would be forth coming confirming her telcon message.

000317

EXHIBIT
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MILGRIM THOMAJAN & LEE P.C.

53 WALL STREET
NEW YORK, NEW YORK 10005-2815
(212) 858-1000
FACSIMILE: (212) 858-1500
TELEX: 666784
CABLE: MILAW NYK

February 27, 1992

WRITER'S DIRECT D.I.A.
(212) 858-1250

BY FACSIMILE and MAIL

Kenneth Gubin, Esq.
Chief Counsel
United States Mint
633 - 3rd Street, N.W.
Washington, D.C. 20220

Dear Mr. Gubin:

We have reviewed with our client, Clarendon Ltd., your letter of February 10, 1992, requesting information to assist the Mint in future "responsibility" determinations. As you correctly state, there is no current contract between the Mint and Clarendon, nor are there any bids by Clarendon pending. Moreover, Clarendon does not intend to participate in bid or contract opportunities with the Mint in the foreseeable future. Accordingly, there appears to be no need to pursue the matters raised in your letter.

We understand your interest in avoiding problems that could arise in the future regarding document and information requests under the short time periods available to the Mint for awarding contracts. Therefore, you can be assured that your office will receive notice well in advance in the event Clarendon should have an interest in submitting a bid on future Mint contracts.

Sincerely,

David P. Langlois

DPL/ggk

EXHIBIT
24

United States Department of Agriculture
Commodity Credit Corporation
P.O. Box 2415
Washington, D.C. 20013

SEP 29 1989

Robert Thomajan, Esq.
Milgrim Thomajan & Lee P.C.
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036-5405

Dear Mr. Thomajan:

Subject: Suspension of Marc Rich and Richco Grain, Ltd. from Participation in Programs of the Commodity Credit Corporation

This letter is to notify you and your client, Richco Grain Ltd. (Richco), that the Commodity Credit Corporation (CCC), an agency of the United States Department of Agriculture, has determined to suspend Marc Rich, Pincus Green, from contracting with or otherwise participating in programs administered or financed by CCC. Furthermore, CCC has determined to suspend Richco from contracting with or otherwise participating in programs administered or financed by CCC until a pending investigation is concluded to determine whether Marc Rich or Pincus Green individually or jointly control or have the ability to control Richco. These actions are being taken pursuant to applicable federal regulations, 7 C.F.R. Part 1407, incorporating 48 C.F.R. 409.403 et seq. and 9.400 et seq. in order to protect the interests of the United States and not as punishment. These suspensions are effective as of the date of this letter.

From information supplied by Richco and other sources, CCC has found the following:

1. Rich and Green are currently fugitives of the United States.

2. Rich and Green have been indicted in the United States for a scheme to defraud the United States Government.

3. Richco represents that Rich owns 3000 shares of stock and Green owns 1095 shares of stock of the approximately 8100 shares of stock issued by Richco.

4. As majority stockholders, Rich and Green have the authority to call a meeting of the General

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Assembly of Richco and assert control over the company, including firing the Board of Directors.

Regulations published at 7 C.F.R. Part 1407 authorize the Executive Vice President, CCC, or a designee, to suspend or debar persons or entities from contracting with the CCC or participating in programs it finances or administers.

On the basis of the information cited above, I have determined that there is cause for suspending Rich and Green from contracting with CCC or otherwise participating in programs administered or financed by CCC. This suspension includes all CCC-administered or CCC-financed programs, including but not limited to the Export Enhancement Program; the GSM-102 and GSM-103 programs; and any other export sale, credit, or credit guarantee program administered pursuant to the CCC Charter Act (15 U.S.C. 714 et seq.). The effect of this suspension is that, during the period of suspension, CCC will not permit Rich or Green to participate in the above-mentioned programs, either directly or indirectly. This suspension will last as long as the fraud indictment against Rich and Green remains unresolved.

I have also determined that this suspension will apply to Richco because there is reason to believe that Richco is an affiliate of Rich and Green, as defined by 48 C.F.R. 9.403. The suspension of Richco will last until the pending investigation into the relationship between Richco and its majority stockholders, Rich and Green is concluded.

Within thirty (30) days after receipt of this notice, Rich or Richco may submit, in person, in writing or through a representative, information and argument in opposition to this suspension, including any additional specific information that raises a genuine dispute over the material facts underlying the cause for this suspension. Such submissions should be addressed to the Executive Vice-President, Commodity Credit Corporation, Room 3086, USDA South Building, Washington, D.C. 20250.

Sincerely,

R. E. Anderson, Jr.
Vice President
Commodit, Credit Corporation

JAN GLICKMAN, KANSAS
CHAIRMAN
TIMOTHY J. PENNY, MINNESOTA
VICE CHAIRMAN
JILL L. LONG, INDIANA
GLENN ENGLISH, OKLAHOMA
DAVID R. NAGLE, IOWA
TIM JOHNSON, SOUTH DAKOTA
COLLIN C. PETERSON, MINNESOTA
HAROLD L. VOLKMER, MISSOURI
BILL SARPALIUS, TEXAS
CHARLES ROSE, NORTH CAROLINA
JIM OLIN, VIRGINIA
E. (KIKA) DE LA GARZA, TEXAS
EX OFFICIO MEMBER
CRAIG FRAZIER
STAFF DIRECTOR

U.S. House of Representatives
Committee on Agriculture
Subcommittee on Wheat, Soybeans, and Feed Grains
Room 1301, Longworth House Office Building
Washington, DC 20515

RON MARLENEE, MONTANA
RANKING MINORITY
PAT ROBERTS, KANSAS
SID MORRISON, WASHINGTON
ROBERT F. (BOB) SMITH
DAVE CAMP, MICHIGAN
BILL BARRETT, NEBRASKA
JIM NUSSLE, IOWA
TOM COLEMAN, MISSOURI
EX OFFICIO MEMBER
CLIFF HUMPHREY
MINORITY CONSULTANT

March 4, 1992

President George Bush
The White House
Washington, D.C. 20500

Dear Mr. President:

During your 1988 campaign you repeatedly promised the American people an Administration above even the appearance of impropriety. Under your watch, however, two such episodes exist which threaten to undermine your promise to the American people.

In 1989, my Subcommittee revealed that Mr. Marc Rich, through his company, Richco Grain, Inc., was participating in the Department of Agriculture's Export Enhancement Program. Marc Rich, notorious for being the largest tax evader in U.S. history and indicted for trading with the enemy during the Iranian hostage crisis fled to Zug, Switzerland to avoid prosecution and to this day continues to be a fugitive from justice.

The Department of Agriculture, realizing the cloud that Rich's participation cast over the Export Enhancement Program, suspended Richco Grain. It made the right choice. But to ensure that Rich and his companies are permanently excluded from this program, the Department must succeed in debarring them.

While investigating Rich's participation in the Export Enhancement Program, I discovered that another company associated with him, Clarendon Ltd., was, and still is, selling metal to the U.S. Mint. According to The Wall Street Journal of February 28, 1992, Clarendon has won $45.5 million in U.S. Mint contracts since 1988. Ironically, other government agencies have chosen not to deal with Rich or his companies for a simple but important reason: He is a fugitive from justice.

In the same article, Rep. Wise, the Chairman of the Subcommittee on Government Information, Justice, and Agriculture, who has been actively investigating Marc Rich's activities with our government stated, "Every time I reach into my pocket for some change, I have to wonder if there is a little bit of Marc Rich in there." This accurately describes my sense of uneasiness

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and alarm over Rich's involvement with the Treasury Department. How ironic it is that the largest tax evader in U.S. history supplies taxpayers the metal for their coins.

Because of your promises of an Administration above the appearance of impropriety, I would have expected an Administration eager to show leadership in establishing precedents on moral standards. Not only has it failed, in the case of Rich, to do so, it has not even kept pace with others in our society.

For example, in an effort to restore Salomon Brothers' reputation and integrity after the firm's implication in manipulating the treasury bond market, its Chairman, Warren Buffet, recently decided to cut all ties with Clarendon. He explained that it is not "appropriate to do business with a fugitive from justice." Rather than taking the lead or even following the example of the private sector in deciding that Rich's participation "will not stand," the Administration continues to enrich him with more government contracts.

In short, the Administration's inaction will not and should not stand with the American people. Rich's participation in legitimate government activities highlight, if not define, the Administration's abysmal record of punishing white collar criminals.

I ask you to intervene in this matter to suspend and permanently debar Rich's companies from all activity with the U.S. government until he is brought to justice. By not doing so, you send a direct message to all other white collar criminals: The government rewards, not punishes, the very worst offenders.

Recommit yourself to your pledge of propriety in government operations by shutting out Marc Rich; he deserves all the trouble our government can give him. Equally deserving are the American people of a leader willing to bend backwards to take a moral stand on issues such as this one.

With best personal regards, I am

Sincerely,

DAN GLICKMAN, Chairman
Wheat, Soybeans, and
Feed Grains Subcommittee

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL PROCUREMENT POLICY

RECEIVED
ASA-FO
1992 APR 27 P 2:43

APR 20 1992

John Kratzke - Action
John Okay
Larry Wilson } FYI
C 4/27

Honorable Charles R. Hilty
Assistant Secretary for Administration
Department of Agriculture
14th Street and Independence Avenue, SW
Washington, DC 20250

Dear Mr. Hilty:

Congressman Glickman has sought assistance from the Executive branch regarding Marc Rich and his participation through an alleged affiliate, Richco Grain, Inc., in the Agriculture Department's Export Enhancement Program. Congressman Glickman urges that Rich's companies be suspended and debarred from all activity with the Government until he is brought to justice.

I share the general concerns expressed by Congressman Glickman. At a February 18, 1992 hearing held by Congressman Wise, Chairman of the Government Information, Justice, and Agriculture Subcommittee of the House Committee on Government Operations, I emphasized our commitment to a procurement process which ensures that the Government does business only with contractors who have a satisfactory record of business integrity and ethics. That hearing was held as the result of alleged actions by Rich through another alleged affiliate, Clarendon Ltd., and its contracts with the United States Mint. Questions posed by the Mint to Clarendon regarding whether it is, in fact, affiliated with Rich have remained unanswered.

I request that you review this matter and take action, if warranted, to see that no new contracts are awarded to Richco Grain. I made a similar request to the Acting Director of the Mint regarding its business with Clarendon. To protect further the public's interest, I have already asked the General Services Administration (GSA) -- in connection with a follow-up inquiry by Chairman Wise -- to alert contracting activities on its electronic Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs that Marc Rich may be attempting to obtain Federal contracts through affiliates. I also plan to alert the Inter-Agency Suspension and Debarment Coordinating Committee of this electronic notice.

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I am enclosing for your information a copy of Congressman Glickman's correspondence and my response. I am also providing a copy of my February 18, 1992 testimony, Chairman Wise's inquiry and my response, my letter to the Mint, and my request to GSA. Should you have any questions, please contact me at 395-5802 or William Coleman of my staff at 395-3501. Thank you in advance for your cooperation.

Sincerely,

Allan V. Burman

Allan V. Burman
Administrator

Enclosures

DEPARTMENT OF THE TREASURY
WASHINGTON

205-DPW

FAC SPECIAL ENFORCEMENT REPORT

MEMORANDUM FOR PETER K. NUNEZ
ASSISTANT SECRETARY
(ENFORCEMENT)

THROUGH: JOHN P. SIMPSON
DEPUTY ASSISTANT SECRETARY
(REGULATORY, TARIFF & TRADE ENFORCEMENT)

FROM: R. RICHARD NEWCOMB
DIRECTOR
OFFICE OF FOREIGN ASSETS CONTROL

SUBJECT: FAC Blocks 2.5 Million Dollars of Tax Fugitive Marc Rich from Cuban Sugar Sale.

A telephone inquiry to FAC's Compliance area led to an October 23rd voluntary disclosure by American Express Bank that its branch in London had paid funds to Marc Rich & Co., Ltd. in violation of the Cuban Assets Control Regulations. Apparently without the initial knowledge of AmEx/London, a letter of credit which it had confirmed turned out to cover the sale of Cuban sugar to Egypt by the Rich company in the U.K. Marc Rich, owner of the company, is a U.S. citizen and fugitive. Despite the fact that documents presented under the credit had indicated a Cuban interest in the sugar, AmEx staff paid a sight draft to Rich on October 1 in the amount of $1.35 million. The bank created an acceptance for an additional $2.5 million to mature on November 18.

On November 13, FAC issued a directive license to American Express Bank instructing it to deposit the $2.5 million owed to Rich under the acceptance into a blocked interest-bearing account in New York. That has now been done by American Express. The FAC Enforcement Division is taking steps to proceed with criminal prosecution of Marc Rich for violating the Trading With the Enemy Act--an extraditable offense.

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000022

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

27 DEC 1995

FAC No. C-147177

Dear Mr. Fink:

This responds to your letter of September 19, 1995, requesting a license to authorize American Express Bank Ltd., London Branch ("AXB") to unblock funds in the amount of USD $2,522,520.00, plus any interest thereon (jointly, the "Funds"), and the subsequent letter of Mr. Weiss providing additional information regarding the subject of your letter. The Funds were blocked by AXB pursuant to the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the "Regulations") and represent payment for an export of sugar from Cuba to Egypt by Marc Rich and Co., Ltd. (succeeded by Glencore (U.K.), Ltd.).

Pursuant to § 515.201 the Regulations, transactions by persons subject to U.S. jurisdiction involving any property of, or any property in which Cuba, its nationals, a person in Cuba, or a Specially Designated National of Cuba has an interest, is prohibited and such property is thus blocked.

The Funds constitute an interest in property which is blocked by the Regulations. In this case, based on the information available to this Office, it would be contrary to current U.S. Government policy to authorize AXB to unblock the Funds. Accordingly, your request therefor, on behalf of Glencore (U.K.), Ltd., is hereby denied.

Sincerely,

R. Richard Newcomb
Director
Office of Foreign Assets Control

Robert F. Fink, Esq.
Piper and Marbury, L.L.P.
53 Wall Street
New York, NY 10005-2899

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LICENSE REQUEST

CUBA

Fac No. C- 142449/143210
Lic. C-17306

TRANSACTION: **Return** $917,722.00 to Venezuelan state-owned company, with a don't do it again letter.

FACTS:
Maraven, a 100% owned affiliate of the Venezuelan state oil company, Petroleos de Venezuela, sold oil to Marc Rich for which Marc Rich paid in advance; between the time of the contract and the delivery, the price of oil dropped, and Maraven owed Marc Rich a US $917,722 reimbursement for the overpayment. In its payment instructions to Bank of New York, Maraven referenced Cuba, so BONY blocked the funds.

While Maraven believes that Marc Rich intended to sell the oil to Cuba, the payment in question was not for the oil sale, but for the adjustment of the contract price between the Swiss and Venezuelan companies.

CRITERIA:

1) No Cuban interest in the funds. The blocked money was reimbursement for an over-payment between the Venezuelan and Swiss companies. The funds never belonged to a Cuban entity or to a US person.

2) The State Department supports the unblocking of the funds because "Since Cuba does not have a direct interest in the blocked transaction, which involves a Venezuelan and a Swiss company, there would appear to be no grounds for continuing to block the funds transfer."

License to return the funds to the remitter recommended, with a "don't do it again" letter.

J Kerrigan
1/3/95

JK 1/3/95



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, December 26, 2000 12:19 PM
To: 'Jack Quinn'
Cc: 'Mike Green'
Subject: Scooter

Marc thought it made sense to call Scooter to see if he could be helpful, knowing he might not be able to be helpful but that he would never do anything that hurt Marc. I agreed and raised it with Mike Green. Mike is concerned that Scooter would want to help but would feel he had to raise the matter with the ethics committee on the transition and it would get caught up there, and we would effectively be bringing it to the attention of a number of people who might not be helpful.
Assuming (and it is a good assumption) that Scooter would want to be helpful but would err on the side of raising it with any ethics committee in place, does it pay to call him anyway?
Bob



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Thursday, February 10, 2000 10:29 AM
To: 'azulrich@[redacted]
Subject: RE:

As for your inquire about what they meant in the letter about a willingness to negotiate Marc's surrender, that is not necessarily intended to be a facetious comment. I have had "discussions" about this in the past. At those times the office offered to do a variety of things, none of which are necessarily still on the table. First, I was told at one point that they would drop the RICO charge if we wanted if Marc came in. They would also agree in advance on bail, etc. so that he would not be incarcerated pending trial (although he would have to surrender his passport). They also said they would meet with the lawyers, professors, etc and do a full review before proceeding to a trial to make sure that upon careful examination they stood on the strength of their case. But they were not willing to do the full examination while Marc remained off shore and could simply turn down the best deal available after all of the work. Said differently, they were willing to negotiate if they knew that, one way or the other, the matter would be resolved either at the bargaining table or at trial.
The only other alternative offered was to simply plea to one or more felony counts, and they (Otto) were open to discussion on this issue.
As for your other question, to the best of my knowledge, other than the negative answer, all other matters remain the same.
I will let you know when I know more.
Best regards, Bob

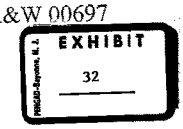
-----Original Message-----
From: Avner Azulay [redacted]
Sent: Thursday, February 10, 2000 10:00 AM
To: Fink, Robert - NY
Subject: Re:

I am not exactly surprised. I foresaw this answer from the moment I read JQ's ltr.I hate to say that "I told you so"..I was surprised by JQ's optimistic report. Although he was quite careful in pointing out the pending problems. MR sent me a copy of the answer.Do I read correctly the para that says that they are willing to negotiate his "surrender"??Do we have an idea on what is there to negotiate ? was this discussed in the past? The present impasse leaves us with only one other option:the unconventional approach which has not yet been
tried and which I have been proposing all along.Other than the negative answer from the DOJ-NYSD- all aother factors remain the same.What do you say ? regards-Avner

Fink, Robert - NY wrote:

> We received a negative response to our overture from Shira. She said her
> office will not negotiate while Marc is away, and that the DoJ agrees. JQ
> was surprised and disappointed that the DoJ had agreed even though he had
> not heard from Eric. He called Eric who said that he had not seen the letter
> and JQ faxed it to him. JQ hopes to speak to him later today (and I have a
> call into JQ as a reminder). I told Marc earlier today but had hoped to
> know Eric's position before I did so at least I could give him the whole
> picture. I will speak to you tomorrow if you call and give you a full
> update, although there is not much more to say. Let me know if you want me
> to fax a copy of their letter, and if so, where and when.
> Disappointed in New York, Bob
> _____
> The e-mail address and domain name of the sender changed on November 1, 1999. Please update your records.
>
> The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system.
> Thank you.
> _____

PMR&W 00697



M. RICH FILES

CONFIDENTIEL

CONFIDENTIAL

BACKGROUND
MEMORANDUM

THE MARC RICH CASE

December _, 1997

INTRODUCTION

For well over a decade, Marc Rich has been under indictment by United States authorities. He has lived in exile and his travel has been severely restricted because of outstanding United States Government ("USG") extradition requests. While Marc Rich professes his innocence and is bitter because of the manner in which he has been treated, throughout this period he has nonetheless engaged in numerous humanitarian and philanthropic activities. Over the years, Marc Rich has been particularly receptive and responsive to requests to help the Government of Israel ("GOI"). He has lent his support to the GOI on a number of occasions and has stepped in when many others were reluctant to do so. For this reason, and many others, the GOI undertook a confidential initiative with USG authorities to help resolve or at least ameliorate Marc Rich's impasse with USG authorities. Along these lines, in recognition of Marc Rich's past support, a personal situation which is considered unjust and unwarranted, and because an important role was envisaged for Rich in connection with the Peace Process, several years ago the GOI initiated a confidential approach to U.S. authorities in order to see whether the harshness of Rich's situation could be relieved. In turn, it was anticipated that Rich could then play an important role in the economic development of the region, thereby helping to solidify the Peace Process.

While some progress was made, roadblocks were also confronted. With the change of administrations in Israel, however, all efforts to address the Rich situation were ceased, pending a reassessment of the manner to proceed given the state of the Peace Process and relations between the USG and GOI. While, in the interim, Marc Rich has continued to play a limited role in constructive Middle-East activities, given his personal constraints, there continues to exist a desire to address his situation and his possible role in Middle-East business and economic development activities.

I. FACTUAL BACKGROUND

A. General

As of 1980, Marc Rich and Pincus Green were well known for developing one of the world's most successful commodities trading companies, with annual multi-billion dollar sales. This



achievement was heralded as a true American success story in which personal talent and hard work led to enormous accomplishment. Rich came to the United States as a child from Belgium, fleeing Nazi persecution. Rich's and Green's efforts revolutionized international trading in several commodities, including oil and aluminum. In the early 1970s, for example, Rich was instrumental in the development of the "spot market" in crude oil.

Rich, Green and others set up their own firm in 1974, Marc Rich AG ("AG"), a Swiss company. In 1978, AG formed a Swiss subsidiary, Marc Rich International, with offices in New York, to focus on international commodities trading. Marc Rich International was sold and renamed Clarendon in 1983. In 1993, Rich resigned as chairman of AG and passed control of the company to its employees. Prior to that time, Green had retired from AG. Rich and Green currently reside in Switzerland. Both have also obtained Israeli citizenship.

B. The U.S. Legal Situation

1. Factual Background

During the 1970s, as part of the U.S. Government ("USG") response to high inflation rates and the oil crisis, an elaborate array of statutes and regulations were promulgated to control oil prices. Under the Emergency Petroleum Allocation Act of 1973, price controls on all crude oil produced in, or imported into, the U.S. were established and the U.S. Department of Energy ("DOE") limited the price that could be charged for domestic crude oil. Oil and oil-trading companies in the United States and around the world, including Marc Rich International, were affected by these laws and regulations. These regulations had a very limited life, since they were phased out in the late 1970s and were ended in January 1981 by President Reagan.

These laws and the DOE regulations that implemented them established an extremely complicated pricing structure for oil, differentiating between three different classifications of crude oil. Price regulations applied to old oil (crude oil from a well at or below a 1972 level of production) and to new oil (defined as crude oil pumping in excess of the 1973 production level or crude oil discovered since 1973). Price regulations did not apply to stripper oil (crude oil from well producing an average of less than ten barrels a day).

International trading companies, such as Marc Rich International, often resold crude oil, matching buyers and sellers. As part of the USG control regime, DOE issued regulations limiting resellers' average monthly profits by assigning to each reseller a DOE-calculated "permissible average markup" ("PAM"), derived from historical profit margins. Calculating a PAM was a tedious and time-consuming process and companies new to the resale business were free of these limits until DOE could determine an appropriate PAM. Marc Rich International was one of several of these new resellers. After a lengthy study, DOE determined that, as of September 1, 1980, new resellers could have a PAM of twenty (20) cents per barrel.

2. The Indictment

In September 1983, a criminal indictment of AG, Marc Rich International, Rich, Green and another individual was filed by the U.S. Attorney for the Southern District of New York. A new indictment was filed in March 1984 against the same parties. The counts in the indictment included allegations of tax evasion, conspiracy, mail fraud, wire fraud, racketeering (using the RICO statute),[1] and violations of the Trading with the Enemy Act for allegedly dealing in oil with Iran during the hostage crisis. The alleged tax evasion was the core of the indictment. The indictment alleged that the parties had evaded more than $48 million in U.S. taxes through an elaborate mechanism of oil trading and profit shifting. The alleged motivation for this scheme was to circumvent the twenty cents a barrel PAM assigned to Marc Rich International.

Essentially, the USG alleged that the parties engaged in a scheme to sell old oil, which was subject to price controls, as stripper oil, which was sold at much higher world market prices. The USG alleged that this scheme was implemented through a series of sham transactions between Marc Rich International and two small Texas oil companies. The USG also alleged that unreported profits of as much as $100 million were realized and that much of this profit was secretly moved out of the U.S. and paid to AG.

The indicted parties have consistently taken the position that the tax treatment of the payments to AG was proper and that the Iranian transactions were undertaken by a foreign corporation exempt from U.S. regulations. Furthermore, the propriety of the tax treatment of the payments to AG was also confirmed by the independent analyses of two of the nation's leading academic tax experts, who have asserted that the USG probably could not have won a civil tax case, let alone a criminal tax case, based on the allegations that have been made.

Following the indictment, the USG put extreme pressure on Rich and Green, who fled the country because of concerns that they would not be viewed in a fair and objective fashion in what was certain to be a highly publicized trial. The USG requested the extradition of Rich and Green from Switzerland; however, the Swiss Government refused the request as incompatible with Swiss law and the terms of the U.S.-Swiss extradition treaty. The assets of Marc Rich International, which had been sold and renamed Clarendon during this period, were frozen. A fine of $50,000 a day was levied on AG and Marc Rich International by the U.S. court in connection with discovery disputes which raised serious questions under Swiss law. Clarendon's business was essentially interrupted and many U.S. employees lost their jobs. Under the circumstances, a settlement seemed to be the most reasonable way for both sides to bring the matter to conclusion, while still preserving the company.

[1] Following the indictment, the USG recognized the misuse of RICO in tax fraud cases and issued guidance explicitly stating that tax offenses are not predicates for RICO offenses.

3. Settlement with AG and Clarendon

In October 1984, to save the ongoing business entities, AG and Clarendon entered into a plea agreement which fully settled the case against these companies. Under the terms of the plea agreement, AG and Clarendon pleaded guilty to civil charges of making false statements and tax evasion and paid approximately $200 million in back taxes, fines and foregone tax deductions. In return, the USG lifted a freeze placed on the assets of AG and Clarendon and removed all other restrictions on the companies' ability to do business in the U.S. In addition to the payments to the USG, AG also paid $130 million to 14 banks to repay money borrowed by Clarendon prior to the freezing of its assets.

4. Marc Rich/Pincus Green Current Status

The original criminal indictment against Rich and Green remains in effect. While settlement discussions between attorneys for Rich and Green and the USG have occurred periodically over the past decade, these discussions have not come to fruition. As a result of international extradition requests submitted by the USG to the governments of a number of countries, including Israel, the freedom of movement of Rich and Green has been restricted. Both the Government of Switzerland + Spain and the GOI, however, refused to act upon these requests, asserting that the relevant bilateral treaties of extradition do not support their extradition. Israel's position in this respect was transmitted through a letter from the Attorney General of Israel to the United States Department of Justice.

II. MARC RICH'S ASSISTANCE TO ISRAEL

For nearly twenty years, Marc Rich has been assisting Israel and Jewish communities all over the world through a number of methods. Most instrumental has been the Rich Foundation, a non-profit organization, established in 1988 by Marc Rich and his family to support and enhance educational, social, cultural and artistic life in Jewish Diaspora communities. A sister organization, the Doron Foundation, was established in 1981 to promote similar goals in Israel. A description of the Rich and Doron Foundations is attached under Tab 1.

As indicated in Tab 1, the initiation of the post-Madrid Conference Peace Process motivated the Foundations to also engage in humanitarian and other joint projects intended to promote better relations between Israel and its Palestinian neighbors. For one example of a Rich Foundation project along these lines (a grant to the American Jewish Joint Distribution Committee for a Palestinian health project), see copies of exchange of letters attached under Tab 2.

In the same vein, Rich was instrumental in 1984, when the relationship between Egypt and Israel suffered a serious blow as a result of the Ras Burqa terrorist incident, which was followed by a diplomatic crisis, resulting from Israeli families' monetary claims that Egypt could not satisfy. The USG attempted to assist the parties to find a solution, but the gap between the Israeli demands and the Egyptian capabilities was too wide to bridge. Rich managed to resolve the crisis, thereby helping both the U.S., Egypt and Israel. As part of the resolution that Rich achieved, he contributed $400,000 to a special fund, which was used by Egypt to compensate the Israeli families. See a copy

of a chapter from Leonard Garment's book, "Crazy Rhythm," describing the incident and Rich's role in resolving it, attached under Tab 3. See also a copy of a letter written by Ossama El Baz, thanking Marc Rich, attached under Tab 4. Over the years, Rich has also been instrumental in assisting the Israeli intelligence community in a variety of matters.

III. RECENT ACTIVITY REGARDING RICH AND GREEN

In the beginning of 1995, after a number of world Jewish leaders were unsuccessfully approached confidentially by the highest levels of the GOI, Marc Rich offered the GOI assistance in fostering the peace process through the development of an economic infrastructure that would include a private investment bank and other initiatives for investments in joint projects involving Israel, Jordan and the Palestinian autonomy. These ideas were also discussed by Marc Rich's representatives with Ahmed Qurie (Abu Ala), the then Palestinian Minister of Economy and Trade. See a copy of the minutes of the meeting attached under Tab 5. While Rich was always positive to Israeli requests from the outset, he explained that his ability to act in connection with the peace initiative was severely limited because his freedom of movement in countries outside Switzerland and Israel was limited by the U.S. requests.

While GOI authorities recognized the sensitivities associated with the Rich case, they nonetheless believed that it was important to help address his situation, both for humanitarian reasons and because of the importance of attempting to have him engaged in economic activities in the Middle East and, in particular, in projects that could foster joint Israeli-Arab business activity. Given Rich's ties to the oil world, he was considered particularly suited to this task. As a result, an initiative was begun to address his situation with U.S. authorities.

As an initial step, the Embassy's counsel, Melvin Rishe, conducted a preliminary, informal consultation in May 1995 with Mark Richard of the U.S. Department of Justice ("DOJ"). Based on information provided by Richard and subsequently confirmed at the highest levels of the DOJ, the GOI was told that, while the DOJ's enforcement objectives would not justify such an arrangement, other political considerations might influence the manner by which the DOJ would treat the Rich case. Specifically, the GOI was told that the DOJ would give serious consideration to a statement by the State Department or the White House that the United States had an interest in allowing Israel to obtain the active participation of Rich in a Middle East Initiative. Essentially, the message then communicated was that there was a possibility of considering some amelioration of the U.S. attitude toward Rich if there was a "sponsor" in the Administration that believed a greater cause would be served by finding a solution to the Rich problem.

Based on these informal consultations, a briefing paper to be used by GOI officials in discussions with the State Department was developed, which included (1) a summary of the business concept discussed with Rich; (2) a description of Rich's freedom of movement problem; and (3) a request that the State Department inform the DOJ that the U.S. had an interest in allowing Israel to obtain the active participation of Rich in the contemplated business initiative and, for that purpose, to continue the government-to-government discussions with the DOJ. (A copy of this briefing paper is attached under Tab 6.)

During July 1995, the then Director General of the Foreign Ministry, Uri Savir, provided a copy of this briefing paper to Ambassador Dennis Ross, with a request that the State Department endorse the ideas presented in this paper. A couple of months later, Ambassador Ross told Director General Savir that, after checking the request, Ross concluded that this matter was a "hot potato" and, therefore, he decided not to get involved and that the matter should not be pursued.

Upon being informed of this reaction, Foreign Minister Peres, who was vigorously promoting joint economic projects, instructed the Israeli Ambassador to the U.S., Itamar Rabinovich, to pursue the matter further with the State Department. Moreover, Foreign Minister Peres himself met with Ambassador Ross and with the then U.S. Ambassador to Israel, Martin Indyk, and requested that, because he supported strongly the involvement of Rich, as reflected in the Briefing Paper, the State Department should consider favorably the GOI requests. While Ross was non-responsive at that time, Ambassador Indyk during August 1995 recommended to Foreign Minister Peres that the contacts in this matter be pursued in Washington, D.C. by a high-level Israeli diplomat and that the right person at the State Department to contact was the Deputy Legal Advisor, Jonathan Schwartz.

During September 1995, Ambassador Rabinovich called Dennis Ross to follow up on his discussion with Mr. Peres. At that time, Ross conveyed to Rabinovich the same "hot potato" message that had been previously provided to Savir and confirmed that Schwartz would be the focal point for the Department of State in considering this matter with the Israeli Embassy. In early October 1995, the Israeli Ambassador discussed this matter with Schwartz and essentially told Schwartz that the GOI wanted to understand the reasons why the State Department was resistant to considering the Rich matter. Schwartz said he would get a sense of the matter from cognizant officials and thereafter discuss the matter further. To follow through with this activity, Ambassador Rabinovich then arranged for a follow-on meeting between the Embassy's legal adviser, Rishe, and Schwartz.

The contemplated meeting took place on October 27, 1995. This meeting, as well as subsequent discussions, uncovered the reasons for Ambassador Ross' concerns. On the one hand, he was skeptical that Rich was really serious about investing in the region's economy. On the other hand, he was also concerned about potential allegations that the administration was interfering with law enforcement objectives for political purposes and the possibility of being embarrassed by a disclosure that some kind of deal was made with Rich. While these concerns were not minimized, GOI officials believed that these problems were not insurmountable, especially since the State Department became involved in the process only because of a DOJ suggestion. Moreover, in numerous informal discussions that continued throughout this time, the DOJ continued to express its receptivity to a discussion regarding the feasibility of doing something, if the overall U.S. interest warranted an accommodation.

Through further informal discussions with Schwartz at the State Department in mid-November 1995, the GOI learned that Ambassador Ross' opposition was firm, probably because of his reluctance to get personally involved in a politically-sensitive situation. The people at the Near East Bureau, on the other hand, who shared Ross' opposition to a State Department involvement, were less concerned with the risks involved. Rather, they were much more optimistic about the

ability of the USG and the GOI to bring in other investors to participate in the economic plans for the Middle East that were being considered. Therefore, they thought that Peres' efforts to enlist Rich, which would involve some political risk, was unnecessary.

After the assassination of Yitzhak Rabin, when Shimon Peres became the Prime Minister, his enthusiasm for the Rich project did not diminish. As the Prime Minister, however, his order of priorities changed, specifically as the Israeli elections were approaching. Thus, in early 1996, the contacts between the GOI and the USG in this regard subdued.

During the time that has passed since these contacts were put on hold, the expectations of the State Department that investments in the West Bank and Gaza Strip from other sources would be available have been frustrated completely. While both the USG and the GOI continue to consider investments in West Bank and Gaza economic projects an important supplement to promoting both security and peace, the decline to near halt of such investments should make the Rich initiative even more attractive than it should have been in the past.

IV. THE CONTINUED INTEREST IN RESOLVING THE MARC RICH SITUATION

There appears to be a consensus that the raising of the quality of life and initiation of economic projects in the West Bank and Gaza would contribute directly to the stability in the region, and hence to the security of Israel. Unfortunately, since the initiation of the Peace Process, not only did the prospects for attaining such goals not improve, but they have deteriorated drastically. There has been much talking and many papers have been drafted; however, the private financial and industrial community has declined to invest in the region. Given the inherent uncertainties of the Israeli-Palestinian Peace Process, it is quite natural that private investors, who are motivated by pure market considerations, should hesitate before getting involved in the volatile Middle East environment.

In these circumstances, the readiness of Marc Rich to invest time, money and energy in developing the economic infrastructure of the region should be considered an asset by both Israel, the Palestinian and the U.S. In fact, it was envisioned, and it is reasonable to assume, that Marc Rich will bring much more than his own resources to the project. It was always envisioned that, if the Rich situation with the U.S. could be resolved or ameliorated, he would spearhead an effort to enlist worldwide financial support for projects from individuals who he is in a unique position to approach, not only within the Jewish world, but well beyond.

In addition, of course, there is a human element to the Rich situation which has been ignored and completely disregarded by U.S. authorities. Rich's fugitive status has been made into a cause celebre, making reasonable compromises and resolutions in the past near impossible. No element of flexibility or mercy has been evidenced, to the extent that, when his daughter was on her death bed in a U.S. hospital, U.S. authorities refused his and her last wish to see each other.

Objective analyses of the Rich case have always questioned the strength of the U.S. case against Rich. Nevertheless, Rich, understandably, has been reluctant to subject himself to a trial in

the U.S., knowing that the system does not always ensure justice. At the same time, he has communicated his willingness to entertain a reasonable resolution and contribute to society as recompense, even though he believes that he has done no wrong.

Years have passed and it is clear that the status quo will not change because of the persistence of some U.S. officials to treat Rich as a fugitive. That being the case, GOI officials in the past saw reason to try and change the status quo so as to take advantage of a very unique individual who demonstrated in the past that he could change the world.

Through these GOI efforts, a significant amount of attention was devoted to examining the risks involved. At the same time, many of the individuals who closely reviewed the details of the proposed approach concluded that, if the sensitivities involved are addressed appropriately, all parties could benefit. Thus, if an agreed solution is successfully negotiated, the DOJ would finally close a file that has been open for some 15 years, thus promoting its law enforcement goals. The Palestinians could be the direct beneficiaries of substantial economic support, and Israel's security would automatically gain from the enhanced Palestinian economic development. Finally, the U.S. Administration and State Department would benefit from such an arrangement, due to the U.S. overall interest in promoting security and stability in the Middle East.

10

ARNOLD & PORTER
555 TWELFTH STREET, N.W.
WASHINGTON, D.C. 20004-1202
FACSIMILE: [redacted]

NEW YORK
DENVER
LOS ANGELES
LONDON

PRIVILEGED & CONFIDENTIAL

July 21, 1999

Mr. Marc Rich
Marc Rich & Co Holding GMBH
[redacted]
Switzerland

c/o Robert F. Fink, Esq.
Piper & Marbury, L.L.P.
1251 Avenue of the Americas
29th Floor
New York, New York 10020-1104

Dear Mr. Rich:

We are very pleased that Marc Rich has engaged Arnold & Porter (the "Firm") to provide legal services and in connection with Mr. Rich's potential negotiations and/or communications with the Department of Justice. The purpose of this letter is to set forth our mutual understanding as to the basis on which our fees and related expenses will be charged with respect to this matter.

1. Fee Calculation. The Firm will charge Marc Rich for the professional services of Jack Quinn and Kathleen Behan at a minimum rate of $55,000 per month, inclusive of all attorneys' fees. If the combined fees of Ms. Behan and Mr. Quinn for any month (calculated at normal and customary hourly billing rates) substantially exceed $55,000, Mr. Rich and Arnold & Porter agree to reconsider this fee arrangement, although any adjustment in this fee will be by mutual consent only. You should be aware that our customary hourly rates are reviewed at least annually and may be modified to reflect changes in our cost structure.

EXHIBIT
34

A0507

2. Retainer. Mr. Rich agrees to pay a six-month initial retainer, as of the date of this agreement, from which fees and costs will be drawn, of $330,000.00. In the event that the representation exceeds six months, Mr. Rich will pay additional advance retainers for each six-month period so long as the representation shall continue in effect. To the extent the representation is terminated prior to the exhaustion of any six-month retainer, any unused monthly retainer fees for those whole months after termination of the representation will be returned to Mr. Rich, following the deduction of any outstanding costs or other disbursements.

3. Reimbursement for Expenses. In performing this engagement, we will inevitably make disbursements and incur other internal charges on your behalf. We will bill you at cost for charges paid to third parties, and charges for internal services will be billed at the Firm's usual and customary rates for such services.

If, in the course of the engagement it is necessary for the Firm to arrange for the services of other outside counsel, experts, or consultants, or to incur other major expenses on your behalf, subject to advance approval, we will arrange to have the charges for such services or items billed directly to Mr. Rich, in care of Robert F. Fink, Esq., unless other arrangements are agreed to between us.

4. Statements for Fees and Expenses. On the schedule indicated above, the Firm will send you a statement covering our fee charges and expenses. All such statements shall be due and payable within 30 days following your receipt of them.

5. Waiver. Arnold & Porter is a large firm, with offices in four United States cities and in foreign countries. Our practice is broadly based and covers many areas of both domestic and international law. The very size of the firm has created situations where work for one client in a narrow area has barred other lawyers from pursuing major matters, unrelated to the first matter.

In order to avoid the potential for this kind of restriction on our practice, we request an advance agreement that Arnold & Porter will not be disqualified from representing interests adverse to Marc Rich in matters that are not substantially related to the matters on which Arnold & Porter has been retained by Marc Rich. This waiver is not intended to, and would not, permit Arnold & Porter to represent interests directly adverse to Marc Rich in matters that are substantially related to the work done for Marc Rich. Nor is it intended that there be, and there would not be, any waiver of your right not to have confidences or secrets that you transmit to Arnold & Porter disclosed to any third party or used against you. We would, of course, hold such information that you provide to us in strict confidence.

Accordingly, we request Marc Rich's agreement that it will not raise any objection to Arnold & Porter's representation of other clients on the basis of Marc Rich's retention of Arnold & Porter with respect to matters on which our advice has been or will be sought, and Marc Rich consents to and waives any objection to Arnold & Porter's representation of other clients, unless the other representation involved Arnold & Porter in representing an interest directly adverse to that of Marc Rich on matters that are substantially related to those on which Arnold & Porter represents Marc Rich. To the extent Arnold & Porter takes on a representation adverse to Mr. Rich, it will inform him in advance, provide him with the right to terminate the representation, and will seek parallel waivers from the adverse party.

This will confirm our understanding that Marc Rich is our client for the specific matters on which he engages us, and we shall not be deemed to represent any affiliated corporations unless Marc Rich advises us that such entities are directly involved in or affected by our representation of Marc Rich.

If you have any questions about understandings as described above, please let us know.

* * * *

If the terms of the engagement are acceptable to you, I would appreciate it if you would sign and return to me the enclosed copy of this letter, evidencing Marc Rich 's agreement to these terms.

ARNOLD & PORTER

Once again, let me say how pleased we are that you have engaged Arnold & Porter in this matter.

Sincerely yours,

ARNOLD & PORTER

Kathleen A. Behan, Esq.

ACCEPTED AND AGREED TO:

MARC RICH

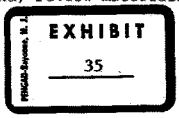
Dated: 22. 7. 99

January 16, 2001 Invoice # 849299

Legal Services:

(15280.002)
DOJ Negotiations

Name	Date	Hours	Narrative
Kathleen Anne Behan	01/18/00	5.25	Attend meeting regarding M. Rich.
Kathleen Anne Behan	01/19/00	0.50	Calls regarding M. Rich.
Kathleen Anne Behan	01/20/00	1.25	Telephone calls and review of documents.
Kathleen Anne Behan	01/25/00	1.50	Calls to R. Fink and J. Quinn.
Kathleen Anne Behan	01/26/00	0.25	Telephone calls.
Craig A. Stewart	01/27/00	0.25	Telephone conference with R. Fink [redacted] telephone conference with R. Rice re same; e-mail to K. Behan re same.
Craig A. Stewart	01/28/00	2.75	Review letter to USAO forwarded by K. Behan; lunch conference with R. Fink re background to matter; telephone conference with K. Behan re letter and status of matter.
Kathleen Anne Behan	02/05/00	0.50	Telephone calls and letter.
Kathleen Anne Behan	02/10/00	0.50	Telephone calls with R. Fink and J. Quinn; participate in conference call.
Kathleen Anne Behan	02/11/00	0.50	Draft and review letter.
Kathleen Anne Behan	02/12/00	0.25	Telephone call regarding matter.
Kathleen Anne Behan	02/14/00	0.75	Telephone calls regarding matter.
Kathleen Anne Behan	02/16/00	0.25	Telephone calls.
Kathleen Anne Behan	02/17/00	1.25	Telephone calls regarding matter.
Kathleen Anne Behan	02/18/00	1.00	Telephone calls regarding matter.
Kathleen Anne Behan	02/22/00	1.75	Review of materials to prepare for talking points.
Craig A. Stewart	02/23/00	0.25	Telephone conference with K. Behan re: status of matter [redacted]
Kathleen Anne Behan	02/23/00	5.75	Review of materials and preparation of talking points.
Kathleen Anne Behan	02/25/00	1.00	Review documents.
Kathleen Anne Behan	11/16/00	4.00	Teleconference on M. Rich matter and work on petition for pardon.
Kathleen Anne Behan	11/17/00	2.25	Work of M. Rich petition for pardon.
Kathleen Anne Behan	11/18/00	3.00	Work on pardon petition for M. Rich.
Kathleen Anne Behan	11/20/00	1.00	Discuss with R. Fink, J. Quinn on M. Rich matter; collect materials for pardon petition.
Kathleen Anne Behan	11/21/00	3.00	Meeting on M. Rich matter; calls to J. Quinn regarding same.
Kathleen Anne Behan	11/22/00	1.00	Calls on M. Rich matter with client, J. Quinn; review material.
Christopher D. Man	11/27/00	0.50	Meeting with K. Behan regarding background; review materials.



A0513

January 16, 2001 Invoice # 849299

Name	Date	Hours	Narrative
Christopher D. Man	11/28/00	1.00	Review background documents, discuss with K. Behan.
Kathleen Anne Behan	11/28/00	1.00	M. Rich pardon petition.
Christopher D. Man	11/29/00	4.75	Meeting with K. Behan, R. Fink; call with M. Hepworth regarding pardon position; review background materials, begin research.
Kathleen Anne Behan	11/29/00	8.25	Meeting on M. Rich pardon petition and work on petition; meeting with R. Fink, J. Quinn and M. Green.
Christopher D. Man	11/30/00	13.50	Research pardons, discuss with K. Behan and M. Hepworth.
Kathleen Anne Behan	11/30/00	2.00	Work on Marc Rich pardon petition.
Richard W. Palmer	11/30/00	0.50	Search for availability of pardon information for Chris Man.
Christopher D. Man	12/01/00	7.00	Research for pardon application; draft-edit pardon application; discuss with K. Behan, R. Fink.
Kathleen Anne Behan	12/01/00	3.25	Work on M. Rich pardon petition.
Kathleen Anne Behan	12/02/00	0.75	Review of Rich pardon petition.
Christopher D. Man	12/03/00	2.50	Research for pardon application.
Christopher D. Man	12/04/00	0.50	Research for pardon application.
Kathleen Anne Behan	12/04/00	7.50	Work on Marc Rich pardon petition.
Christopher D. Man	12/05/00	2.50	Meeting with K. Behan, R. Fink regarding pardon application; call with pardon attorneys' office regarding research; research pardon issues.
Kathleen Anne Behan	12/05/00	11.25	Meeting with Bob Fink and work on M. Rich pardon petition; review materials regarding same.
Christopher D. Man	12/06/00	0.25	Meeting with K. Behan regarding pardon application.
Christopher D. Man	12/07/00	2.00	Edit pardon application; research [redacted]
Kathleen Anne Behan	12/07/00	8.50	Work on Marc Rich pardon petition.
Jason E. Christ	12/08/00	7.00	Legal Assistant Services for Kathleen Behan; organizing, photocopying and creating binders for the petition to pardon.
Cayce N. Wolfe	12/08/00	7.75	Legal Assistant Services for K. Behan. Assemble binder to accompany petition.
Kathleen Anne Behan	12/08/00	6.50	Work on Marc Rich pardon petition.
Jason E. Christ	12/09/00	7.00	Legal Assistant Services for Kathleen Behan; organizing and, photocopying and creating physical materials for the petition to pardon.
Cayce N. Wolfe	12/09/00	8.00	Legal Assistant Services for K. Behan. Assemble exhibits and binder to accompany petition.
Jason E. Christ	12/10/00	10.00	Legal Assistant Services for Kathleen Behan; organizing and, photocopying and

January 16, 2001 Invoice # 849295

Name	Date	Hours	Narrative
			creating physical materials for the petition to pardon, cite checking and printing from Westlaw.
Christopher D. Man	12/10/00	0.25	Assist D. Brown in locating documents for pardon petition.
Cayce N. Wolfe	12/10/00	10.50	Legal Assistant Services for K. Behan. Assemble exhibits and binder to accompany petition.
Kathleen Anne Behan	12/10/00	7.25	Work on Marc Rich pardon petition.
Jason E. Christ	12/11/00	3.50	Legal Assistant Services for Kathleen Behan; organizing, photocopying and creating physical materials for the petition to pardon.
Cayce N. Wolfe	12/11/00	6.25	Legal Assistant Services for K. Behan. Assemble exhibits and binder to accompany petition.
Kathleen Anne Behan	12/11/00	5.75	Work on Marc Rich pardon petition.
Kathleen Anne Behan	12/19/00	0.50	Electronic communications on M. Rich matter and phone calls.
Kathleen Anne Behan	12/24/00	0.25	E-mail on M. Rich matter.
Kathleen Anne Behan	12/25/00	0.25	E-mails on M. Rich matter.
Kathleen Anne Behan	12/26/00	0.25	E-mails on M. Rich matter.
Kathleen Anne Behan	12/27/00	0.25	E-mails on M. Rich matter.
Subtotal:		198.50	
Support staff total:		51.75	
Total Hours		250.25	
TOTAL FEES		50,133.75	

February 23, 2001 Invoice # 855329

Legal Services:

(15280.002)
DOJ Negotiations

Name	Date	Hours	Narrative
Kathleen Anne Behan	11/08/00	0.25	Call on Marc Rich.
Kathleen Anne Behan	11/09/00	3.25	Meetings on M. Rich matter with B. Fink.
Kathleen Anne Behan	11/10/00	2.00	Prepare strategy-task list for M. Rich review materials.
Kathleen Anne Behan	01/09/01	1.25	Marc Rich pardon matters.
Kathleen Anne Behan	01/10/01	0.50	Marc Rich pardon issues.
Kathleen Anne Behan	01/11/01	0.50	Marc Rich pardon issues.
Kathleen Anne Behan	01/15/01	2.00	Marc Rich pardon matter.
Kathleen Anne Behan	01/16/01	2.50	Work on Marc Rich pardon matter.
Kathleen Anne Behan	01/17/01	3.50	Calls and meeting on Marc Rich; meeting with Quinn; [redacted]
Kathleen Anne Behan	01/18/01	4.00	Calls and work on Marc Rich pardon matter; draft [redacted]
Kathleen Anne Behan	01/19/01	4.50	Work on Marc Rich matter; calls; discussion of strategy; calls with J. Quinn.
Kathleen Anne Behan	01/20/01	1.75	Calls on Marc Rich.



JQuinn@[redacted] on 12/25/2000 01:45:29 PM

To: richfnd@[redacted] JQuinn@[redacted]
cc: robert.fink@[redacted] Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted], marc.rich@[redacted]

Subject: Re: Fw: peres

I agree. I am leaving for Colorado tommorow. Have been in touch with WH counsel who are reviewing the matter and will speak to POTUS again after the lawyers have given him a read on our papers. My number in Colo is[redacted]. Let's have a call either wed or, if sooner is advisable, tues morning before I leave. My home is[redacted]. I leave here shortly after noon est. I genuinely believe we have pushed every button and effectively communicated every argument, but I am sure that among us we can always come up with one more idea. He certainly knows now how deeply a number of us feel about the justice of our plea. The greatest danger lies with the lawyers. I have worked them hard and I am hopeful that E. Holder will be helpful to us. But we can expect some outreach to NY. In any case, let's meet by phone. Meanwhile, happy holidays to all and best wishes for a new year that is peaceful in big ways and small.

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)



A0844



JQuinn@[redacted] on 12/27/2000 08:14:35 PM

To: azulrich@[redacted], JQuinn@[redacted], robert.fink@[redacted]
cc: marc.rich@[redacted], Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]

Subject: RE: Chuck Shumer

CS was not as helpful to HRC as she was to him. There may be some feelings about this -- else I wouldn't be aware of it. worry that we have no idea how CS will react. We shd contact him only if we have a VERY, VERY solid contact who can speak to him in the greatest confidence and we will then no doubt have to brief him very carefully. If we have no such close connection, I would be wary of this approach and I have to believe that the contact with HRC can happen without him -- after all, we are not looking for a public show of support from her.

-----Original Message-----
From: Avner
To: quinn jack; Fink, Robert - NY
Cc: Rich, Marc; behan kathleen
Sent: 12/27/00 8:26 AM
Subject: Chuck Shumer

I have been advised that HRC shall feel more at ease if she is joined by her elder senator of NY who also represents the jewish population.The private request from DR shall not be sufficient.It seems that this shall be a pre requisite from her formal position.
All senators are meeting on Jan 3rd. and then shall take off.
Bob, can you check with Gershon which is the best way to get him involved.I shall check with Abe.
rgds-AA



robert.fink@[redacted] on 01/02/2001 01:05:38 PM

To: azulrich@[redacted]
cc: jquinn@[redacted], Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]

Subject: RE: update

As far as I know he gets them but his Blackberry does not work there so he has to dial into the office for them and he may actually be on the slopes with his family. I have a call into his office to find out his whereabouts and will call or email you with the information. I have not heard from him in response to your last emails either.
bob

> -----Original Message-----
> From: Avner Azulay [SMTP:azulrich[redacted]
> Sent: Tuesday, January 02, 2001 12:42 PM
> To: robert.fink[redacted];
> JQuinn[redacted]; kathleen_Behan[redacted];
> richfnde[redacted]
> Subject: update
> > I would like to know if JQ rcvd my last emails - and if there are any
> comments.
> > I met today with A. Burg (The Speaker of the House). He shall see if he
> can recruit Israel Singer, Edgar Bronfman and Elie Wiesel.He is leaving
> for NY this wknd and shall be meeting potus in the IPF .He doesn't have
> a private seance with him,but shall see if he can use the opportunity.
> > Has anyone an idea how to reach VernonJ.?
> > You should know that MR spoke with DR. Her impression-from Beth is that
> HRC shall try to be protective of her husband and stay out of potential
> trouble.

The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system.
Thank you.

For more information about Piper Marbury Rudnick & Wolfe, please visit us at http://www.piperrudnick.com/

Sent: Saturday, December 30, 2000 3:47 PM
To: 'Avner Azulay '
Subject: RE:

Same to you and your group, but I have a bone to pick with you. I am on holiday and reading Murder in the name of God and find it very disturbing and it make me mad. Do I have to finish it? I ready to say the hell with those people.
Still have a good new year.
Oh one more thing. Jack asks if you could get Leah Rabin to call the President; Jack said he was a real big supporter of her husband. He also thinks HRC will hear about this anyway and still wants to contact her. I will call him today in Colorado and go over what DR said. All the best for all of you.
Bob and Margie

-----Original Message-----
From: Avner Azulay
To: Fink, Robert - NY
Sent: 12/28/00 4:18 PM
Subject: Re:

Bob, happy 2001 to you Margie & the rest of the tribe.
----- Original Message -----
From: Fink, Robert - NY <robert.fink@[redacted]
To: 'Avner Azulay' <azulrich@[redacted]
Cc: 'Marc Rich' <marc.rich@[redacted]
Sent: Thursday, December 28, 2000 9:11 PM

> I spoke to DR who was adamantly against the proposal. She is convinced
it
> would be viewed badly by the recipient. Nothing good will come of the
> overture even with a good word from anyone in NY.
> She said she is convinced of this and so is her friend who has
advised
DR
> not to discuss it in front of HRC.
> I spoke to MR both before the call and in the middle of this email and
he
> now agrees we should do nothing on this topic.
> I am going to Vermont tonight and hope to stay until Monday.
> If I do not speak to you have a happy, healthy new year.
> Bob
>

> The information contained in this communication may be confidential,
is
intended only for the use of the recipient named above, and may be
legally
privileged. If the reader of this message is not the intended
recipient,
you are hereby notified that any dissemination, distribution, or copying
of
this communication, or any of its contents, is strictly prohibited. If
you
have received this communication in error, please re-send this
communication
to the sender and delete the original message and any copy of it from
your
computer system.
> Thank you.
>
> For more information about Piper Marbury Rudnick & Wolfe, please visit
us
at http://www.piperrudnick.com/
>

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Monday, January 01, 2001 2:55 PM
To: 'Jack Quinn '
Subject: RE:

Let's discuss on Tuesday, when at least I will be back in the office. If you perfer to talk today, Monday, I am at home. [redacted]. Hope all is well, with you and the family. Happy New Year. Bob

-----Original Message-----
From: Jack Quinn
To: 'Fink, Robert - NY '
Sent: 12/31/00 1:02 AM
Subject: RE:

it's a tough call, no doubt. I just think that HE will know the calculation you mention and therefore she will become aware it is pending.
if this is right, do we want her to hear about it first in that way or from
someone (assuming we have someone) who can put it to her in the context we
need?

-----Original Message-----
From: Fink, Robert - NY
To: 'Jack Quinn '
Sent: 12/30/00 3:40 PM
Subject: RE:

I just scrolled down to this email so I guess I know the answer to my last
question, but I cannot help but think they are right. She has something to
lose and little to gain and may not want anything which will affect her new
position. I will try to call later if you do not mind.
Bob

-----Original Message-----
From: Jack Quinn
To: 'Fink, Robert - NY '
Sent: 12/28/00 6:46 PM
Subject: RE:

I think the friend is naive to think this will not be discussed in front of
her.

-----Original Message-----
From: Fink, Robert - NY
To: 'Jack Quinn'
Sent: 12/28/00 3:24 PM
Subject: FW:

I am forwarding this to you in case we do not speak. Have a good vacation.
bob

> -----Original Message-----
> From: Fink, Robert - NY
> Sent: Thursday, December 28, 2000 2:12 PM
> To: 'Avner Azulay'
> Cc: 'Marc Rich'
> Subject:
>

PMR&W 00097

it
> would be viewed badly by the recipient. Nothing good will come of the
> overture even with a good word from anyone in NY.
> She said she is convinced of this and so is her friend who has
advised
> DR not to discuss it in front of HRC.
> I spoke to MR both before the call and in the middle of this email and
he
> now agrees we should do nothing on this topic.
> I am going to Vermont tonight and hope to stay until Monday.
> If I do not speak to you have a happy, healthy new year.
> Bob

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Jack Quinn

From: Jack Quinn
Sent: Thursday, February 03, 2000 2:53 PM
To: 'Fink, Robert - NY'
Cc: Marta Zometsky
Subject: RE:

[redacted] not that i'm concerned, but did marc decide to renew the retainer? i've not heard anything.

[redacted] REDACTED [redacted]

The e-mail address and domain name of the sender changed on November 1, 1999. Please update your records.

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Thank you.



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Monday, February 28, 2000 11:37 AM
To: 'Rich, Marc'
Subject: RE: Update February 28,2000

REDACTED

-----Original Message-----
From: Rich, Marc [SMTP:marc.rich@[redacted]
Sent: Monday, February 28, 2000 5:51 AM
To: 'Fink, Robert - NY'; Rich, Marc
Cc: 'Avner Azulay'
Subject: RE: Update

Dear Bob,

Your last message was your email of February 17th. Are there any further thoughts from Jack?

Best regards

Marc

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@[redacted]
Sent: Donnerstag, 17. Februar 2000 18:03
To: 'Marc Rich'
Cc: 'Avner Azulay'
Subject: Update

I spoke with Jack later yesterday and we have a conference call scheduled for tomorrow morning with Kitty.
He agrees (subject to further discussion) with trying to have Eric help us meet with the tax lawyers in Main Justice (and maybe the head of the criminal division) to see if the professors can convince the chief government tax lawyers that this was a bad tax case. He also agrees that such a conclusion would be useful for many purposes including going back to the SDNY.
Similarly, he agrees we should make something of the fact that the office was dealing with fugitives (who surrendered this week) in connection with the Russian money laundering case, while insisting that they can't deal with

PMR&W 00720

EXHIBIT
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Still, he wants to give Eric a short list of what is wrong with the indictment as he agreed to do that. He feels we can do both.
We will prepare something and I will let you know how tomorrow goes.
I have only recently spoken to Jack, Gershon and Kitty on this issue and all agree that we should try to approach the DoJ tax lawyers even without the SDNY if necessary. I know that Scooter always felt this was our fall back position.
Please let me know if you have the same or different thoughts.
Separately, I have been thinking about your reaction to Jack.
When we meet, he felt (and he made clear that he believed this, but was not sure) that he could convince Eric that it made sense to listen to the professors and that he could convince Eric to encourage Mary Jo to do the same. In this he was correct. Moreover, in the preparation process, it became clear that Jack was not just a pretty face but had thoughtful ideas and questions and was not simply relying on his past contacts to make this happen. So, I would not give up on him, at least not yet, as he is still a knowledgeable guy who has a clear understanding of relationships and what may be doable. While we may get more than that, we should not have enlarged expectations.
Best regards, Bob

The e-mail address and domain name of the sender changed on November 1, 1999. Please update your records.

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Thank you.

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Thank you.

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Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, February 29, 2000 9:40 AM
To: 'Rich, Marc'
Subject: RE: Update February 28,2000

Gershon has not billed for months. He has spoken to me many time and Avner at least one and meet with me and Jack at least three times (Jack speaks to him more) in the last two months and I know he speaks to Michael from time to time. He even did a draft outline of what he thought our response should be to the Southern District, which he, frankly, thought required a response. No doubt he has done billable work for which we have not been billed. He knows that you do not want him to work for free, but has not billed or has just delayed it. As for Jack, the original idea he had with you was to go to Eric and try to get him to encourage the **DoJ** of hear out the professors. He **warned** that Eric might have to notify Mary Jo first. In the end, Eric felt that he had to offer her the opportunity to participate fully -- although Jack always wanted a commitment from Eric that he would proceed if she failed or refused to proceed. Eric would not give the commitment, putting the decision off. Our thinking changed when we began to get some encouragement (or the perception of encouragement) that Mary Jo's office would participate. When they threw cold water on that, we were discouraged and Jack and Eric focused on what went wrong and whether it could be undone, and Eric asked Jack for information on the indictment, etc., with the apparent idea of going back to revisit the issue.
We all, myself included if not especially, felt that going back to the SDNY now made no sense, at least if we could persuade Eric that the DoJ had its own particular interest in the indictment and the tax case (which we understand was never cleared at Main Justice, even though that is the norm). So Jack was involved in all of those discussions, including the ones with Eric, and he reviewed the various drafts and made his own suggestions and, as I said yesterday, consulted with an Eric protege he has brought into the matter, before the final draft went to Eric yesterday, encouraging him to have the DoJ take a look at the case, even if the SDNY will not. All in all, while he has been very busy and sometime hard to get to, he has not separated himself from the matter and has fully participated. He has not pushed me for the retainer, though, and realizes that he does not have an agreement with you.
I think it makes sense to compensate him for what he has done and may continue to do.
Just give it some more thought and we can come back to it soon. We can wait, if you want, to see what Eric says, although it may pay to respond now, before Eric response to the last message from Jack, so it does not look like you were only willing to pay because of a positive response, as that was not the agreement. Even if we stop everything we are doing, and decide not to investigate the pardon, etc., at this time, we should fold this down in a friendly way.
Let me know what you think or whether you want to talk about it. I am in all day today.
Best regards, Bob

-----Original Message-----
From: Rich, Marc [SMTP:marc.rich@[redacted]
Sent: Tuesday, February 29, 2000 4:40 AM
To: 'Fink, Robert - NY'
Subject: RE: Update February 28,2000

REDACTED

PMR&W 00722

>
>
>

EXHIBIT
39

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, June 06, 2000 2:56 PM
To: 'Marc Rich'
Subject: Jack Quinn

Hello.
Jack Quinn and I traded calls until today. He is well and doing well.
He has not forgotten you or what we set out to do, but has pretty much concluded that there is nothing to do until we get closer to (or even passed) the election, or as he put it, the closing days of the current administration. We agreed that we were waiting for matters to clarify or change and I observed that the Giuliani's situation has changed dramatically since we decided to wait to see what develops. So, too, could the situation for others.
Jack raised the question of his status.
I told him that I felt that you would feel that he had been compensated for the past, even though the retainer had run out before he stopped work, but that you would not want or expect him to work without compensation going forward -- indeed, you appreciated that it was important to compensate people who you asked to perform for you; although I thought you would not want to get involved in another one of those six month retainers.
Jack said he did not want to make a proposal that you might find objectionable, but felt some clear arrangement for the future was appropriate. I told him I hoped to see you soon, and that I would raise it with you when I see you and come back with a suggestion. He was happy with that and we agreed to catch up with each other on this issue in the beginning of July.
Let me know if you have any thoughts.
Best regards, Bob



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Friday, July 07, 2000 5:22 PM
To: 'Marc Rich'
Subject: Jack Quinn

Here is my proposal on Jack Quinn, consistent with your advice to me.

Jack originally proposed a $50,000 per month retainer and additional hourly charges for Kitty Behan. We settled at $55,000 per month, including Kitty, which was a better deal because at her hourly rate her billings would have averaged over $10,000 per month. Moreover, we continued to consult with Jack (and Kitty) after the retainer period had ended so that the average blended rate for Jack was well below $45,000. (OK, enough with making you feel better.)

At the moment the issue raised by you and Michael is how to keep Jack on a "retainer" so that he is available for questions that might arise and, more importantly, available in the Fall, if we want him to be. Since the Fall is not far away, and you will know whether you want him to gear up again within four months or so, I suggest that we offer Jack $10,000 per month as a retainer to keep his eyes, ears and brain open to events and thoughts that may be helpful, with the understanding that if a decision is made to proceed that we will renegotiate the monthly retainer to reflect the changed circumstances.

This arrangement could start mid-July or August 1st. He has not pushed me for this and, indeed, we are the ones who raised the idea of keeping him on a retainer. Still, if we do go back to Jack and offer a package, we should not schedule it to begin weeks after the proposal. So, if I were to call him next week, I would want to suggest a July 15th start date.

Let me know if this is in the ball park.

Best regards, Bob



Jack Quinn

From: Jack Quinn
Sent: Tuesday, January 23, 2001 3:17 PM
To: April Moore
Subject: Fw: RE: Debra Orin

Pls fax to bob fink re orin question. Thx

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----
From: gkekst <gershon-kekst@KEKST.COM>
To: 'Jack Quinn' <JQuinn@[redacted]
Sent: Tue Jan 23 14:05:59 2001
Subject: RE: Debra Orin

The privacy of my personal and professional relationships is inviolate and
so I would not, as a lifelong practice, discuss such a question.
Suffice to say that in this case my motivation was quite simple: an
injustice needed to be corrected and I determined to do what I could to help
accomplish that. The facts on record spoke for themselves and the potus
was able to make his independent decision. There is no greater reward
for me than to see that justice was, finally, well-served.

Gershon

-----Original Message-----
From: Jack Quinn [mailto:JQuinn[redacted]
Sent: Tuesday, January 23, 2001 2:03 PM
To: gkekst
Subject: Debra Orin

Wants to know if I received a fee. My instinct is to either not respond or
say that I have never, in 25 yrs, thought it propoer to discuss a client fee
arrangement or even if there was one. What say you?

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

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If you have received this e-mail in error, please immediately notify me at
[redacted] and permanently delete the original and any copy of the
e-mail and any printout thereof.



Jack Quinn

From: Rich, Marc [marc.rich[redacted]
Sent: Tuesday, January 23, 2001 6:19 AM
To: 'JQuinn@[redacted]
Cc: Robert Fink (E-mail)

Dear Jack,

As time goes by it's sinking in more and more and I once again want to thank
you for all you've done. I still want to thank you personally and properly
on a separate occasion when we meet.

Best regards,

Marc Rich



Jack Quinn

From: Jack Quinn
Sent: Monday, March 05, 2001 5:28 PM
To: 'Rich, Marc'
Subject: Greetings

Greetings. Quite a month we have had! If you are agreeable, and I hope you are, I need to fax to you in the next few days a new retainer agreement. I cannot, under the D.C. Bar rules continue to work without a written agreement, and I have been crafting one which I will forward shortly. I hope that, in recent days, the public has begun to see your pardon in a different light. I particularly thought that our hearing last Thursday brought to the fore aspects not previously appreciated. About all this I hope we shall speak soon. Best to you.

-----Original Message-----
From: Rich, Marc [mailto:marc.rich[redacted]
Sent: Friday, February 09, 2001 6:36 AM
To: Jack Quinn (E-mail)
Cc: Robert Fink (E-mail)
Subject:

Dear Jack

I just saw you on "Larry King Live". You did a beautiful job! And you also
look great. Congratulations. If ever you want, I'd be very happy to negotiate movie rights for you.

I hope we'll have a chance to talk once again one of these days.

Thank you and best regards

Marc Rich

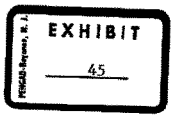
EXHIBIT
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Jack Quinn

From: Jack Quinn
Sent: Friday, February 09, 2001 12:48 PM
To: 'marc rich[redacted]
Subject: Re:

Thank you so much. I may indeed prefer after this a different career, but I suspect even a man of your negotiating ability could not get this old guy a movie career. We will and should speak soon. I am trying to decompress and am taking my wife tonight to a charming inn on the eatern shore of maryland. The phone at home is constantly ringing and a night away is in order. We are in a situation that is a magnet for press attention - we made a solic and defensible case, but it is obscured by reports of contributions and gifts that were not the basis upon which we made our arguments and indeed of which we were unaware. In this atmosphere, it is exceedingly difficult to break through with a message about the flaws of the indictment. I will continue to make the effort because the charges against you were flawed. If I did not believe that I would not have taken on this effort. That, I trust, and the correctness of our position will ultimately become clear. I look forward to speaking to you personally.

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)



Jack Quinn

From: Rich, Marc [redacted]
Sent: Tuesday, March 06, 2001 9:12 AM
To: 'Jack Quinn'

Dear Jack

With reference to your email of March 5, please go ahead and send me the new
retainer agreement.

Best regards
Marc Rich

-----Original Message-----
From: Jack Quinn [mailto:JQuinn[redacted]
Sent: Montag, 5. März 2001 23:28
To: 'Rich, Marc'
Subject: Greetings

Greetings. Quite a month we have had! If you are agreeable, and I hope you
are, I need to fax to you in the next few days a new retainer agreement. I
cannot, under the D.C. Bar rules continue to work without a written
agreement, and I have been crafting one which I will forward shortly. I hope
that, in recent days, the public has begun to see your pardon in a different
light. I particularly thought that our hearing last Thursday brought to the
fore aspects not previously appreciated. About all this I hope we shall
speak soon. Best to you.

-----Original Message-----
From: Rich, Marc [mailto[redacted]]
Sent: Friday, February 09, 2001 6:36 AM
To: Jack Quinn (E-mail)
Cc: Robert Fink (E-mail)
Subject:

Dear Jack

I just saw you on "Larry King Live". You did a beautiful job! And you also
look great. Congratulations. If ever you want, I'd be very happy to
negotiate movie rights for you.

I hope we'll have a chance to talk once again one of these days.

Thank you and best regards

Marc Rich

EXHIBIT
46

M. RICH FILE

JACK QUINN

1. bk
2. MR
3. stalemate
4. skepticism
5. wrong
6. yon
7. not RV
8. price controls
9. swaps
10. DoE view
11. ~~Portland~~
12. SD view
13. escalation - EBW
14. ARCW PRO
15. 6/w
16. untemp. advice
17. stayed away Rich/ 5x5
18. why now
19. wrong to sit
    - no tax
    - disparate
20. request
21. waved off



JACK QUINN
[redacted]
WASHINGTON, D.C. [redacted]

Eric 11/8/99

C.o.s.
Dan Manatos

all three ridiculous

send letter to Mary Jo - not Larry
or me - cc EH + JR (Lockett

once we get, we'll call her and
say you shd do it.

be reasonable + conciliatory

Prism

Youngstown, Texas
Appt lang. reversed on DC
in experience.

EXHIBIT
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PENCAD-Bayonne, N. J.



ARNOLD & PORTER
555 TWELFTH STREET, N.W.
WASHINGTON, D.C. 20004-1206
(202) 942-5000
FACSIMILE: (202) 942-5999

NEW YORK
DENVER
LOS ANGELES
LONDON

JACK QUINN
[redacted]

December 1, 1999

Via Overnight Mail

Honorable Mary Jo White
United States Attorney
Southern District of New York
One St. Andrews Plaza
New York, New York 10007

Re: United States vs. Marc Rich

Dear Ms. White:

We are writing to request your attention to a matter involving our client, Marc Rich. Mr. Rich's outstanding 1983 indictment – now pending for over sixteen years – is among the oldest unresolved matters on the Southern District's docket (and, indeed, nationwide.)

From the time that the investigation into this matter began in the early 1980s until the resolution of the corporate cases in 1984, Mr. Rich's defense followed a most unfortunate, no-communication, no-cooperation, no-negotiation strategy. For that expensive, but ill-advised strategy, Mr. Rich has paid dearly.

However, since the mid-1980s, the defense has completely reversed this posture toward the case. Mr. Rich's defense has offered full cooperation and a willingness, even eagerness, to enter into a detailed discussion of the merits of the case and serious negotiations for resolution of it.

Despite this change, the last discussions in this matter occurred in 1994, when your Office took the position that no further discussions were possible while Mr. Rich remained outside the United States. That position is inconsistent with the numerous instances in which the Department of Justice has chosen to discuss and resolve issues



with counsel for individuals who have remained outside the country during negotiations. In any event, for the reasons set forth below, we urge you to view this as a matter that can and should now be discussed with Mr. Rich's counsel without Mr. Rich being present.

First and foremost, we submit that it ill serves both the interests of the United States and Mr. Rich to continue the current impasse, and we very much would like to begin a process with your Office and (because any resolution would have to be approved at Main Justice) with the relevant Divisions of the Department of Justice that could lead to closure. We believe that, despite the passage of time, this matter is even more capable of resolution today than it was sixteen years ago. To explain this, we will need to put the matter and the indictment in some context.

This case grew out of the oil embargo and shortages of the seventies and the resultant patchwork of energy regulation. At bottom, those regulations were designed to limit prices to 1973 levels except to the extent that producers exceeded their historical production levels. Any additional production, known as "new oil," could be sold at higher prices. Of course, non-U.S. producers were not subject to price restrictions and could sell oil on the world market at multiples of the United States' "old oil" price.

As a result of these price discrepancies, this country's unilateral regulatory system created a powerful incentive for the major U.S. oil producers -- ARCO, Texaco, and others -- to avoid the impact of the regulations. They did this in dealings with international oil resellers by linking regulated oil transactions with unregulated ones. The U.S. oil producers sought to structure transactions that provided additional profits on foreign transactions to partially compensate them for their inability to maximize profits on regulated domestic transactions. This resulted in the structuring of complex linked transactions between the major oil companies and resellers around the world. The Marc Rich companies were among the many resellers involved in these transactions with the

major United States oil companies. These transactions – including many involving ARCO – are the central subject of the Rich indictment, in which he and a colleague, Pincus Green, and two associated companies were charged with a variety of crimes related to these structured oil transactions, including the tax reporting by one of the corporate defendants.

We believe that this context is important for several reasons. First, as you may know, none of the major U.S. oil companies who structured these transactions was ever prosecuted criminally. To the contrary, when the Department of Energy looked at the transactions involving ARCO and other companies, including the Marc Rich companies, it concluded that ARCO had improperly failed to account for the linked transactions (by which ARCO violated the excess pricing/profits regulations), but nevertheless only pursued ARCO on a civil basis for violations of the regulations. This was true even though DOE recognized that these " 'linked' or 'tied in' transactions [were] proposed and arranged by ARCO . . . all at prices which were calculated by ARCO." Department Of Energy Proposed Remedial Order ("PRO"), October 4, 1985 at 19 (enclosed herewith). Moreover, in seeking to impose civil liability on ARCO, the Department of Energy also recognized that the Marc Rich companies had properly accounted on their books for the "financial concessions" to ARCO in the linked transactions "as costs of the domestic crude oil which they purchased." Id. at 17-18.

This latter point is crucial: despite DOE's recognition that Marc Rich had properly linked the transactions for accounting purposes, and ARCO had not, the Southern District has relied on these same transactions in its indictment, but took the position, contrary to the DOE regulators, that the domestic and foreign transactions are not linked for U.S. tax purposes. This inconsistent treatment by DOE and the Southern District is not simply a curiosity – it goes to the very heart of the U.S. government's case against Marc Rich. In short, DOE collected many millions of dollars in penalties from

ARCO, on exactly the opposite analysis of the facts than that taken in the indictment, which led to the corporate defendants' paying many more millions of dollars to the Southern District.

Thus, we continue to believe that, if your Office and the Department of Justice's Tax Division were to take a thorough look at the tax charges that form the core of the indictment, you will agree with us that this is not a criminal tax case. In fact, the corporate defendants originally paid all the taxes they owed and properly reported all of their domestic oil trading profits. Our conclusion is consistent with the position of the Department of Energy and is supported by the opinions of two of the leading tax authorities in the country, who continue to stand ready to explain their conclusions. Professors Bernard Wolfman of Harvard and Martin D. Ginsburg of Georgetown both have concluded that what the indictment alleges as unreported "domestic profits" were properly attributed to foreign transactions and, thus, under the governing U.S.-Swiss tax treaty, were not subject to United States income tax. Likewise, they have concluded that what the indictment characterized as "false deductions" were in fact properly treated as a cost of goods sold and, thus, were reductions of income. Their conclusion is consistent with the legal advice received at the time the transactions were structured.

We would like to begin by asking that you or your representative, along with representatives of the Tax and Criminal Divisions of the Department of Justice, meet with Professors Wolfman and Ginsburg, and members of our legal team, to personally evaluate their conclusions. We urge this approach because the tax allegations underlie so much of the indictment, and because the merits of our tax position can be quickly evaluated. We believe that such a meeting will advance a resolution of this matter.

We further believe that we can persuade you that neither the law nor the policies of the Department of Justice support the RICO charges and that, in this regard, too, the indictment as currently drafted should not stand.

The Department of Justice today would not base RICO charges on a tax case. As you know, the 1983 indictment was the first use of RICO, and RICO forfeiture, in a major white-collar case. The Department of Justice has since acknowledged that Congress did not intend RICO or mail or wire fraud to be used in tax evasion cases. See United States Attorneys Manual ("USAM") ¶6-4.211(1). Furthermore, the RICO predicates based on alleged use of the mails to defraud the Department of Energy are defective under McNally v. United States, 483 U.S. 350 (1987).

The indictment applied RICO's most draconian provisions and sought forfeiture of the defendants' entire interest in the enterprise, including hundreds of millions of dollars that were not even claimed to be the proceeds of criminal conduct. Recognizing the coercive effect of overdrawn forfeitures, the Department of Justice in 1989 adopted rules prohibiting prosecutors from seeking forfeitures or pretrial restraints that are disproportionate or disrupt normal, legitimate business activities. (See USAM¶ 9-110.415.)

We think that these intervening changes in DOJ policies and RICO law provide yet another reason why your Office should look anew at the indictment, if only to remove those aspects which clearly are not in accord with current DOJ policy.

Finally, we believe that we can show that the charges of unlawful dealings with Iran were then, as now, defective. Significantly, the superseding indictment dropped the Iranian charges against the corporate defendants. We anticipate that your office will reach the same conclusion with regard to Mr. Rich personally.

Marc Rich may be outside the jurisdiction of the United States, but he has in fact suffered much over the past sixteen years as a result of the outstanding indictment. He was unable to visit with and say goodbye to his daughter, Gabriella, prior to her death from leukemia, because he was denied permission to travel to her hospital bed. His reputation has been severely tarnished for transactions that renowned tax professors contend should not even have resulted in civil liability. The Marc Rich companies also have been tarnished by the financially motivated corporate guilty pleas, have suffered massive losses in corporate revenues, and have paid huge fines for transactions for which others, if charged at all, received only an administrative sanction.

We believe that this context distinguishes this case from others in which a dialogue might not be productive and so not worth the time and effort of either side. We also believe that these same distinctions – where the country's leading tax experts have concluded that there was no tax fraud (validating the tax advice given during the period the transactions were being structured), where the RICO charges were defective and are now at odds with DOJ policies, where different branches of the U.S. Government have collected millions of dollars from both ARCO and the corporate defendants on dramatically opposite factual conclusions drawn from the same set of facts – make this a case where dialogue with counsel is appropriate even though Mr. Rich resides abroad.

In essence, we believe that there are very real and important legal policy issues raised by the indictment – issues that should have been, but regrettably were not, forthrightly presented to your Office, or the Department of Justice's Tax Division or Criminal Division, at the time of the indictment. Mr. Rich is now 64 years old. We are hopeful you will agree that the time for a constructive dialogue with the Government is now.

I, and the defense counsel who have long been involved with this matter, urge your Office and the Department of Justice to begin a process with us that can bring this matter to a resolution. We look forward to hearing from you.

Sincerely,

Jack Quinn
Kathleen Behan

Cc: The Honorable Eric Holder
The Honorable James Robinson
The Honorable Loretta Collins Argrett

Marc Rich

Eric —

Spoke to M.J.

She has taken it heavily

and is receiving it personally

he'll do what he can

She didn't sound like her

guard was up



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

February 2, 2000

Jack Quinn, Esq.
Kathleen Behan, Esq.
Arnold & Porter
555 Twelfth Street, N.W.
Washington D.C. 20004-1206

Re: United States v. Marc Rich, et al.
S1 83 Cr. 579 (SWK)

Dear Mr. Quinn and Ms. Behan:

We are writing in response to your letter of December 1, 1999, seeking a resolution of the Marc Rich prosecution. Under the present circumstances, however, the resolution that you contemplate, namely a dismissal or major modification of the indictment, is impossible. As we have repeatedly told a succession of lawyers who have approached our Office with similar applications, it is our firm policy not to negotiate dispositions of criminal charges with fugitives. Such negotiations would give defendants an incentive to flee, and from the Government's perspective, would provide defendants with the inappropriate leverage and luxury of remaining absent unless and until the Government agrees to their terms. Moreover, it would not be an appropriate use of the Government's resources to attempt to resolve a case with an absent defendant without a guarantee of his or her intention to return regardless of whether any resolution is reached. If Mr. Rich genuinely believes that he is innocent and believes in the strength of his arguments, then he can surrender to the jurisdiction, and at that time, we will fully and fairly consider his arguments. We will not, however, have such discussions on the merits of the charges until Mr. Rich submits to the jurisdiction of the Court. From the beginning of this case, we have been open to discussions regarding the terms of Mr. Rich's surrender to our jurisdiction, and remain open to such discussions.

While we have been unwilling to negotiate with Mr. Rich in his absence, we have heard numerous presentations over the

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years from lawyers representing Mr. Rich urging our Office to dismiss the charges against him. Indeed, in 1987, an Assistant in this Office met with Mr. Rich's counsel and listened to the same presentation by Professor Martin D. Ginsburg referenced in your letter regarding the merits of the tax charges. Nothing in those presentations or in your letter has persuaded us to change our long held policy with regard to fugitives. Accordingly, under the current circumstances, we must decline your suggestion for discussions.

I have communicated with representatives of the Deputy Attorney General and Assistant Attorney General, Criminal Division, and with the Acting Assistant Attorney General of the Tax Division. They all concur that this is a matter within the discretion of the United States Attorney for the Southern District of New York.

Very truly yours,

MARY JO WHITE
United States Attorney

By: _____
SHIRAH NEIMAN
Deputy United States Attorney
Tel.: (212) 637-2576

cc: Eric H. Holder, Jr., Deputy Attorney General
James K. Robinson, Assistant Attorney General
Paula M. Junghans, Acting Assistant Attorney General

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Thursday, February 17, 2000 12:03 PM
To: 'Marc Rich'
Cc: 'Avner Azulay'
Subject: Update

I spoke with Jack later yesterday and we have a conference call scheduled for tomorrow morning with Kitty.
He agrees (subject to further discussion) with trying to have Eric help us meet with the tax lawyers in Main Justice (and maybe the head of the criminal division) to see if the professors can convince the chief government tax lawyers that this was a bad tax case. He also agrees that such a conclusion would be useful for many purposes including going back to the SDNY.
Similarly, he agrees we should make something of the fact that the office was dealing with fugitives (who surrendered this week) in connection with the Russian money laundering case, while insisting that they can't deal with fugitives.
Still, he wants to give Eric a short list of what is wrong with the indictment as he agreed to do that. He feels we can do both.
We will prepare something and I will let you know how tomorrow goes.
I have only recently spoken to Jack, Gershon and Kitty on this issue and all agree that we should try to approach the DoJ tax lawyers even without the SDNY if necessary. I know that Scooter always felt this was our fall back position.
Please let me know if you have the same or different thoughts.
Separately, I have been thinking about your reaction to Jack.
When we meet, he felt (and he made clear that he believed this, but was not sure) that he could convince Eric that it made sense to listen to the professors and that he could convince Eric to encourage Mary Jo to do the same. In this he was correct. Moreover, in the preparation process, it became clear that Jack was not just a pretty face but had thoughtful ideas and questions and was not simply relying on his past contacts to make this happen. So, I would not give up on him, at least not yet, as he is still a knowledgeable guy who has a clear understanding of relationships and what may be doable. While we may get more than that, we should not have enlarged expectations.
Best regards, Bob



JACK QUINN

2/28/02

Eric —

Here is the short paper I promised you.

Many thanks and Best Regards

Jack



WHY DOJ SHOULD REVIEW THE MARC RICH INDICTMENT

The refusal of the SDNY to participate in a discussion of the Marc Rich case is sorely disappointing. That office (and DOJ) should not sit on a defective indictment. And the reason given — that Rich is outside the country — is belied by recent reports indicating that this same office negotiated a plea with counsel for the accused Russian money launderers while those defendants were outside the jurisdiction. Why the uneven approach?

Overview. This case involves significant DOJ resources and interests. The vast portion of the indictment consists of tax, RICO and wire/mail fraud counts that are legally defective, violate DOJ policy or assert facts inconsistent with established USG positions and expose the USG and DOJ to charges of improper or unfair conduct. As a matter of both fairness and sound enforcement policy, DOJ should review this legally flawed indictment, and thereby help bring this matter to a close. A review would further the interests of justice by ensuring that prosecutors did not abuse their authority or stretch the law. And a review by the appropriate DOJ offices is particularly important because the bulk of the indictment concerns technical tax and energy counts that are extremely complicated, and are the types of matters in which defense counsel are usually heard. Rich's counsel simply ask for an opportunity for the prosecutors to listen to his side of the story – something that in truth has never happened.

1. **RICO, Wire and Mail Fraud - Violation of DOJ Policy/Legally Defective.** Most of the counts involve RICO, mail fraud and wire fraud, alleging efforts to defraud the IRS and the DOE. The RICO and wire fraud counts based on an alleged fraud on the IRS violate DOJ policy, adopted in the wake of the Princeton/Newport case, against using such counts to prosecute tax charges (see USAM 6-4.211(1), effective July 14, 1989). The RICO and mail fraud counts based on an alleged fraud on DOE are defective under the Supreme Court's holding in McNally v. United States, 483 U.S. 350 (1987).

2. **Tax & Energy Counts - DOJ Tax Review, Inconsistent Administration of Justice.** The core of the indictment, the counts on tax evasion and efforts to defraud DOE, assert facts directly contradictory to positions taken by DOE when it collected tens of millions of dollars in its successful civil prosecution of ARCO on the very same transactions charged in the Rich indictment. Indeed, the DOE findings support Marc Rich's legal claims. Moreover, two of the country's leading tax experts, Professors Martin Ginsburg and Bernard Wolfman, have concluded that Marc Rich did not violate the tax laws. DOJ tax review with an opportunity for the defense to be heard is especially critical under these circumstances.

3. **DOJ Resources and Reputation.** The DOJ website lists Marc Rich on its International Fugitive page. This involves USG resources and is a potential embarrassment for DOJ.

The Need for DOJ Involvement. The SDNY is sitting on a notorious, but flawed, indictment. And it knows it. That is corrosive to the cause of justice. And the reason given for refusing a discussion to resolve the matter seemingly applies to Mr. Rich but not to others.

Fairness dictates a meeting with DOJ at which we can present the merits of our case, especially our tax case, which is, after all, a matter for DOJ.

Jack Quinn

From: Jack Quinn
Sent: Tuesday, March 14, 2000 6:22 PM
To: 'Fink, Robert - NY'; Jack Quinn
Cc: 'Kitty Behan'; 'Gershon Kekst'
Subject: RE: holder call

yes, we shd reconnect with avner and get that moving. but we have to push hard for something that is initiated abroad; i don't think we'll succeed in getting a call from here to there to inquire whether goi has any comments.

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@[redacted]]
Sent: Tuesday, March 14, 2000 4:38 PM
To: 'Jack Quinn'
Cc: 'Kitty Behan'; 'Gershon Kekst'
Subject: RE: holder call

Thanks. And keep your dukes up.
Anything any of us can do on the GOI front?
Do you want to reach Zvi or Avner?
Bob

> -----Original Message-----
> From: Jack Quinn [SMTP:JQuinn@[redacted]]
> Sent: Tuesday, March 14, 2000 4:35 PM
> To: 'robert.fink@[redacted]'
> Cc: 'kathleen_behan@[redacted]'; 'gershon-kekst@[redacted]'
> Subject: holder call
>
> we spoke briefly today. it started how badly -- "we've gone as far as
> we can go, can't figure out a way around shira, etc" -- but i pushed
> back hard on the russian money laundering culprits and the uneven
> treatment of marc. he wants to talk further about that with his
people,
> said he'd call me back tomorrow. it's time to move on the GOI front
--
> but we have to get the call initiated over there. (ps -- i had a call
> scheduled with steinhart yesterday a.m., but he stood me up -- when he
> called later yesterday afternoon, i was gone. i'll call him back
soon.)

The e-mail address and domain name of the sender changed on November 1, 1999. Please update your records.

The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system.
Thank you.

For more information about the firm, please visit us at
http://www.piperrudnick.com/



Fink, Robert - NY

From: Avner Azulay [azulrich@[redacted]
Sent: Saturday, March 18, 2000 2:11 AM
To: robert.fink@[redacted]
Subject: JQ+MS etc.

I had a long talk with JQ and Michael. I explained why there is no way the MOJ is going to initiate a call to EH - a minister calling a second level bureacrat who has proved to be a weak link.We are reverting to the idea discussed with Abe - which is to send DR on a "personal" mission to N01.with a well prepared script.IF it works we didn't lose the present opportunity - until nov - which shall not repat itself. If it doesn't - then probably Gershon's course of acion shall be the one left option to start all over again.This is only for your info.Regards-AA

PMR&W 00728



MR FILE
JACK QUINN

Eric Holder »

Did research. Russian people did neg. - BUT they were cooperating and agreed to coop.

Deal?

yeah, thanks dr. We're all sympathetic. Equities on your side.

talked about it last night.

got ventured @ 3x

MSW → Rome



PRIVILEGE LOG
Arnold & Porter
3/27/01

NO.	DATE*	DOCUMENT TYPE	AUTHOR/SENDER	ADDRESSEES	DESCRIPTION/TOPIC	PRIVILEGE
1.	2/91	Law Review Article	Daniel Kobil, Capital University Law School	N/A	Legal Research re: Pardon Power	Attorney Work Product
2.	Spring 1997	Law Review Article	Ashley M. Steiner, Emory Law School	N/A	Legal Research re: Pardon Power	Attorney Work Product
3.	12/97	Memo (faxed on 1/20/00 by Jack Quinn to Kathleen A. Behan)	N/A	N/A	Legal Strategy re: Resolution of Indictment	Attorney Work Product
4.	3/12/99	Memo w/ marginalia	Carol Fischer of Piper, Marbury Rudnick and Wolfe	Robert Fink	Legal Strategy re: Pardon Power	Attorney Work Product
5.	2/16/00	Fax	Kathleen A. Behan	Robert Fink	Legal Strategy re: Resolution of Indictment	Attorney Work Product
6.	2/28/00	Fax	Jack Quinn	Kathleen A. Behan	Legal Strategy re: Resolution of Indictment	Attorney Work Product
7.	2/28/00	Fax with marginalia	Jack Quinn	Kathleen A. Behan	Legal Strategy re: Resolution of Indictment	Attorney Work Product
8.	12/5/00	Article	P.S. Ruckman, Jr.	N/A	Legal Research re: Clemency Power	Attorney Work Product
9.	12/5/00	Article	P.S. Ruckman, Jr.	N/A	Legal Research re: Clemency Power	Attorney Work Product
10.	12/5/00	Article	P.S. Ruckman, Jr.	N/A	Legal Research re: Clemency Power	Attorney Work Product
11.	12/5/00	Article	Ellen Sung,	N/A	Legal Research re:	Attorney Work Product

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NO.	DATE*	DOCUMENT TYPE	AUTHOR/SENDER	ADDRESSEES	DESCRIPTION/TOPIC	PRIVILEGE
			Policy.com		Clemency Power	
12.	12/5/00	Article	P.S. Ruckman, Jr. David Kincaid	N/A	Legal Research re: Clemency Power	Attorney Work Product
13.	12/5/00	Website	N/A	N/A	Legal Research re: Pardon Power	Attorney Work Product
14.	12/5/00	Website	N/A	N/A	Legal Strategy re: Pardons	Attorney Work Product
15.	12/5/00	Website	N/A	N/A	Legal Strategy re: Pardons	Attorney Work Product
16.	12/5/00	Website	N/A	N/A	Legal Strategy re: Pardons	Attorney Work Product
17.	After 1/20/01 (precise date unknown)	Notes	Kathleen A. Behan	N/A	Post-pardon Legal Strategy	Attorney Work Product

*** NOTE REGARDING DATE: Items 8-10 and 12-16 on this log are articles or website printouts, and their creation date is unknown. To assist the Committee, we have provided the date that the document was printed, which indicates when the document came into Arnold & Porter's possession. (Item 11 is an article that was printed on December 5, 2000, and written on August 31, 1999.) As for the articles reflected in items 1 & 2, we have provided the dates that the articles were created; the dates that they came into Arnold & Porter's possession are unknown.**

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, February 09, 2000 3:48 PM
To: 'Jack Quinn'
Cc: 'Kitty Behan'
Subject: RE:

I briefed Marc and he is awaiting word on your call.(I have also sent Avner a briefed email letting him know of the current status.) I also told Marc that I would discuss with you and Kitty your views on the second option (whether there is any reason to consider it, or whether what happened here made it so unlikely that you did not think it worthwhile, as I told him that you would not work on it unless you thought there was some possibility of success). He was curious as to your thinking. I told him I would also check on your thinking on what Avner was doing. But let's see what Eric says. Bob

REDACTED

REDACTED

REDACTED

>

>
> The e-mail address and domain name of the sender changed on November 1,
> 1999. Please update your records.
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2/14/2000

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PMR&W 01202

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REDACTED

BG Gerstein · Letter not open
Answer letter –

Get retired judge to write major article
Hypothetical
Our jealous prosecutors chase ppl away
Then we get Clinton

Pardon - Write letter Nov.

B – in trouble

Use top professors

Opera – hypothetical

PMR&W 01203

Judiciary Committee
(1) Page NJW w (B) do not attack her – [illegible]
DC NY lawyer – get agreement
+ Pen pack SAM, Judiciary, read

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Monday, March 20, 2000 10:46 AM
To: 'Avner Azulay'
Subject: RE: JQ+MS etc.

Thanks. I too spoke to JQ after you and he told me about Denise. Let's she how his visit with Zvi goes and what EH's research shows. I assume you are keeping MR up to date, as I had nothing real to report.
Best regards, Bob

-----Original Message-----
From: Avner Azulay[redacted]
Sent: Saturday, March 18, 2000 2:11 AM
To: robert.fink[redacted]
Subject: JQ+MS etc.

I had a long talk with JQ and Michael. I explained why there is no way the MOJ is going to initiate a call to EH - a minister calling a second level bureacrat who has proved to be a weak link.We are reverting to the idea discussed with Abe - which is to send DR on a "personal" mission to N01,with a well prepared script.IF it works we didin't lose the present opportunity - until nov - which shall not repat itself. If it doesn't - then probably Gershon's course of acion shall be the one left option to start all over again.This is only for your info.Regards-AA

PMR&W 00729

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Check if this is an Amended Registration ☐ 1. Effective Date of Registration_____

2. House Identification Number_____ Senate Identification Number_____

REGISTRANT

3. Registrant name Zvi Rafiah

Address Asia House, 4 Weizman Street

City Tel Aviv State Israel Zip 642

4. Principal place of business (if different from line 3)
City State/Zip (or Country)

5. Telephone number and contact name
( ) 972-3-6950535 Contact Zvi Rafiah E-mail (optional)

6. General description of registrant's business or activities
Consultant

CLIENT

A Lobbying firm is required to file a separate registration for each client. Organizations employing in-house lobbyi labeled "Self" and proceed to line 10. ☐ *Self*

7. Client name Elisra Electronic Systems Ltd.

Address 48 Mivtza Kadesh Street

City Bene Berak State Israel Zip 51203

8. Principal place of business (if different from line 7)
City State/Zip (or Country)

9. General description of client's business or activities
Developing and manufacturing of electronic warfa

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Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, December 26, 2000 12:14 PM
To: 'Jack Quinn'
Cc: 'Gershon Kekst'

As you know, Gershon asked Bill Barr for advice in this matter over a year ago, and he (Barr) thought it paid to wait for the new administration and the retiring of several of the then current players. At the time Barr even made a phone call to find out the then current status of the matter.
Gershon would will happy to call him again to see if he could be insightful or helpful but wanted your reaction before considering the call.
Again, he was on the other side of the aisle and has been out for a long time.
What do you think?
Bob



PMR&W 00073

FAX TO SETH NOLAN

This is FYI, further to the point that no one else was prosecuted. — JSP

MEMORANDUM

TO: Scooter Libby

FROM: Mark Ehlers

DATE: June 10, 1988

RE: Review of DOE Administrative and DOJ Criminal Enforcement Proceedings

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The following statements may be made in good faith to the U.S. Attorney's Office:

"Our firm has attempted an exhaustive search of all identifiable DOE administrative and DOJ criminal enforcement actions against crude oil resellers and producers for alleged violations of DOE pricing laws from 1973-1981.[1]

1. Counts in the Indictment

"We have uncovered no case in which a jail sentence has been imposed for a willful violation of the PAM regulations, the conduct for which MR and PG have been indicted.[2] All criminal

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[1] With the aid of the responsible office in DOE, we have identified 48 criminal enforcement proceedings against crude oil resellers, which we believe to be the universe of cases brought against crude oil resellers by U.S. Attorney's Offices throughout the country. In addition, we have identified four criminal cases brought against crude oil producers. Of these, we have found two, both of which involve miscertification. Our search requests in the relevant district courts with respect to the remaining two producer cases continues. Accordingly, we are unable at this time to make any representations with respect to criminal producer cases.

[2] Of the 48 criminal reseller cases we have uncovered, we know
(Footnote Continued)

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16:35 FR TO 10218130375H0000 P.02

reseller cases in which the defendant served some time in prison involved charges of willful miscertification. MR and PG are not accused of willful miscertification.[3]

"Indeed, only one criminal case has been instituted against resellers for a markup violation, and this case is readily distinguishable from the case brought against MR and PG.[4] All

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(Footnote Continued)
the dispositions of 45. In fourteen cases, the defendant served some time in prison. However, all of those cases involved willful miscertification (resulting in charges under 18 U.S.C. §§ 371, 1001, and/or 1341).

As for the three cases in which we do not have any court papers, we have been instructed by Avrom Landesman, former chief enforcement officer at DOE, that two of those cases, both involving companies, are not in any way similar to this case, and that the third case involved miscertification. Consequently, though we do not know the dispositions of those three cases, we have reliably been told that they are not relevant to the disposition of this case. To the extent that any of these cases resulted in jail time, it would have been in the miscertification case, because the other two cases were brought against companies, not individuals.

Of the remaining 31 criminal reseller cases, we are confident, based on our discussions with Mr. Landesman and our own independent review, that with one possible exception, (discussion in text and in footnote below), none involved charges similar to those asserted against MR and PG.

3 The U.S. Government has expressly represented that after making a full and complete investigation of the crude oil transactions involving MR companies, it concluded that the evidence did not support charges of willful miscertification.

4 That case involved three companies (Coral Petroleum, Coastal States, and Holborn Oil) and three individuals (Oscar Wyatt, David Chalmers, and Sam Willson, Jr.); it thus actually constitutes six of the 48 criminal reseller cases we have identified. The alleged scheme in that case involved a loophole in the energy regulations that restricted the permissible profit to $.04/bbl that could be earned by Wyatt's company, Coastal, on each resale of crude oil. These same regulations, however, allowed Chalmers' company, Coral,
(Footnote Continued)

JAN 05 2001 16:35 FR TO 102#13037S#0000 P.03

other PAM violations have been brought civilly.

"We have identified 54 civil cases alleging PAM violations, but all of these cases are factually distinguishable. Specifically, in all of the civil PAM cases previously initiated by DOE, the income was earned from wholly domestic reselling activity; in none of those cases was there a colorable claim that the revenue should be properly allocated to offshore entities or was attributable to foreign oil transactions."

(Footnote Continued)
to take a profit of over $3.20/bbl. Coastal sold crude to Coral, which resold to a third party, with each company charging its "maximum lawful selling price." Coral would then kickback all but $.10/bbl of its profit to Coastal by engaging in offshore transactions with Holborn (a subsidiary of Coastal). Coral purchased from Holborn foreign crude that was designated for a third party in the United States. Coral's purchase price from Holborn was inflated by the amount of the kickback. Coral then resold the oil to Holborn's designated customer in the United States at the customers' contract price.

After an extensive audit of Coastal and Coral, the two companies pleaded guilty (Holborn pleaded nolo contendere) to one count criminal informations alleging a violation of 18 U.S.C. § 1001. Holborn paid a fine of $1 million, while Coastal and Coral each paid fines of $9 million. Wyatt, Chalmers, and Willson pleaded guilty to a one count information alleging a willful violation of 15 U.S.C. § 754(a)(3)(B)(i) (the EPAA enforcement provision). They each paid the maximum penalty of $40,000, but served no time in jail.

Therefore, in the one case that involved a markup violation, none of the defendant's served any time in prison. It should be noted, as well, that the Wyatt/Chalmers scheme did not involve a first-leg, offshore tie-in, a factor which does exist in the MR and PG case. Indeed, this factor provides the key distinction between the Wyatt/Chalmers scheme and this case, and is what makes the transactions in our case lawful. The defendants in the Wyatt/Chalmers case did not have a colorable claim, as exists in this case, that the profits were properly attributable to the foreign oil transactions and thus should not have been reported.

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2. Other Potentially Criminal Conduct (Posted Price Violations)

We have no reason to believe that MR and PG are suspected of any criminal conduct not already included in the indictment. Indeed, the U.S. Attorney's Office for the Southern District of New York has expressly represented that, based on its own 2½ year investigation, "there is no basis for seeking additional indictments of the defendants in this case . . . ."[5]

Nevertheless, we have considered whether there would be criminal vulnerability for posted price violations. We could make the following statement, if pressed, in this area:

"We know of no case where a buyer, such as MRI(Zug) or AG, has been charged civilly or criminally with a violation of the posted price rules. We have uncovered no criminal prosecutions of producers based on a posted price violation [but see footnote 1]. All such posted price violations by producers[6] have been brought civilly.[7] In the leading case along these lines [Getty Oil], DOE

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[5] Memo to File from Rudolph W. Giuliani, U.S. Attorney (S.D.N.Y.) (Aug. 31, 1984).

[6] We have identified 123 administrative enforcement actions, which we believe to be the universe of cases brought by DOE against crude oil resellers and producers. Eleven cases involved alleged violations by the seller of the maximum lawful selling price rule, resulting in the disgorgement of profits and/or the payment of civil fines. No such case has ever been pressed against a buyer.

[7] One such case was brought against Arco and involved some transactions with MR entities. A PRO was issued, and ARCO paid civil fines for violating the MLSP (or posted-price) rules as a
(Footnote Continued)

JAN 05 2001 16:36 FR TO 10218103/SHOOD P.05

first brought a case against the reseller, but then dismissed that case and successfully brought a claim against the producer."

(Footnote Continued)
crude producer. Although DOE was fully aware of MR's involvement on the purchasing side of some of those transactions, DOE never initiated any action against MR for those deals. Furthermore, Arco was clearly the more significant "violator" of the posted price rules, receiving consideration far in excess of that permitted for the first sale of domestic price-controlled crude oil. But Arco only paid civil fines, and no one at Arco was ever prosecuted criminally for those transactions.

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** TOTAL PAGE.07 **

ADDENDUM

The two criminal producer cases for which our search requests have so far been unsuccessful involve the following parties:

(1) Don E. Pratt

(2) Ernest & Charles Allerkamp

The three criminal reseller cases we have been unable to locate, but which Avrom Landesman provided us with certain information, involved the following parties:

(1) The Crude Company

(2) West Refining, Inc. (entitlement case)

(3) Ted True (miscertification case)

JAN 05 2001 16:36 FR TO 1021#13037S#0000 P.07

GEORGETOWN UNIVERSITY LAW CENTER
WASHINGTON, D.C. 20001

MARTIN D. GINSBURG
PROFESSOR OF LAW

(202) 639-7030
(202) 662-9077

February 12, 2001

The Honorable Dan L. Burton, Chairman
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Congressman Burton:

I write in response to your letter of February 6, 2001 in which you ask about work done by me and Professor Wolfman that is reflected in the document dated December 7, 1990 to which your letter refers.

On May 14, 1986 I was consulted by Leonard Garment and I. Lewis Libby on behalf of Dickstein, Shapiro & Morin, a Washington D.C. law firm in which Messrs. Garment and Libby were then partners, and asked to provide federal tax analysis. I am Of Counsel to the law firm of Fried, Frank, Harris, Shriver & Jacobson, and it was the Fried, Frank firm that was retained and compensated by Dickstein, Shapiro & Morin. In working on the matter I consulted with and was assisted by other Fried, Frank attorneys.

For the period May 14, 1986 through December 31, 1990 Fried, Frank was compensated by the Dickstein firm in the total amount of $66,199. Of that total $43,980 reflected time invested by me. Over the period my time was billed at regular hourly rates of initially $300, later $350, and later still $400. Other attorneys who worked on the matter were billed at their regular hourly rates which varied from $175 to $300.

Sincerely,

Martin D. Ginsburg

MDG:mlw
cc: Honorable Henry A. Waxman
Ranking Minority Member



DIRECT MAILING ADDRESS: SUITE 800, 1001 PENNSYLVANIA AVENUE, N.W., WASHINGTON, D.C. 20004-2505
FAX: (202) 639-7008

BERNARD WOLFMAN

(617) 495-4623

HARVARD LAW SCHOOL
CAMBRIDGE, MASS. 02138

February 8, 2001

The Honorable Dan Burton, Chairman
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Congressman Burton:

My work on the legal analysis to which you have referred in your letter of February 6, 2001 began on February 9, 1988 when I was retained as a tax law consultant by the Washington, D.C. law firm, Dickstein, Shapiro & Morin, by two of its partners, Leonard Garment, Esquire and I. Lewis Libby, Esquire.

Professor Ginsburg and I completed our analysis and set it forth, together with our conclusions, in the document of December 7, 1990 to which you have referred. From February 9, 1988 through December, 1990 I received compensation for my services from the Dickstein firm in the total amount of $30,754.77. For most of that period I was compensated at the rate of $250 an hour; for the balance of the period, at the rate of $300 an hour.

Sincerely yours,

Bernard Wolfman

Bernard Wolfman

cc. Hon. Henry A. Waxman
Ranking Minority Member



BERNARD WOLFMAN

(617) 495-4623

HARVARD LAW SCHOOL
CAMBRIDGE, MASS. 02138

December 7, 1990

Gerard E. Lynch, Esquire
Chief, Criminal Division
Office of the U.S. Attorney
Southern District of New York
U.S. Courthouse Annex
One St. Andrews Plaza
New York, NY 10007

Re: U.S. v. Marc Rich et al.

Dear Mr. Lynch:

As you know, Leonard Garment has retained Professor Martin D. Ginsburg and me to analyze the transactions which underlie the superseding indictment in this case, and to express our views as to their federal income tax consequences. Making no independent verification of the facts, but accepting the statements thereof made to us by Mr. Garment and others in his law firm after their extensive investigation, Professor Ginsburg and I have concluded that MRI correctly reported its income from those transactions and that a court, if called upon to decide the issue, would agree.

Our understanding of the facts and our legal analysis and conclusions are set forth in the form of Proposed Findings of Fact and Conclusions of Law which we enclose herewith. These are the Findings and Conclusions which we would request and expect a court to make if it were called upon to determine *civil* liability in this case.

Professor Ginsburg and I would be happy to discuss our views



with you at your convenience and hope you will afford us the opportunity to do so.

Sincerely,

Bernard Wolfman

Bernard Wolfman

cc. Professor Martin D. Ginsburg
Leonard Garment, Esquire



JQuinn@[redacted] on 12/29/2000 07:00:13 PM

To: Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]
cc:

Subject: RE: 5 Yr Ban Reversed

---

thx. what do you think our chances really are for marc? the hardest question, i think, is "if you're right about the weakness of the govts case, why not go to ct and win?" the answr, i guess is that he couldn't have gotten a fair trial, but that was 18 yrs ago. couldn't he get one now? isn't that the way this shd go? these are tough questions, but i guess we have decent answers.

-----Original Message-----
From: Kathleen_Behan@[redacted]
To: JQuinn@[redacted]
Sent: 12/29/00 2:31 PM
Subject: 5 Yr Ban Reversed

---------- Forwarded by Kathleen Behan/Atty/DC/ArnoldAndPorter on 12/29/2000 02:21 PM ----------

Ronald Schechter
12/29/2000 02:15 PM

To: lateral, ethics, Jayne Anderson Risk@Baltimore
cc:

Subject: 5 Yr Ban Reversed

This may be old news, but this appeared in today's Post

Clinton Reverses 5-Year Ban On Lobbying by Appointees

By John Mintz
Washington Post Staff Writer
Friday, December 29, 2000; Page A31

President Clinton yesterday revoked an executive order he signed on his first day in office in 1993 that barred senior officials of the White House and other agencies from lobbying former colleagues for five years.

Lifting the five-year ban on lobbying means Clinton's top subordinates,

EXHIBIT
67

KB 00037

HADASSAH
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ZIONIST
ORGANIZATION
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HENRIETTA SZOLD
IN 1912

December 7, 2000

The Honorable William Jefferson Clinton
The President of the United States
The White House
Pennsylvania Avenue
District of Columbia
U.S.A.

Dear President Clinton,

I am writing to you on behalf of Mark Rich's request for executive clemency. As you know, I am the Immediate Past International President of Hadassah, The Women's Zionist Organization of America and the present Chairperson of Birthright Israel North America who will bring 10,000 North American young men and women ages 18 to 26 to Israel this January and February.

In my leadership capacities over the past 10 years I have come to know Mr. Rich as a generous supporter of humanitarian projects. In particular his philanthropy provides research and health care through the Hadassah Medical Organization to Muslims, Christians, Druz and Jews in Israel and other areas of the Middle East. The tragic loss of his daughter to leukemia coupled with the denial of a last visit before her death has increased his resolve to help find a cure for the fatal disease. Mr. Rich's generosity has been effective and meaningful. I have met him and found that he is not only philanthropic but also very caring of the people he hopes he can serve through his anonymous gifts.

Mr. Rich has made possible a large part of the Birthright Israel program. He personally was present to see the thousands of young men and women at a celebration of the program in Israel. Again, he did not seek recognition but wanted to see the faces of the young people who participated. He was so very moved by everyone!

I see Mr. Rich as a man who has spent these last 18 years rebuilding his positive connection to the world at large through kindness, caring and generosity. His enormous number of quiet activities to improve the quality of people's lives because he cares deeply has made a lasting impression on me. I am writing to you because I believe he has paid his debt to society and has earned the respect of so many of his peers and others who



know him. I completely support his request for clemency and hope you will consider it. Please know I am very appreciative of your review of this letter.

With the deepest admiration and respect for my President,

I remain sincerely,



Marlene E. Post
Immediate Past International President, Hadassah
Chairperson, Birthright Israel, North America

Fink, Robert - NY

From: Avner Azulay [azulrich@[redacted]
Sent: Monday, January 22, 2001 7:03 PM
To: Jack Quinn; 'Fink, Robert - NY'; 'Kitty Behan'; 'Mike Green'; 'Gershon Kekst'
Cc: 'Marc Rich'
Subject: Re:

Pse keep barak out of the media.We have enough names on the list other than his.Important to keep all politicians out of the story.Pse share with me the inclusion of any one on the list.This is election time here and has a potential of blowup. A newsweek reporter here has already asked if there were any political contributions.Other than that I thought we agreed that all inquiries,interviews should be channeled to gershon.Why is BF giving interviews? He shouldn't be dealing with this aspect..
----- Original Message -----
From: Jack Quinn <JQuinn@[redacted]
To: 'Fink, Robert - NY' <robert.fink@[redacted], 'Avner Azulay' <azulrich@[redacted]; 'Kitty Behan' <Kathleen_Behan@[redacted]
Jack Quinn <JQuinn@[redacted]; 'Mike Green' <GreenM@[redacted]
'Gershon Kekst' <gershon-kekst@[redacted]
Cc: 'Marc Rich' <marc.rich@[redacted]
Sent: Tuesday, January 23, 2001 12:03 AM
Subject: RE:

> I would say that a vast range of people spoke up for marc, including people
> familiar with his case, his personal life and his good works. I would refer
> them hen to the formal filings. I continue to believe it important that we
> let people see that we made a great case on the merits. And, they should
> know marc was represented by prominent republicans over the years. P.S.
> just spoke to holder. said I did a very good job and that he thinks we shd
> be better about getting the legal merits of the case out publicly. i
> assured him we were and that we were letting the press see the petition and
> attachments. he was unsure about how to get indictment dismissed and travel
> restrictions lifted -- said after a few days and after we have individual
> warrant in hand we shd contact SDNY to discuss -- if they say they wil do
> nothing, we move in ct to both dismiss and have ins, interpol, etc notified.
> he also thinks we shd make public our commitment to waive defenses to civil
> penalties at doe and tthe support of barak.
>
> ----Original Message-----
> From: Fink, Robert - NY [mailto:robert.fink@[redacted]
> Sent: Monday, January 22, 2001 4:12 PM
> To: 'Avner Azulay'; 'Kitty Behan'; 'Jack Quinn'; 'Mike Green'; 'Gershon Kekst'
> Cc: 'Marc Rich'
> Subject:
>
>
> I have been asked who lobbied the President in behalf of Marc (and P[illegible]
> and said it may be private and therefore did not immediately respond.. May
> I? Who should I say? I have told everyone that Denise was in favor of the
> resolution of this case and was in favor of the pardon. I am trying to reach
> her to let her know what I have said. Otherwise, I will keep calling people
> back. So far it has been a full time job today.
> Marc, I was asked who handled the divorce for you in Switzerland. I think
> Andre. OK to give his name if pursued?



SACRED HEART UNIVERSITY

November 27, 2000

Mr. Marc Rich
Villa Rose
Kleinaumatt 9
6045 Meggen
Switzerland

Dear Mr. Rich:

I wish to express my deepest appreciation for your on-going support for our program of Christian-Jewish understanding.

Your generous and kind contributions have enabled us to increase our conferences and publications that embody the philosophy of harmony and cooperation between various religious groups. This philosophy is the backdrop of our theme: "World peace is the ultimate goal we must work toward. We cannot have world peace without religious peace. We cannot have religious peace without religious dialogue."

Your interest, loyalty and support encourage us in pursuing the arduous task of inter-religious dialogue, which seems to become more and more so every day.

Please be assured of my best wishes for continued success, and, again – many thanks!

Sincerely,

Anthony J. Cernera, Ph.D.
President

AJC/gd

5151 Park Avenue, Fairfield, Connecticut 06432-1000
(203) 371-7999 FAX (203) 365-7652

EXHIBIT
70
PENGAD-Bayonne, N. J.

List of Letters of Support
for Marc Rich and Foundation

Roni Milo	Minister of Health Former Mayor of Tel Aviv
Dr. Gen. (res.) Ephraim Sneh	Deputy Minister of Defense and Former Minister of Health
Ron Huldai	Mayor of Tel Aviv-Jaffa
Shulamit Aloni	Former Minister of Education and Culture Former Minister of Science and Knesset Member
Arieh Shur	Vice President for External Affairs, Ben-Gurion University of the Negev
Dr. Riyad Zanoun	Minister of Health, Palestinian National Authority
Isaac Herzog	The Government Secretary, Israel
Teddy Kollek	Former Mayor of Jerusalem
Gen (res.) Shlomo Lahat	Former Mayor of Tel Aviv Chairman of the Peace & Security Council
Zubin Mehta	Maestro & Musical Director The Israel Philharmonic Orchestra
Prof. Avi Israeli	CEO, Hadassa Medical Organization, Jerusalem
Prof. Shlomo Mor-Yosef	CEO, Soroka University Medical Center, Beer-Sheva
Dr. Dan Oppenheim	CEO, Rabin Medical Center, Petach Tikva
Prof. Jonathan Halevy, M.D.	CEO, Shaare Zedek Medical Center, Jerusalem
Prof. Yair Reisner	Head, Gabrielle Rich Center for Transplanation Biology Weizmann Institute of Science, Rehovot



Letters Expressing Support for the Pardon of Mr. Marc Rich

Roni Milo	Minister of Health Former Mayor of Tel Aviv
Dr. Gen. (res.) Ephraim Sneh	Deputy Minister of Defense and Former Minister of Health
Ron Huldai	Mayor of Tel Aviv-Jaffa
Shulamit Aloni	Former Minister of Education and Culture Former Minister of Science and Knesset Member
Arieh Shur	Vice President for External Affairs, Ben-Gurion University of the Negev
Dr. Riyad Zanoun	Minister of Health, Palestinian National Authority
Isaac Herzog	The Government Secretary, Israel
Teddy Kollek	Former Mayor of Jerusalem
Gen (res.) Shlomo Lahat	Former Mayor of Tel Aviv Chairman of the Peace & Security Council
Zubin Mehta	Maestro & Musical Director The Israel Philharmonic Orchestra
Prof. Avi Israeli	CEO, Hadassa Medical Organization, Jerusalem
Prof. Shlomo Mor-Yosef	CEO, Soroka University Medical Center, Beer-Sheva
Dr. Dan Oppenheim	CEO, Rabin Medical Center, Petach Tikva
Prof. Jonathan Halevy, M.D.	CEO, Shaare Zedek Medical Center, Jerusalem



DENISE RICH
[redacted]

December 6, 2000

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Dear Mr. President:

I am writing as a friend and an admirer of yours to add my voice to the chorus of those who urge you to grant my former husband, Marc Rich, a pardon for the offenses unjustly alleged and so aggressively pursued in the 1983 indictment by U.S. Attorney for the Southern District of New York Rudolph Giuliani.

I support his application with all my heart. The pain and suffering caused by that unjust indictment battered more than my husband -- it struck his daughters and me. We have lived with it for so many years. We live with it now. There is no reason why it should have gone on so long. Exile for seventeen years is enough. So much of what has been said about Marc as a result of the indictment and exile is just plain wrong, yet it has continued to damage Marc and his family.

Because of the indictment, I have seen what happens when charges are falsely -- even if just incorrectly -- made against those closest to you, and what it feels like to see the press try and convict the accused without regard for the truth. I know the immense frustration that comes when the prosecutors will not discuss their charges, and when no one will look at the facts in a fair way. My husband and I could not return to the United Sates because, while the charges were untrue, no one would listen -- all the prosecutors appeared to think about was the prospect of imprisoning Marc for the rest of his life. With a life sentence at stake, and press and media fueled by the U.S. Attorney, we felt he had no choice but to remain out of the country.

Let no one think exile for life is a light burden. The world we cared about was cut off from us. When our daughter was dying from leukemia, Marc was cruelly denied the opportunity to see her by the prosecutors.

What was this exile for? The charges all relate to old energy regulations, where all of the other people and companies involved in the same kinds of transactions were never charged with a crime. Only my husband was treated differently. He was wrongly charged with "trading with the enemy" and being a "racketeer." With the prosecution talking to the press, no wonder it was



so hard to get anyone to think that Marc was not a criminal. I can tell you, he did not get the benefit of the doubt. His innocence was never presumed. There has been nothing quite like this case -- it is unique.

I saw many of his efforts to seek a resolution. I saw effort after effort fail. There should never be prosecutors who refuse to discuss the truth of their charges.

The pardon application is the last resort. It is also appropriate, as Marc has made the lives of countless others better. I know his contributions because I worked with him on the Rich Foundation. I know that he has a good and giving heart and has helped thousands of people who never heard of him. He wanted it that way. His dedication to charitable causes and his generosity are models. We should not cut ourselves off from someone whose contributions to those in need are a credit to humanity.

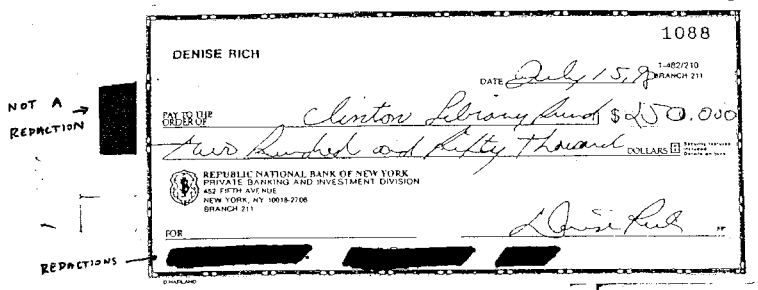
You have the power in this matter not just to show mercy, but to do justice. I believe with all my heart that this is the right thing to do.

Respectfully,

Denise Rich

Denise Rich

CONFIDENTIAL



1088

DENISE RICH

DATE July 15, 98 1-462/210 BRANCH 211

PAY TO THE ORDER OF Clinton Library Fund $250,000

Two Hundred and Fifty Thousand DOLLARS

REPUBLIC NATIONAL BANK OF NEW YORK
PRIVATE BANKING AND INVESTMENT DIVISION
452 FIFTH AVENUE
NEW YORK, NY 10018-2706
BRANCH 211

FOR

NOT A REDACTION

REDACTIONS

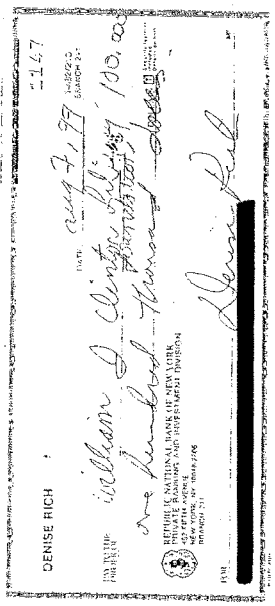
NOT A REDACTION

NOT A REDACTION

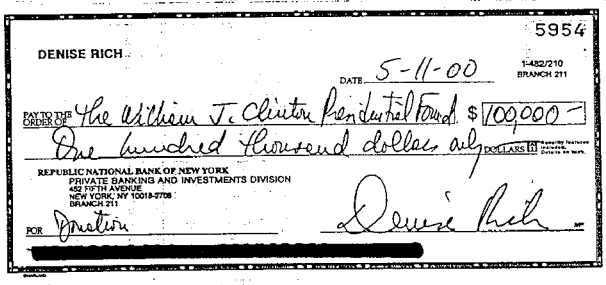
EXHIBIT 74

WJCPF 0002

CONFIDENTIAL



CONFIDENTIAL



5954

DENISE RICH

DATE 5-11-00

1-482/210
BRANCH 211

PAY TO THE ORDER OF The William J. Clinton Presidential Fund $ 100,000-

One hundred thousand dollars only DOLLARS

REPUBLIC NATIONAL BANK OF NEW YORK
PRIVATE BANKING AND INVESTMENTS DIVISION
452 FIFTH AVENUE
NEW YORK, NY 10018-2706
BRANCH 211

FOR Donation

[redacted]

Denise Rich

CONFIDENTIAL

D&R

Dear Bill
Thanks for
your help
Lots of love, Denise

Denise Rich
[redacted]
New York, NY [redacted]
212/[redacted]

EXHIBIT
75

WJCPF 0037

robert.fink@[redacted] on 11/19/2000 03:18:55 PM

To: jquinn@[redacted], gershon-kekst@[redacted].com, Kathleen Behan/Atty/DC/ArnoldAndPorter@APORTER
cc: azulrich@[redacted]

Subject: #761323 v1 - agenda

Here is my draft agenda for Tuesday. It only looks long because of Item 3. Please let me know what else should be covered and I will circulate another copy -- assuming I receive comments. Bob

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Thank you.

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- GBFV01!.DOC

FERGUS Reporters, N. J.
EXHIBIT
76
A0567

DRAFT
02/01/01

Agenda of 11/21/2000 Meeting

1. Overview of approach.
   a. Reasons why it should be granted and why now.
   b. Reasons why not it could not proceed through ordinary procedures.
   c. Details of timing.
2. Mechanics of approach.
   a. When to be made.
   b. To whom.
   c. By whom—initially.
   d. By whom else (and to whom else).
3. Nature of documents to be included in the package.
   a. Identification of each segment.
   b. Assignment on drafting/reviewing/editing.
   c. Consider dealing with usual criteria including:
      i) MR's conduct, character and reputation;
      ii) Seriousness and age of allegations.
      iii) Acceptance of responsibility, remorse and atonement.
      iv) Official recommendations and reports.
      v) Specific need for relief.
      vi) Factors which militate and favor of grant.
      vii) Indications that activity under focus is truly aberrational.
      viii) Evidence that the individual has clearly made sustained and significant contributions to the community.
   d. Identification of person of high moral authority, identify who (singular and plural) will make the approach, and what support and assurances can or should be given.

DRAFT
02/01/01

4. Identification of potential supporters who will write letters.

   a. Review of Avner's list.

   b. Identify anyone who should send letters directly, rather than "To Whom It May Concern."

   c. Need for one page description of approach. (Is this good? Dangerous? Required in all events?)

5. Prophylactic issues.

   a. A need for secrecy and possibility/likelihood of potential leaks. (Kitty says people are watching this closely.)

   b. Likely sources of counter-pressure? (a) press; (b) politicians; (c) governmental personnel; (d) institutional biases; (e) the Judge on the matter.

6. Maximizing use of Gershon.

7. Maximizing use of D.R. and her friends.

8. How to keep focused.

9. How to deal with P.G.

PIPER MARBURY RUDNICK & WOLFE LLP*

1251 Avenue of the Americas
New York, NY 10020-1104
www.piperrudnick.com

PHONE (212) 835-6000
FAX (212) 835-6001

ATTORNEY COPY

FED ID #52-0616490

PRIVILEGED AND CONFIDENTIAL

Marc Rich
c/o Mr. Robert F. Fink
Piper Marbury Rudnick & Wolfe L.L.P
1251 Avenue of the Americas
New York, NY 10020

December 19, 2000
Invoice #1096528

For professional services rendered through December 18, 2000

1980 Taxes

			Hours
12/01/00	R. Fink	Telephone conversation with Mr. A. Azulay; telephone conversation with Ms. K. Behan; telephone conversation with Mr. C. Man; conference with Mr. M. Hepworth; telephone conversation with Mr. Azulay; telephone conversation with Ms. I. Rich; telephone conversation with Mr. M. Green.	2.10
12/02/00	R. Fink	Work on Rich family letters.	1.00
12/03/00	R. Fink	Work on Foundation section, letters from family, main petition; telephone conversation with Mr. M. Green; conference with Mr. M. Hepworth; emails with Ms. K. Behan.	5.50
12/03/00	M. Hepworth	Legal research; review draft papers.	4.60
12/04/00	R. Fink	Telephone conversation with Ms. I. Rich; telephone conversation with Ms. D. Rich; conference with Ms. Denise Rich; telephone conversation with Mr. W. Ushman; work on papers; telephone	4.00

EXHIBIT
77

* Legal services in Illinois are provided by Piper Marbury Rudnick & Wolfe, an Illinois general partnership.

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, December 19, 2000 10:06 AM
To: 'Kitty Behan'; 'Jack Quinn'
Cc: 'Avner Azulay'
Subject: DR letter

I suggest something like this for Denise's cover letter to POTUS:

I recently wrote to you concerning the application for a pardon for my former husband, Marc Rich, but I know that my letter was included with many others which were written on his behalf.
Because I could not bear it were I to learn that you did not see my letter and at least understand my special person reasons for being a supporter of a pardon, I am sending you an additional copy, and an additional request that you wisely use your power to pardon Marc.
Thank you again for your consideration.
Respectfully,
Denise Rich

PS to Avner: Jack thinks Denise should send another copy of her letter to the President to make sure he knows of her feelings. We will contact Denise today to ask her to do this.



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, December 19, 2000 10:17 AM
To: Micciulli, Rosemary - NY
Subject: FW: DR letter

Please prepare this with today's date.

-----Original Message-----
From: Jack Quinn [SMTP:JQuinn@[redacted]
Sent: Tuesday, December 19, 2000 10:10 AM
To: 'Fink, Robert - NY'; 'Kitty Behan'; Jack Quinn
Cc: 'Avner Azulay'
Subject: RE: DR letter

perfect

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@[redacted]
Sent: Tuesday, December 19, 2000 10:06 AM
To: 'Kitty Behan'; 'Jack Quinn'
Cc: 'Avner Azulay'
Subject: DR letter

I suggest something like this for Denise's cover letter to POTUS:

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Denise Rich

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Thank you.

For more information about Piper Marbury Rudnick & Wolfe, please visit us at http://www.piperrudnick.com/

EXHIBIT
79

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, December 19, 2000 11:20 AM
To: 'Jack Quinn'
Subject: RE: Denise

Thanks.

-----Original Message-----
From: Jack Quinn [SMTP:JQuinn@[redacted]
Sent: Tuesday, December 19, 2000 11:11 AM
To: 'robert.fink@[redacted]
Subject: Re: Denise

She shd hand it to him in sealed envelope and mention that she is aware I intend to discuss the matter with him personally. She shd simply ask him to read it later and let him know how strongly we feel that we have the merits on our side. I'm in a mtg but will try to call her later.

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, January 16, 2001 10:29 AM
To: 'Jack Quinn'; Fink, Robert - NY
Cc: 'azulrich@[redacted]
Subject: RE: Denise

I called at 10:30 AM and she is still asleep (she was at her Dad's yesterday and it was a very full day) but I left a message that I had to talk to her before a noon meeting. I expect I will hear from her and I will give her the message.
Hope all is well. Bob

iginal Message—
From: Jack Quinn [SMTP:JQuinn@[redacted]
Sent: Tuesday, January 16, 2001 8:48 AM
To: 'robert.fink@[redacted]
Cc: 'azulrich@[redacted]
Subject: Denise

I am advised that it would be useful if she made another call to P. I am in a fannie mae bd mtg, but would like to set this in motion asap. Message shd be simple: "I'm not calling to argue the merits. Jack has done that, and we believe a pardon is defensible and justified. I'm calling to impress upon you that MR and our whole family has paid a dear price over 18 yrs for a prosecution that shd never have been brought and that singled out MR while letting the oil companies he dealt with go scot free. Please know how important this is to me personally." can you or avner call her this morning? I can be reached via email till noon after that through april in my car.
Thx.

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

EXHIBIT
81

PMR&W 00167

Jack Quinn

From: Jack Quinn
Sent: Wednesday, January 24, 2001 2:08 PM
To: 'rosemary.micciulli@[redacted]' Jack Quinn
Subject: Re: One of the Reporters' Requests

Shd def confirm it didn't. Is this the moment to say that he asked DR for pol support? Or might DR have said something stupid like that when they spoke. God knows, I hope not.

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)



MAR-05-2002 14:23 IRS 1 801 620 7896 P.03

Form **990-PF** Department of the Treasury Internal Revenue Service

EXTENSION ATTACHED

Return of Private Foundation
or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation

Note: The organization may be able to use a copy of this return to satisfy state reporting requirements.

OMB No. 1545-0052

1999

For calendar year 1999, or tax year beginning , 1999, and ending

Use the IRS label. Otherwise, please print or type. See Specific Instructions.

Name of organization: G&P FOUNDATION FOR CANCER RESEARCH, INC. (FORMERLY THE G&P CHARITABLE FOUNDATION)

Number and street (or P.O. box number if mail is not delivered to street address): 770 LEXINGTON AVE 16TH FLOOR

Room/suite:

City or town, state, and ZIP + 4: NEW YORK, NY 10021

A Employer identification number: 13-3916689

B Telephone number (see page 9 of the instructions): (212)486-2575

C If exemption application is pending, check here

D 1. Foreign organizations, check here. 2. Organizations meeting the 85% test, check here and attach computation

E If private foundation status was terminated under section 507(b)(1)(A), check here

F If the foundation is in a 60-month termination under section 507(b)(1)(B), check here

G If address changed, check here

H Check type of organization: [X] Section 501(c)(3) exempt private foundation; [ ] Section 4947(a)(1) nonexempt charitable trust; [ ] Other taxable private foundation

I Fair market value of assets at end of year (from Part II, col. (c), line 16) ▶ 1,447,898.

J Accounting method: [ ] Cash [X] Accrual; [ ] Other (specify)

(Part I, column (d) must be on cash basis.)

Part I Analysis of Revenue and Expenses (The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a) (see page 9 of the instructions).)

		(a) Revenue and expenses per books	(b) Net investment income	(c) Adjusted net income	(d) Disbursements for charitable purposes (cash basis only)
Revenue	1 Contributions, gifts, grants, etc. received (attach schedule)	978,025.	STMT 1		
	2 Contributions from split-interest trusts				
	3 Interest on savings and temporary cash investments	58,385.	58,385.	58,385.	
	4 Dividends and interest from securities				
	5a Gross rents				
	b (Net rental income or (loss))				
	6 Net gain or (loss) from sale of assets not on line 10				
	7 Capital gain net income (from Part IV, line 2)				
	8 Net short-term capital gain				
	9 Income modifications				
	10a Gross sales less returns and allowances				
	b Less: Cost of goods sold				
	c Gross profit or (loss) (attach schedule)				
	11 Other income (attach schedule) STMT 2	2,695.			
	12 Total. Add lines 1 through 11	1,039,105.	58,385.	58,385.	
Operating and Administrative Expenses	13 Compensation of officers, directors, trustees, etc.	NONE			
	14 Other employee salaries and wages	229,013.			
	15 Pension plans, employee benefits				
	16a Legal fees (attach schedule)				
	b Accounting fees (attach schedule) STMT 3	27,555.	NONE	NONE	NONE
	c Other professional fees (attach schedule)				
	17 Interest				
	18 Taxes (attach schedule) (see page 14 of the instructions)				
	19 Depreciation (attach schedule) and depletion	1,071.			
	20 Occupancy				
	21 Travel, conferences, and meetings				
	22 Printing and publications				
	23 Other expenses (attach schedule) STMT 5	220,020.	20.	20.	
	24 Total operating and administrative expenses. Add lines 13 through 23	477,659.	20.	20.	NONE
	25 Contributions, gifts, grants paid STMT 6	1,597,259.			535,920.
	26 Total expenses and disbursements. Add lines 24 and 25	2,074,918.	20.	20.	535,920.
	27 Subtract line 26 from line 12: a Excess of revenue over expenses and disbursements	-1,035,813.			
	b Net investment income (if negative, enter -0-)		58,365.		
	c Adjusted net income (if negative, enter -0-)			58,365.	

SCANNED

RECEIVED MAR 8 2002 OGDEN, UT

For Paperwork Reduction Act Notice, see the instructions. Form **990-PF** (1999)

2HF192 3807 11/03/2000 14:40:07 V9.08.01 02557.000

EXHIBIT 83

Form **990-PF** Department of the Treasury Internal Revenue Service

Return of Private Foundation
or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation

Note: *The organization may be able to use a copy of this return to satisfy state reporting requirements.*

EXTENSION ATTACHED
OMB No. 1545-0052

1998

For calendar year 1998, or tax year beginning , 1998, and ending

Use the IRS label. Otherwise, please print or type. See Specific Instructions.

Name of organization	A Employer identification number
THE G&P CHARITABLE FOUNDATION	13-3916689
Number and street (or P.O. box number if mail is not delivered to street address) / Room/suite	B Telephone number (see page 6 of the instructions)
770 LEXINGTON AVE 16TH FLOOR	(212)486-2675
City or town, state, and ZIP + 4	C If exemption application is pending, check here ▶
NEW YORK, NY 10021	D 1. Foreign organizations, check here ▶ 2. Organizations meeting the 85% test, check here and attach computation ▶

H Check type of organization: [X] Section 501(c)(3) exempt private foundation
[ ] Section 4947(a)(1) nonexempt charitable trust [ ] Other taxable private foundation

E If private foundation status was terminated under section 507(b)(1)(A), check here ▶ [ ]

F If the foundation is in a 60-month termination under section 507(b)(1)(B), check here ▶ [ ]

I Fair market value of assets at end of year (*from Part II, col. (c), line 16*) ▶ 1,378,007.

J Accounting method: [ ] Cash [X] Accrual [ ] Other (specify)
(*Part I, column (d) must be on cash basis.*)

G If address changed, check here ▶ [X]

Part I Analysis of Revenue and Expenses (*The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a) (see page 9 of the instructions).*)	(a) Revenue and expenses per books	(b) Net investment income	(c) Adjusted net income	(d) Disbursements for charitable purposes (cash basis only)
1 Contributions, gifts, grants, etc., received (attach schedule)	2,412,401.	STMT 1		
2 Contributions from split-interest trusts				
3 Interest on savings and temporary cash investments	19,299.	19,299.		
4 Dividends and interest from securities				
5a Gross rents				
b (Net rental income or (loss))				
6 Net gain or (loss) from sale of assets not on line 10				
7 Capital gain net income (from Part IV, line 2)				
8 Net short-term capital gain				
9 Income modifications				
10a Gross sales less returns and allowances				
b Less: Cost of goods sold				
c Gross profit or (loss) (attach schedule)				
11 Other income (attach schedule)				
12 Total. Add lines 1 through 11	2,431,700.	19,299.		
13 Compensation of officers, directors, trustees, etc.	NONE			
14 Other employee salaries and wages	99,291.			
15 Pension plans, employee benefits				
16a Legal fees (attach schedule)				
b Accounting fees (attach schedule) STMT 2	6,000.	NONE	5,000.	NONE
c Other professional fees (attach schedule)				
17 Interest				
18 Taxes (attach schedule) (see page 12 of the instructions)				
19 Depreciation (attach schedule) and depletion				
20 Occupancy				
21 Travel, conferences, and meetings				
22 Printing and publications				
23 Other expenses (attach schedule) STMT 3	1,010,913.	473.	1,008,440.	2,000.
24 Total operating and administrative expenses. Add lines 13 through 23	1,115,204.	473.	1,013,440.	2,000.
25 Contributions, gifts, grants paid				
26 Total expenses and disbursements. Add lines 24 and 25	1,115,204.	473.	1,013,440.	2,000.
27 Subtract line 26 from line 12:				
a Excess of revenue over expenses and disbursements	1,316,496.			
b Net investment income (if negative, enter -0-)		18,826.		
c Adjusted net income (if negative, enter -0-)			-0-	

SCANNED DEC 14 '99

RECEIVED
15 NOV 10 1999
OGDEN, UT
IRS

1251 Avenue of the Americas
New York, New York 10020-1104
www.piperrudnick.com

PHONE (212) 835-6000
FAX (212) 835-6001

ROBERT F. FINK

robert.fink@[redacted]
PHONE
FAX [redacted]

December 4, 2000

BY HAND

Ms. Ilona Rich
[redacted]

Re: Your Dad

Dear Ilona:

Here is the original of the letter I read to you. My secretary spoke to Danielle just after we spoke, and she will try to stop at your house tomorrow, Tuesday, to sign it also. Please send it back to me by hand after you both sign it.

Also, on another note, here are some banking papers to set up the account with UBS for you that need your signature. Please execute where indicated and also return these to me so I can send them back to Switzerland.

Sincerely,

Robert F. Fink

/rm

Enclosures

PMR&W 00259

EXHIBIT
84

CONFIDENTIAL

REDACTION → [redacted] N.W.
Washington, D.C. 20016

July 17, 1998

Nicole -

I spoke with Skip Rutherford's office and they told me that they aren't ready to accept checks for the library yet, so they asked me to send it to your office.

The enclosed check is from Denise Rich for $250,000. Her address and phone number are below if you need further information from her.

REDACTIONS →
Denise Rich
[redacted]
New York, NY 10022
212-[redacted]

Also, please don't hesitate to call Beth or I if you have any questions. Thanks for your help.

Janine

Janine Werkman
Chief of Staff for Beth Dozoretz
REDACTION → 202-[redacted]

[redacted]
NOT A REDACTION

EXHIBIT
85

WJCPF 0004

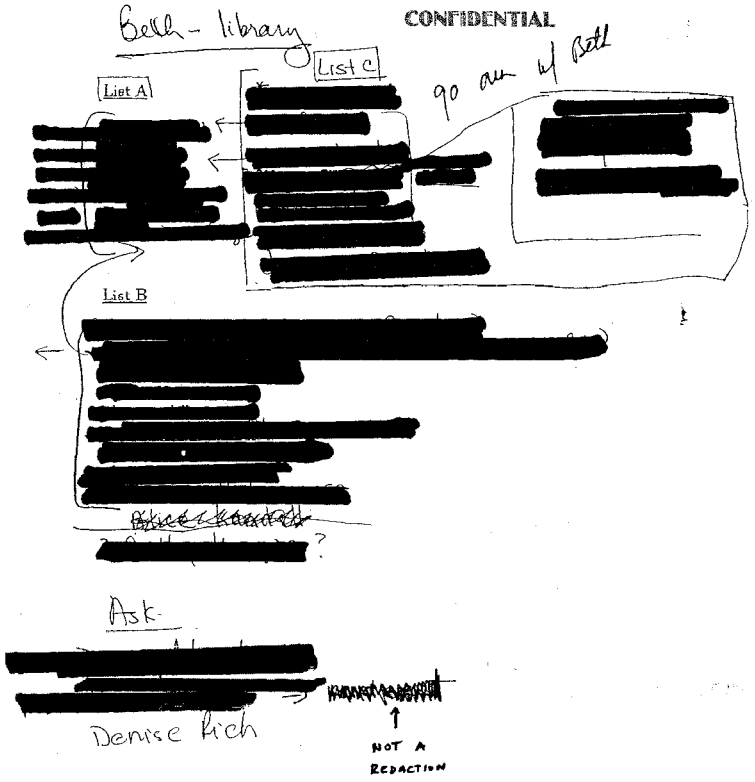


EXHIBIT
86

WJCPF 0048

APR.-20'99(TUE) 13:04 DNC FINANCE ** TEL:2028638000 P.001

CONFIDENTIAL

THE WILLIAM J. CLINTON PRESIDENTIAL FOUNDATION

January 4, 2000

Mrs. Beth Dozoretz
[redacted]
Washington, DC 20016

Dear Beth:

Thank you for your recent $1,000,000 pledge to the William J. Clinton Presidential Foundation. We very much appreciate your generous support and look forward to your continuing involvement with the Clinton Presidential Library and programs associated with it.

The Foundation is exempt from federal income taxes as a 501(c)(3) corporation. As required by the Internal Revenue Service, we are confirming that the Foundation did not provide any goods or services to you in consideration for the pledge.

There is one administrative matter with which I must bother you. Please complete and return the enclosed form in the return envelope. It is our understanding that your pledge does not result from a direct solicitation by the President or the First Lady. While the President and First Lady may solicit contributions/pledges for the Library, monies that result from their direct personal solicitation are handled differently. If our understanding is correct, we would be very appreciative if you would confirm it on the attached sheet. I thank you in advance.

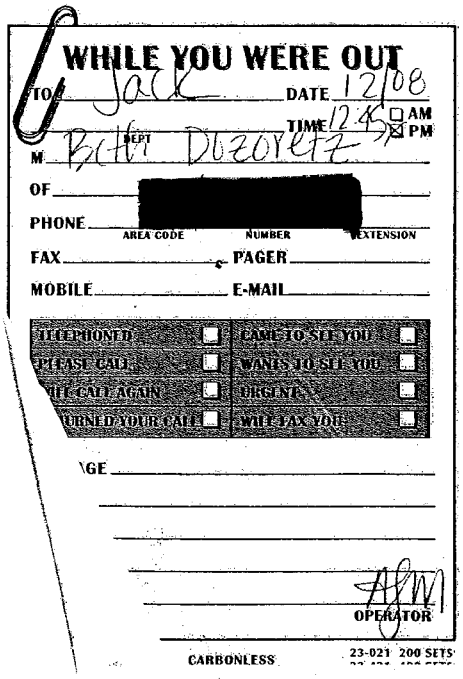
Again, thank you very much.

Best Wishes,

Skip Rutherford
President

Enclosures

EXHIBIT
87



WHILE YOU WERE OUT

TO Jack DATE 12/08

TIME 12:45 ☐ AM ☒ PM

DEPT

M Beth Dozoretz

OF [redacted]

PHONE AREA CODE NUMBER EXTENSION

FAX PAGER

MOBILE E-MAIL

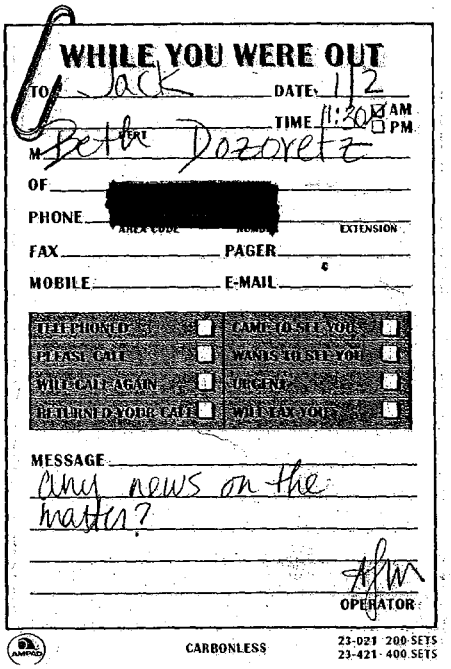
TELEPHONED ☐	CAME TO SEE YOU ☐
PLEASE CALL ☐	WANTS TO SEE YOU ☐
WILL CALL AGAIN ☐	URGENT ☐
RETURNED YOUR CALL ☐	WILL FAX YOU ☐

MESSAGE

OPERATOR

CARBONLESS 23-021 200 SETS

EXHIBIT
88



WHILE YOU WERE OUT

TO Jack DATE 1/2

TIME 11:30 ☑ AM ☐ PM

M Beth Dozoretz

OF [redacted]

PHONE [redacted] EXTENSION

FAX PAGER

MOBILE E-MAIL

TELEPHONED	CAME TO SEE YOU
PLEASE CALL	WANTS TO SEE YOU
WILL CALL AGAIN	URGENT
RETURNED YOUR CALL	WILL FAX YOU

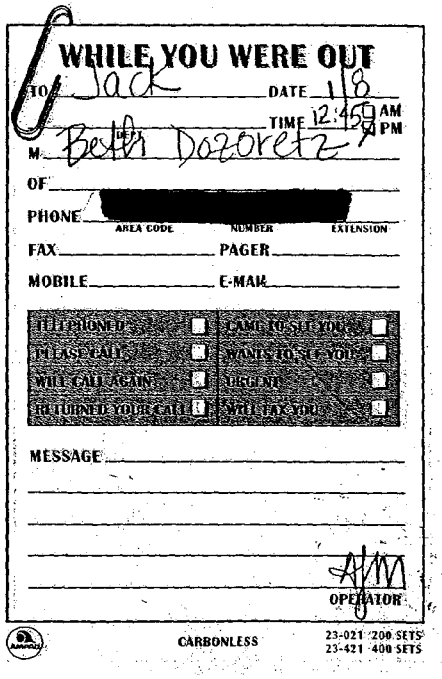
MESSAGE

Any news on the matter?

OPERATOR

CARBONLESS

23-021 200 SETS
23-421 400 SETS



WHILE YOU WERE OUT

TO Jack DATE 1/8

TIME 12:45 AM PM

M Beth Dozoretz

OF

PHONE [redacted] AREA CODE NUMBER EXTENSION

FAX PAGER

MOBILE E-MAIL

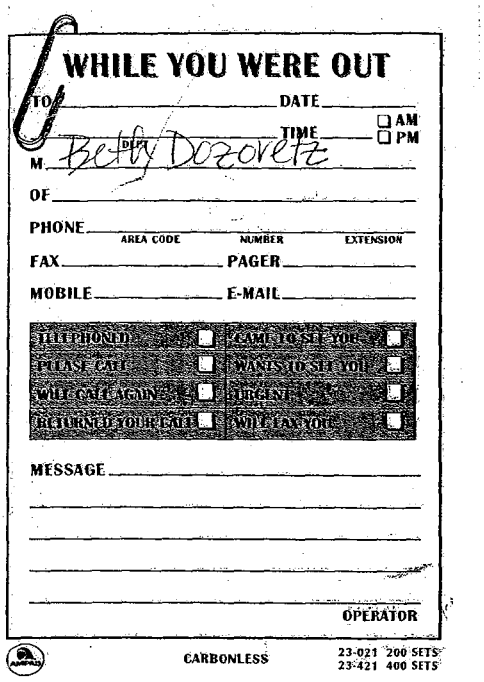
TELEPHONED	☐	CAME TO SEE YOU	☐
PLEASE CALL	☐	WANTS TO SEE YOU	☐
WILL CALL AGAIN	☐	URGENT	☐
RETURNED YOUR CALL	☐	WILL FAX YOU	☐

MESSAGE

A/M

OPERATOR

CARBONLESS 23-021 200 SETS 23-421 400 SETS



WHILE YOU WERE OUT

TO _____ DATE _____

TIME _____ ☐ AM ☐ PM

M Betty Dozoretz

OF _____

PHONE _____ AREA CODE NUMBER EXTENSION

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

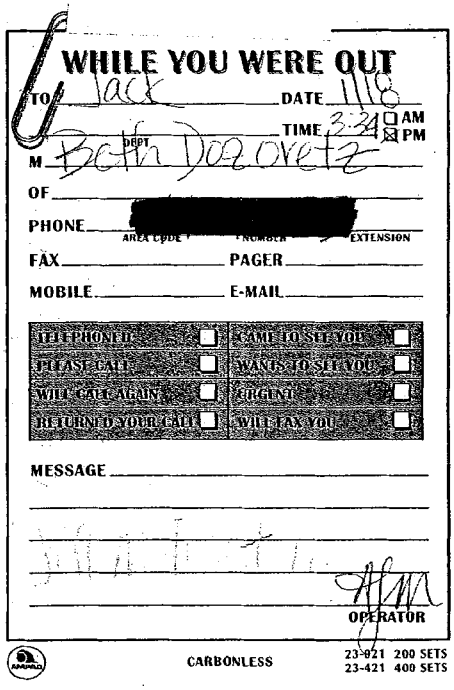
TELEPHONED ☐	CAME TO SEE YOU ☐
PLEASE CALL ☐	WANTS TO SEE YOU ☐
WILL CALL AGAIN ☐	URGENT ☐
RETURNED YOUR CALL ☐	WILL FAX YOU ☐

MESSAGE _____

OPERATOR

CARBONLESS

23-021 200 SETS
23-421 400 SETS



WHILE YOU WERE OUT

TO Jack DATE 1/16

TIME 3:24 ☐ AM ☒ PM

M DEPT Beth Dorotz

OF

PHONE [redacted] AREA CODE / NUMBER / EXTENSION

FAX PAGER

MOBILE E-MAIL

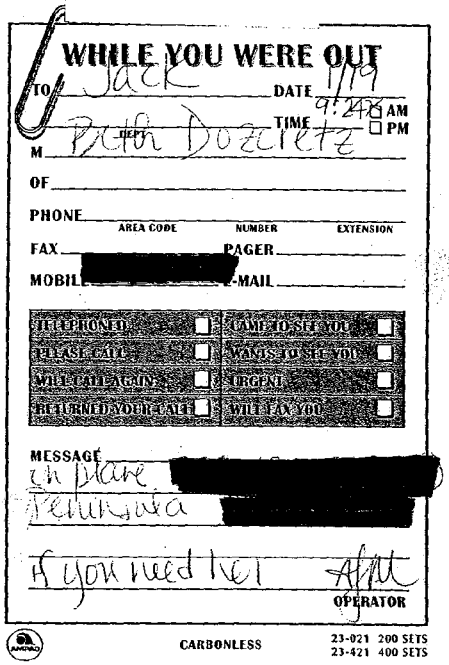
TELEPHONED	☐	CAME TO SEE YOU	☐
PLEASE CALL	☐	WANTS TO SEE YOU	☐
WILL CALL AGAIN	☐	URGENT	☐
RETURNED YOUR CALL	☐	WILL FAX YOU	☐

MESSAGE

OPERATOR

CARBONLESS

23-921 200 SETS
23-421 400 SETS



WHILE YOU WERE OUT

TO Jack DATE 1/19

TIME 9:24 ☐ AM ☐ PM

M Beth Dozeretz

OF

PHONE AREA CODE NUMBER EXTENSION

FAX PAGER

MOBIL [redacted] E-MAIL

TELEPHONED ☐	CAME TO SEE YOU ☐
PLEASE CALL ☐	WANTS TO SEE YOU ☐
WILL CALL AGAIN ☐	URGENT ☐
RETURNED YOUR CALL ☐	WILL FAX YOU ☐

MESSAGE

In Plane [redacted]

Peninsula [redacted]

If you need her

OPERATOR

CARBONLESS 23-021 200 SETS 23-421 400 SETS

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, January 10, 2001 11:20 AM
To: 'Jack Quinn'
Subject: FW: update

I said it before, and I say it again, "nice letter".
Keep on praying, and, oh, a few phone calls won't hurt.
bob

-----Original Message-----
From: Avner Azulay [SMTP:azulrich@[redacted]]
Sent: Wednesday, January 10, 2001 10:59 AM
To: Jack Quinn
Cc: Fink, Robert - NY; Kathleen_Behan@[redacted]; Rich, Marc
Subject: update

1.I met rabin's daughter today.She is going to call potus tonight or tomorrow.She read your last ltr and saw the summary etc..She has an ongoing relation with him and feels comfortable about it.

2.DR called from aspen .Her friend B- who is with her - got a call today from potus - who said he was impressed by JQ's last letter and that he wants to do it and is doing all possible to turn around the WH counsels.DR thinks he sounded very positive but " that we have to keep praying" .There shall be no decision this wknd and the other candidate Milik is not getting it.

3.I shall meet her and her friend next week - she will provide more details.

PMR&W
00162

EXHIBIT
89

April Moore

From: April Moore
Sent: Wednesday, January 17, 2001 12:13 PM
To: Jack Quinn
Subject: [redacted] Beth

[redacted]

Beth Dozoretz wants you to call her on her cell if you get a chance. She's on her cell [redacted].
She wants to include Greg Earls in the Portalvision meeting with Ron next week.
Will you attend that meeting as well?

April J. Moore
Quinn Gillespie & Associates
2133 Connecticut Avenue, N. W.
5th Floor
Washington, D.C. 20036
[redacted]
amoore@[redacted]

1



April Moore

From: April Moore
Sent: Wednesday, January 17, 2001 1:38 PM
To: Jack Quinn
Subject: RE: Kitty is canceling for 2pm

She said that she'd have to call us back. She is overwhelmed.
Beth is very eager to talk to you. She called again and knows that you are at the WH. [redacted]

-----Original Message-----
From: Jack Quinn
Sent: Wednesday, January 17, 2001 12:48 PM
To: April Moore
Subject: Re: Kitty is canceling for 2pm

When are we resked'g kitty?

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)



April Moore

From: April Moore
Sent: Wednesday, January 17, 2001 2:02 PM
To: Jack Quinn
Subject: BETH

Importance: High

Very sorry to bother you with this but she is insistent. Please call her - she says that it is URGENT.
Thanks.
AJM



Account Number	Bill Date	Payment Due Date
[redacted]	FEB 9, 2001	MAR 9, 2001

QUINN GILLESPIE AND ASSOC
RATES
1133 CONNECTICUT AVE NW
WASHINGTON DC 20036-4305

:ount: [redacted]

REF # [redacted]

[All in One Service
)etail

DATE	TIME (hh:mm:ss)	PLACE	AREA CODE/ NUMBER	DURATION (hh:mm:ss)	CALL TYPE	RATE PERIOD	AMOUNT
; DISTANCE SERVICE MARY ACCOUNT CODE: QGA							
1/19/01	10:48:56P	TO BEVERLYHLS	CA 310 551-2888	2:25	DDC	MELAI	0.22

EXHIBIT
93

THE PENINSULA
BEVERLY HILLS

Dr And Mrs Dear Party Ronald DozoretzPage 1
[redacted]
UNITED STATES

Room	PX434
Arrival	01/19/01
Departure	01/21/01
Person(s)	2
Room Rate	660.00/PENCARD
Cashier	33 KERSTIN

Copy of Invoice 220078 Guest No. 33594 Confirmation 230235
The Peninsula Beverly Hills, 01/21/01 18:24

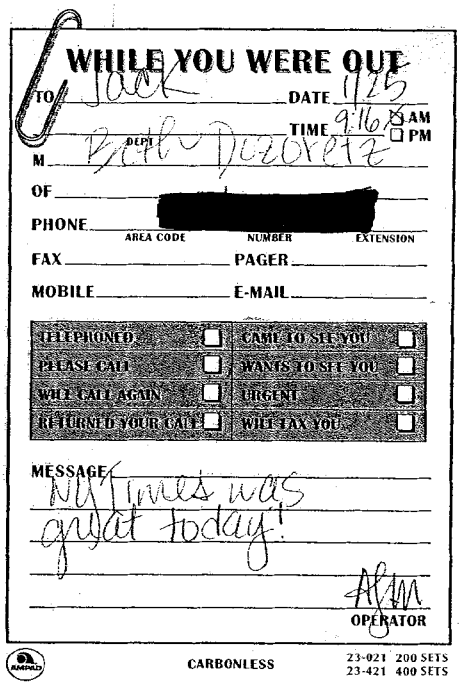
DATE	DESCRIPTION	CHARGES US$	CREDITS US$
01/19	Room Service	75.83	
01/19	Room Charge	660.00	
01/19	Room Tax	93.79	
01/19	Occupancy Surcharge	9.90	
01/19	Telephone L.D. #7434 : 202-456-1414	7.51	
01/19	Telephone Local #7434 : 310-[redacted]	1.00	
01/19	DLS Limo Resv#3318 Driver#20	180.00	
01/19	DLS Limo Resv#3337 Driver#20	480.00	
01/20	The Club	11.18	
01/20	Living Room	12.80	
01/20	Room Service	82.90	
01/20	Private Bar	65.61	
01/20	Room Charge	660.00	
01/20	Room Tax	93.79	
01/20	Occupancy Surcharge	9.90	
01/20	Telephone L.D. #7434 : [redacted] L	1.00	
01/20	Telephone L.D. #7434 : [redacted] L	1.00	
01/20	Telephone Local #7434 : [redacted]	1.00	
01/20	Telephone Local #7434 : [redacted]	1.00	
01/20	Telephone Local #7434 : [redacted]	1.00	
01/20	Telephone Local #7434 : [redacted]	1.00	
01/21	Room Service	61.05	
01/21	Private Bar	28.08	
01/21	DLS Limo Commission 3345	87.04	
01/21	Folio Transfer Charges ->TRANS FROM DOZORETZ/438	796.47	
01/21	American Express ->X[redacted] [redacted]		3422.85
	Total	3422.85	3422.85
	Balance	0.00 USD	

Remarks

I agree that I am personally liable for the payment of this account, and if the person, company or association indicated does not settle within a reasonable period, my liability for payment should be joint and several with such person, company or association.

Signature

EXHIBIT 94



WHILE YOU WERE OUT

TO Jack DATE 1/25

TIME 9:16 ☒ AM ☐ PM

M Beth Dezort

OF [redacted]

PHONE [redacted] AREA CODE NUMBER EXTENSION

FAX PAGER

MOBILE E-MAIL

TELEPHONED	☐	CAME TO SEE YOU	☐
PLEASE CALL	☐	WANTS TO SEE YOU	☐
WILL CALL AGAIN	☐	URGENT	☐
RETURNED YOUR CALL	☐	WILL FAX YOU	☐

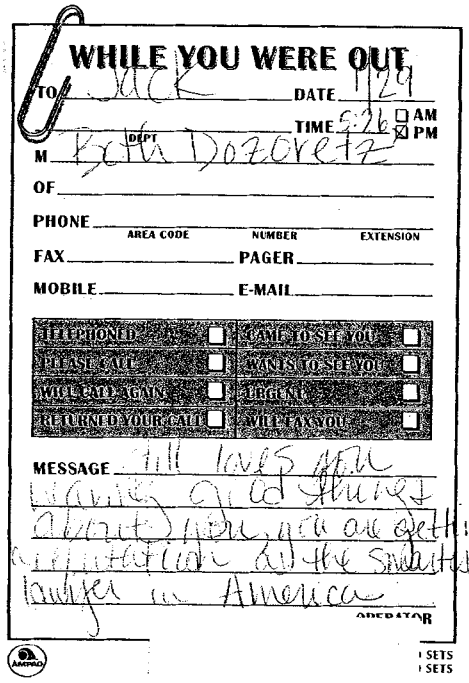
MESSAGE NY Times was great today!

AM

OPERATOR

AMPAD CARBONLESS 23-021 200 SETS 23-421 400 SETS





WHILE YOU WERE OUT

TO Jack DATE 1/29

TIME 5:26 ☐ AM ☒ PM

DEPT

M Kathy Dozoretz

OF

PHONE
AREA CODE NUMBER EXTENSION

FAX PAGER

MOBILE E-MAIL

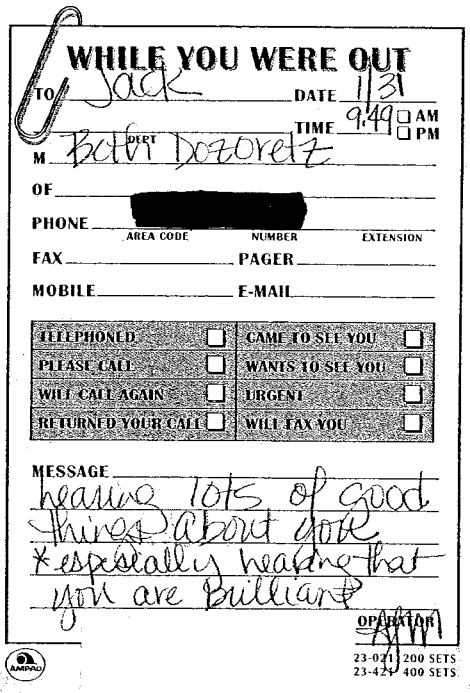
TELEPHONED	CAME TO SEE YOU
PLEASE CALL	WANTS TO SEE YOU
WILL CALL AGAIN	URGENT
RETURNED YOUR CALL	WILL FAX YOU

MESSAGE Jill loves you
Wants a cd thing
about you're getting
a tattoo with the smallest
bumper in America

OPERATOR

SETS
SETS

EXHIBIT
96



WHILE YOU WERE OUT

TO Jack DATE 1/31

TIME 9:49 ☐ AM ☐ PM

M Batya Dozoretz

OF

PHONE [redacted] (AREA CODE / NUMBER / EXTENSION)

FAX PAGER

MOBILE E-MAIL

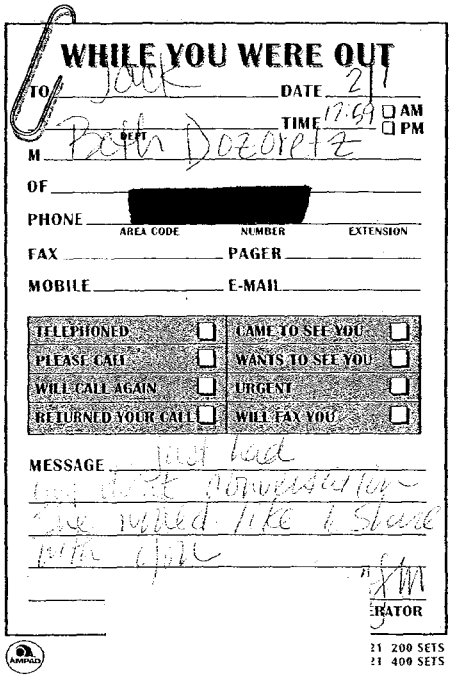
TELEPHONED	☐	CAME TO SEE YOU	☐
PLEASE CALL	☐	WANTS TO SEE YOU	☐
WILL CALL AGAIN	☐	URGENT	☐
RETURNED YOUR CALL	☐	WILL FAX YOU	☐

MESSAGE hearing lots of good things about you *especially hearing that you are Brilliant

OPERATOR AM

23-021 200 SETS
23-421 400 SETS





WHILE YOU WERE OUT

TO Jack DATE 2/1

TIME 17:59 ☐ AM ☐ PM

DEPT

M Beth Dozoretz

OF

PHONE [redacted]
AREA CODE NUMBER EXTENSION

FAX PAGER

MOBILE E-MAIL

TELEPHONED	☐	CAME TO SEE YOU	☐
PLEASE CALL	☐	WANTS TO SEE YOU	☐
WILL CALL AGAIN	☐	URGENT	☐
RETURNED YOUR CALL	☐	WILL FAX YOU	☐

MESSAGE Just had
[illegible] conversation w/
She wanted like I stand
with Hill

XM

ERATOR

21 200 SETS
21 400 SETS

EXHIBIT
98



אהוד ברק
Ehud Barak

May 13, 2001

Chairman Dan Burton
Committee on Government Reform
2157 Rayburn House Office Building
Congress of The US
House of Representatives
Washington ,DC 20515-6143
USA

Dear chairman Burton

Attached hereby is my response to your letter of march 8 ,2001 :

Few months ago I was approached by the chairman of the Rich Foundation in Israel. The chairman, Mr. Azoulay is a man I know for many years, who had contributed a lot to the security of the State of Israel.
The Rich Foundation is well known and highly appreciated in Israel for its philanthropic activities in the fields of healthcare , education and culture.

Mr. Azoulay asked me to raise Mr. Rich case with President Clinton.
I raised the subject with President Clinton several times (probably three) in the course of routine telephone conversations during the last two or three months of his presidency and made a personal recommendation to him to consider the case.

Respectfully yours

E. Barak

Ehud Barak



azulrich@[redacted] on 01/04/2001 04:32:02 AM

To: jquinn@[redacted]
cc: robert.fink@[redacted] Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]
marc.rich@[redacted]

Subject: Fw: request for delay

----- Original Message -----
From: Avner
Sent: Thursday, January 04, 2001 10:59
Subject: Fw: request for delay

----- Original Message -----
From: Avner
To: quinn jack
Cc: Fink, Robert - NY ; behan kathleen ; Rich, Marc
Sent: Thursday, January 04, 2001 08:26
Subject: request for delay

I read carefully your email. The main positive element I found in it the situation is that a decision has not been taken yet - and of course your intervention.. As I have already mentioned - during this wknd MR is scheduled to meet the PM,FM & SHP - as well as a main vector to EW.

If possible it would be very useful to ask the WH to hold the final decision (unless it is postive!) - until the above have the opportunity to make / repeat their personal appeals.

I can also cfm the info on JP. It seems that the topic was discussed in telecons with potus - within the framework of the peace agreement. JP's freedom is considered as a public-political "sweet pill" which shall help swallow (or divert public attention from) the more sour pills in the agreement with arafat .I am sure potus is aware that JP is going to be big trouble with the entire intelligence community and MR could go along with it " less unnoticed".On the other hand if he says no to JP - one more reason to say yes to MR.

- ALTERNATIVE.HTM

EXHIBIT
100

A0865



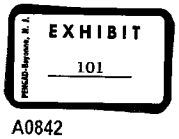
richfnd@[redacted] 12/25/2000 04:54:25 AM

To: jquinn@[redacted]
cc: Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted], robert.fink@[redacted]
marc.rich@[redacted]

Subject: peres

Shimon Peres confirms that he talked to potus on Monday Dec 11th who "took note " of his intervention.FYI.

 - ALTERNATIVE.HTM



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, December 19, 2000 5:52 PM
To: 'Avner Azulay'
Cc: 'Jack Quinn'; 'Kitty Behan'
Subject: RE: teloecon to potus

Let's see what Jack says. I should tell him that Kitty did not see much of an up side. Because his season party is tonight, I do not expect to hear from him until tomorrow.
But it is already tomorrow in Israel.
Bob

-----Original Message-----
From: Avner Azulay [SMTP:azulrich@[redacted]
Sent: Tuesday, December 19, 2000 4:44 PM
To: kathleen_Behan@[redacted]
Cc: robert.fink@[redacted]
Subject: teloecon to potus

Would it still be useful to have another VIP place an additional call to Potus to support the petition.I could try asking the Speaker of the Knesset (Parlement) Avraham Burg who was the guest speaker at the "Marc Rich Annual Seminar" which opened tonight .I faxed a copy of the program to Bob earlier in the day . Among the spaekers attending the seminar was the President of the State and other diginatiries,ambassadors etc.. I don't know what his reaction would be to such a request ,and before I give it a try - is this worhwhile trying?Will it make any difference?. Burg is on very friendly terms with Hilary and knows potus from previous contacts.Pse advise/comments.Thanks & regards-Avner

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Fink, Robert - NY

From: Fink, Robert - NY
Sent: Thursday, January 11, 2001 9:32 AM
To: 'Gershon Kekst'
Cc: 'Jack Quinn'
Subject: RE: letter from A.Burg

I think Potus will realize that it is intended to be helpful.
Frankly, I am a little surprised Avner let it go in this form, as we pulled one like it from the original petition. Maybe he did not see it until after it had gone.
I see no reason to rain on anyone's parade.
Hope you both are well. Bob

-----Original Message-----
From: gkekst [SMTP:gershon-kekst@[redacted]
Sent: Thursday, January 11, 2001 6:57 AM
To: Robert Fink (E-mail); Jack Quinn (E-mail)
Subject: FW: letter from A.Burg

Jack and bob.....is this a helpful letter ?

Gershon

-----Original Message-----
From: Avner [mailto:azulrich@[redacted]
Sent: Thursday, January 11, 2001 3:44 AM
To: quinn jack
Cc: Fink, Robert - NY; behan kathleen; Rich, Marc; gkekst
Subject: letter from A.Burg

The following letter was sent by the Speaker of the Knesset to the President:

SPEAKER OF THE KNESSET

Jerusalem ,Jan 9 2001

President Bill Clinton
The White House
Washington DC

Mr. President:

I am writing to you on behalf of myself and Mr. Israel Singer,Chairman of the World Jewish Congress with whom I have had the honor of collaborating on a number of major humanitarian efforts addressing both Jewish and global issues. The purpose of this letter is to appeal to you in the case of Mr.Marc Rich.

Although we are not familiar with all the details of the case,we feel that even though there may have been some mistakes in the past,the time has surely now come to give a new chance to this man who has devoted much of his life to helping others.Among his many philanthropic activities,Mr.Rich has been a very generous supporter of large scale humanitarian projects for Jews around the world,has helped Israel to address its social problems and provide for its security needs and has promoted education and health programs in Gaza and the West Bank.

Marc Rich,who over the years has brought relief to so many of his fellow human beings,now wants only to return home

EXHIBIT 103

PMR&W 00163

to the USA and to spend these later years of his life with his children and grandchildren there.

We now wish to add our voices to the many who call upon you,Mr. President,to find a resolution to this situation by granting Mr.Marc Rich a Presidential Pardon.

Sincerely yours,

Abraham Burg

This e-mail, and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error, please immediately notify me at [redacted] and permanently delete the original and any copy of the e-mail and any printout thereof.

azulrich@[redacted] on 01/05/2001 05:00:39 AM

To: JQuinn@[redacted]
cc: robert.fink@[redacted], Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]

Subject: singer + burg + bronfman

URGENT

Israel Singer & Edgar Bronfman (CEO & President of the World Jewish Congress) are scheduled to meet potus on Sunday evening in NY (the Israel Policy Forum- not adequate for a private talk) and on Wednesday for a private séance at the WH. In anticipation of Abraham Burg's meeting , I contacted Singer through Rabbi Rizkin. Burg will give his support only if he knows that Singer and Bronfman will..I don't know but suspect that this has to do with JPoll.

Now Singer wants to be sure that the MRPG petition is on the agenda of potus. I suggest you contact Israel Singer the soonest possible - either to brief him and answer his questions or arrange for a mtg with him before he meets potus. (his phones are ; home= [redacted] office= [redacted] .

If it helps I would not hesitate to deliver to him personally the petition books (including the foundation) - if it will serve a tool to convince him.He is not against - on the contrary he wants to help but wants to be sure of what he is doing.He met MR a few years ago in Zug.

You can also intruduce your fall back solutions - if that is the minimum which can be achieved.

Considering the latest reports - which don't sound the way we would like to - I think it is important to delay any final decision this weekend and allow us to make these additional efforts - from here after MR's visit and from NY - Bronfman-Singer-Burg and perhaps others.If the status is still open ,I shall come to the US and perhaps some other voices can be added.(Rabin's daughter? Vernon Jordan? Danny Abraham?).

Please feel free to call at any time: I can be reached either by cell - [redacted] or at the King David Hotel - [redacted] (Friday & Saturday nights), and back at my home [redacted]

- ALTERNATIVE.HTM

EXHIBIT
104

A0866

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Monday, January 01, 2001 2:53 PM
To: 'Avner '
Subject: RE:

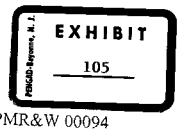
I don't know if there is anything I can do about it but it is a very bad thing and it makes me want to do something. We should talk about this sometime, seriously.
Bob

-----Original Message-----
From: Avner
To: Fink, Robert - NY
Sent: 12/31/00 2:29 AM
Subject: Re:

Bob, having Leah Rabin call is not a bad idea . The problem is how do we contact her? She died last November - on the 5th anniversary of her husband's murder.
About the book - "Murder in the name of God" - , I think you should finish
it (it's not a punishment) so that you may know who your people are. By the
way they are back in business - the rabbis have declared Barak's life - dispensable! The right wing religious - most of them come from the US and
continue to be encouraged verbaklly and financially by supported strongly by
the jewish right wing in the US. Is ther anything you can do about it?

----- Original Message -----
From: Fink, Robert - NY <robert.fink@[redacted]
To: 'Avner Azulay ' <azulrich@[redacted]
Sent: Saturday, December 30, 2000 22:46
Subject: RE:

> Same to you and your group, but I have a bone to pick with you. I am on
> holiday and reading Murder in the name of God and find it very disturbing
> and it make me mad. Do I have to finish it? I ready to say the hell with
> those people.
> Still have a good new year.
> Oh one more thing. Jack asks if you could get Leah Rabin to call the
> President; Jack said he was a real big supporter of her husband. He also
> thinks HRC will hear about this anyway and still wants to contact her. I
> will call him today in Colorado and go over what DR said. All the best for
> all of you.
> Bob and Margie
>
> -----Original Message-----
> From: Avner Azulay
> To: Fink, Robert - NY
> Sent: 12/28/00 4:18 PM
> Subject: Re:
>
> Bob, happy 2001 to you Margie & the rest of the tribe.
> ----- Original Message -----
> From: Fink, Robert - NY <robert.fink@[redacted]
> To: 'Avner Azulay' <azulrich@[redacted]
> Cc: 'Marc Rich' <marc.rich@[redacted]
> Sent: Thursday, December 28, 2000 9:11 PM



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, January 03, 2001 5:51 PM
To: 'Jack Quinn'
Cc: 'Mike Green'
Subject: RE: Status of application.

Well done. I am forwarding a copy to Mike Green as well.
Enjoy your party and part tomorrow.
Bob

-----Original Message-----
From: Jack Quinn [SMTP:JQuinn@[redacted]
Sent: Wednesday, January 03, 2001 4:49 PM
To: 'Avner'; Fink, Robert - NY
Cc: Jack Quinn; behan kathleen; Rich, Marc
Subject: RE: Status of application.

I just got off the phone with Beth Nolan, the White House Counsel. She told me that her office will do the next "reasssessment" of our and other applications on Friday. I impressed upon her that our case is "sui generis" only in that MR was indicted but did not stand trial and then elaborated at some length on the circumstances of MR's decision not to return -- the facts that Rudy was new, was trying to make a reputation, overcharged in the most gross way (and in ways that would not stand today -- RICO, mail/wire fraud, etc.) and that MR, seeing the mountain of adverse publicity generated by the US Atty's ofc and the disproportionate charges, made the choice anyone would make, i.e., not to return. She responded that this is still a tough case -- that the perception will nevertheless be that MR is in some "sense" a fugitive. I explained why he is not. I told her that I want an opportunity to know, before a final decision, if there are things we have not said or done that should be said or done. She promised me that opportunity. I asked if she would see us to review the matter in person and she said she would if there was reason to think, after her reassessment, that that would be fruitful. I told her, finallt, that I intend to have one more conversation with POTUS before this is finalized in order to make the case to him, focusing in particular on his appreciation of what an overly-zealous prosecutor can do to make a fair trial, in court or in the court of public opinion, impossible. Lastly, I told her that, if they pardon JP, then pardoning MR is easy, but that, if they do not pardon JP, then they should pardon MR. In the last connection, she affirmed that they have heard from people in or connected to the GOI.
>
>

PMR&W 00111

EXHIBIT
106





Expose: Using Pollard To Get Rich



Eran Tiffenbraun and Mody Kreitman
February 25, 2001

Yediot Achronot (the largest Israeli daily) Exclusive Investigation - February 23, 2001 7 DAYS Weekend Supplement Cover Feature Story

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Part I: An Overview of the Scandal and The Scheme - Main Essay
Part II: Evasive Responses from Barak And Top Officials
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Part IV: Pollard In Prison: "I Was Betrayed"

Introduction

In his last days in the White House, Bill Clinton pardoned Mark Rich, a speculator who did business with Khomeini at a time when American hostages were being tortured in Teheran. He was indicted for the largest tax evasion in the history of the United States (48 million dollars), and was facing 300 years in prison for the more than 50 charges against him when he fled to Switzerland, escaping the law by the skin of his teeth.

Rich invested a fortune in Israel and succeeded in harnessing Barak, Peres, Ben-Ami, Burg, and many others in a sophisticated campaign to gain an American pardon. The tactic: the Israelis would ask Clinton to pardon both Jonathan Pollard and Rich, with Pollard as the throw-away.

Rich's people believed that Clinton wouldn't free the Israeli spy and counted on getting the Rich pardon as a consolation prize, instead.

Correspondence that has been obtained and examined by the American congressional committee investigating the pardon leaves no room for doubt. As far as Rich and his people are concerned, Prime Minister Ehud Barak - Israel's number one soldier - carried out his orders to the letter.

Pollard: "I feel as though I've been shot in the back."

Part I: An Overview of the Scandal and The Scheme

In the middle of the month of December 2000, at a time when the Prime Minister of Israel was facing a storm of enormous challenges - dealing with the violence in the territories, trying to achieve a last-minute agreement with Arafat to stave off political disaster in the approaching elections - Ehud Barak found the time to become involved and to assist a private individual by the name of Marc Rich. Five years earlier, Shimon Peres had tried to appeal to the heart of American envoy Dennis Ross to do something for Rich



"That's a hot potato," exclaimed Ross, shocked at the mention of the fugitive criminal's name, and he rejected Peres' request out of hand.

Barak threw the full weight of his office into pleading for Rich at meetings, by telephone and in letters, to convince Bill Clinton, the outgoing President of the United States, to grant a pardon to a man who was considered one of the most-wanted criminals in the United States, but who was also one of the largest, most important donors to organizations, officials and politicians both in the U.S. and in Israel.

In a brilliant, secret operation which was co-ordinated by others and spearheaded by Barak, the two clemency requests by Israel - Jonathan Pollard and Marc Rich - were deliberately linked to each other. The idea was that Clinton would not free Pollard and this would pressure him to compromise by granting a pardon to Marc Rich, instead.

It is not clear and Barak stubbornly refuses to admit if he was aware of the cynical linkage that Rich's people had made between the two pardon requests and if he knowingly co-operated with them; or perhaps the Prime Minister of Israel was actually the victim of a sophisticated manipulation by Rich's people and he naively presented the two clemency requests together, without realizing the true intent of the linkage

But this much is clear: whether in the correspondence that Rich's people carried on among themselves, whether according to Clinton's people or whether from Pollard, himself, there is the same insistent assertion: the Israelis knew what they were doing when they linked the two clemencies together for the exclusive advantage of Marc Rich.

Thus, Pollard the devoted agent of the State of Israel, will continue to rot in prison many long years - it will now be more difficult for an Israeli prime minister to seek clemency for him - while the fugitive donor remains comfortably in his luxurious villa in exile, well-protected in a millionaire 's colony in Switzerland, the winner of a dubious pardon obtained during Clinton's last days in the White House.

Last week in the United States, a criminal investigation was launched against the former President. This is in addition to two other investigations being carried out by Congress and the Senate. Three investigations are trying to clarify if the President abused his executive clemency powers to pardon a criminal in return for donations made to organizations affiliated with him. If a connection is found between the Marc Rich pardon and, say, the donation of 450 thousand dollars by his ex-wife Denise Rich to the Clinton Library (and many other donations), the President could be tried for accepting bribes, or even impeached. In the United States a president can be impeached even after he leaves office and stripped of all the benefits he would otherwise receive as a former president.

Clinton has never been known as one for whom truth lights the way. He has already paid a price for this when he recently lost his license to practice law for 5 years because of his false testimony in the Monica Lewinsky scandal. In that case as well, Clinton proclaimed his innocence, of course. But, if in the Monica Lewinsky scandal the President received public support because some claimed that the issue was personal and private; in this case the American people have turned against him for defiling the principles of law and justice.

The obvious line of defense used by Clinton and his advisors is that the president was not influenced by the donations that were made by organizations and people close to Rich to those organizations affiliated with the President. As they put it, "If the President was influenced at all, he was influenced first and foremost by the repeated and persistent appeals of Israeli Prime Minister Ehud Barak." Even in an interview with Geraldo Rivera at the end of last week Clinton claimed, "Israel influenced me profoundly."

Meanwhile, as America is actively investigating the President's pardon of Rich, not a single government office in Israel is investigating two key questions that should concern them: (I) What motivated Prime Minister Ehud Barak, Shimon Peres, Shlomo Ben-Ami and a number of other Israeli officials and public figures to press for the Rich pardon? (2) How, and by whom, was the Rich pardon tied to the clemency request for Jonathan Pollard?

HOLY IN ISRAEL, A TRAITOR IN WASHINGTON

Mark Rich, whose fortune is estimated in the billions of dollars and who is among the largest American donors to Israel, began to transfer huge sums of money, millions of dollars, to organizations and foundations in Israel - from the Diaspora Museum to hospitals and even to the Habima Theatre and to the Movement for Quality Government - only after fleeing from a series of criminal charges in the United

States 17 years ago. These were not ordinary white collar crimes, but serious criminal offenses.

"Rich profited by trading with every possible declared enemy of the United States," said Congressman Dan Burton, head of the congressional investigation. Until he received the pardon, Rich was facing up to 300 years of imprisonment on federal charges, had the FBI and Interpol succeeded in arresting him and bringing him to trial.

Meanwhile in the United States, as revelations continue to unfold, the embarrassment of the Jewish community is growing over the participation of the Jews in the Marc Rich pardon. Rich's people also tried to enlist Elie Wiesel to make a personal appeal to the President but without success. Ehud Barak, who dubbed the Deri Law "a disgrace", to date has not seen fit to explain the reason for his own supplications on behalf of Rich who has never served a day in prison.

In the 1980's, one step ahead of the law, Rich fled to the city of Zug in Switzerland and renounced his American citizenship. Congressman Dan Burton, head of the congressional committee investigating the pardon, told the opening session how Rich's partner, Pincus Green, smuggled incriminating documents, for which there was a court order, out of the country in a private plane in order to avoid the possibility of further charges against them.

In order to understand how serious the issues are, in particular from Israel 's point of view and especially as concerns Barak, it is worth reading an excerpt of the exchange between Christopher Shays, a member of the Senate who took part in the hearings, and Jack Quinn, Rich's attorney:

Shays: "Did Rich trade with Iran?"

Quinn: "I understand that there was trade."

Shays: "In the last 20 years, did Marc Rich or any of his companies trade with Quadaffi?"

Quinn: "I don't know."

Shays: "Does it matter to you?"

Quinn: "A pardon request deals only with legal steps. I am not a character witness."

Shays: "Did Marc Rich trade with Iran during the time that the American hostages were held captive?"

Quinn: " I don't exactly know. I believe that he traded with Iran."

Shays: "In the last 12 years did Marc Rich trade with Iraq?"

Quinn: "I don't know."

Shays: "Did you try to find the answers?"

Quinn: "No."

Shays: "You didn't feel a need to tell the President that Rich traded with Iran, Iraq and Libya? You didn't feel it was your obligation to tell him?"

Quinn: "It was my obligation as a lawyer to concentrate on the legal side. Moreover, as you know, the Prime Minister of Israel, Ehud Barak - someone that you would expect to be concerned if such trading had occurred - was not particularly vocal about this issue when he voiced his own support for the pardon."

A SHORT HISTORY OF RICH

Marc Rich, who was born in December 1934 in Antwerp, Belgium, settled in the United States with his family (originally Reich), after they fled Europe in fear of the Nazis. In America the young Rich, who never finished his academic studies, very quickly became king of the commodities and the futures markets, and especially oil. All of his life was devoted to making deals in which he gambled, as is the nature of this market, on tomorrow's prices. Most of his bets paid off. He became known as a relentless trader with a lust for money, who was ready to do business with anyone in order to amass more.

On December 4, 1979, hundreds of inflamed Iranians burst into the American Embassy in Teheran and for the next 14 months held 53 American diplomats hostage. Every night, thousands marched around the

Embassy chanting, "Death to the Americans!" American paratroopers were killed in a failed rescue attempt when their helicopter crashed in the desert. There was massive outrage in America and the United States imposed a total embargo on trade with Iran.

One man defied the embargo - Marc Rich. According to the indictment against him, in April 1980, while the hostage crisis was still at its height, he made arrangements to buy 6 million barrels of oil from the Iranians. The payments were made via American banks without their having any knowledge of where the money was going. According to estimates, Rich recycled 800 million dollars in world trade markets.

On December 19, 1983, Rich was indicted in absentia on more than 50 charges, including lying, falsifying information, trading with the enemy and evading 48 million dollars in taxes - the largest tax evasion in the history of the United States. He was holed up at the time in his villa at 28 Himmerlich Street, in the City of Zug, Switzerland. He refused to turn himself in to the American authorities.

Rich never did respond to the indictments that were filed against him and he did not stand trial. Consequently, a court order for his arrest was issued and he was declared a fugitive from justice. His people explain that he fled on account of the "lynch atmosphere" which prevailed at the time in New York thanks to the chief prosecutor, Rudy Giuliani. According to them, Rich had zero chance of having his claims heard or of convincing a court of law.

Giuliani enlisted all the forces at his disposal against Rich and his partner, Green. First and foremost among them was the New York media, which fed for weeks on stories of Rich's shady dealings with the Ayatollahs of Iran at a time when American hostages were still languishing in Teheran. In this atmosphere there was a certain logic for Rich and his advisors to wait it out in Swiss exile until the rage subsided.

It wasn't only Giuliani but also Rich's people who participated in the war for public opinion. In 1985 when A. Craig Copetas, a senior investigator for the Wall Street Journal, wrote a book about Rich, all the copies mysteriously disappeared from the bookshelves. "In one of the bookstores," Copetas recalled about two weeks ago, "I saw somebody buying up all the books in stock. I chased after him and the parcel of books until he entered a building which housed the offices of Marc Rich." As a result of the systematic buy-out of the book, it became a collector's item which passed from hand to hand for $400 a copy. Next month it will be re-released with the addition of a new chapter on recent developments.

In 1992, after Bill Clinton's electoral victory in Washington and Yitzhak Rabin's victory in Israel, Rich began to foster relationships with political officials, particularly on the left of the political map. In Lucerne he founded a fund for the advancement of education and social services. It was the philanthropic arm through which Rich made contacts both in the United States and in Israel (in Israel it works with the Dorot Fund). In the 1990's Rich also became an Israeli citizen and began to make many donations in support of the peace process, to organizations close to the Labor Party, and to those following the political and diplomatic path set by Yitzhak Rabin, z"l.

In July of 1999 Marc Rich hired the services of Arnold and Porter, one of the most expensive legal firms in Manhattan. Rich contracted to pay the firm a minimum of $55,000 a month plus expenses for the services of lawyers Jack Quinn and Kathleen Bihan to advance the issue of a presidential pardon for him and his partner, Pincus Green. Quinn had been one of the legal advisors to Bill Clinton during the Whitewater affair and was known as a man with excellent connections to the White House.

On the 11th of December 2000, attorney Jack Quinn officially presented his pardon request for both Rich and Green directly to the attention of President Clinton. The main claim that was raised in the petition spoke of an injustice for which the two had already paid close to 2 million dollars to the American tax authorities. The petition also claimed that because of the inimical attitude of prosecutors in general towards Rich in the U.S., and particularly in New York, there was no chance - even today, almost 20 years after the events - to have a fair hearing of the facts. Therefore the only solution, it was claimed, was a pardon

The petition included as an attachment a heartrending letter from Rich's ex-wife, Denise. Denise Rich is known in the United States as a woman with impressive connections in the upper echelons of Washington society. Rich enlisted her friend, Beth Dozoretz. Also known as a big American donor, Dozoretz was appointed to head the fundraising committee of the National Democratic Party. Dozoretz wrote a letter to the President in which she asked him to end "this glaring injustice" against Rich.

A short time after this, when she was on a ski vacation in Aspen, Dozoretz received a telephone call Clinton. The President said that he was "impressed by her efforts for a pardon for Rich". Denise Rich, by

the way, has refused to answer investigators' questions about the affair, and is insisting on her Fifth Amendment rights to avoid testifying.

PROJECT: RICH/ POLLARD

On the home page of the official web site for Justice for Jonathan Pollard is a cartoon. "Look how naive we've been," says one of the characters to another. The next frame reads, "Instead of raising the issues, we should have been making donations."

Rich's people, attorneys Jack Quinn, Kathleen Bihan, and his full-time advisor, Gershon Kokast, knew that his request for a pardon would never be accepted without the help of the appropriate people in Clinton's circle. Among other things they prepared a telephone book-sized file of written appeals to the President from many prominent personalities. Among the letters were those of the King of Spain, Juan Carlos, and the recipient of the Nobel prize and friend of the Clintons', Elie Wiesel. The lion's share of the letters were written by Israeli VIP's.

The secret campaign, which went into effect last November, was carried out with the help of a written document which later became an exhibit in the congressional investigation. This document identified the media as being at the top of the list of all possible problems that might torpedo the pardon plan. For this reason it was important to the Rich people that not a word be leaked.

The man placed in charge of mobilizing support in Israel, Avner Auzlai, is the head of the Rich Foundation and the millionaire's representative in Israel. Azulai, a former Mossad agent, proved to have amazing ability to coordinate the project. He enlisted ministers Shimon Peres and Shlomo Ben-Ami, the Speaker of the Knesset, Avrum Burg, and so on. Their role - and Shimon Peres is only one example - was not only to write letters but also to make direct appeals to Clinton by telephone.

But the crowning glory of Azulai's achievements was to harness the Prime Minister, Ehud Barak, for Project Rich. Azulai met with Barak a number of times in recent months. Azulai also had all-encompassing contacts with those surrounding the Prime Minister. For example, Michal Herzog, the wife of Cabinet Secretary Yitzhak Herzog, a close associate of the Prime Minister, was employed as an administrator of the Rich Fund in Israel which Azulai heads.

In the month of November 2000, it must be remembered, it was not yet clear whether or not Barak would make it to the elections with an agreement with Arafat in his pocket. In Florida the recount of votes was still dragging on and in Washington Clinton had begun to clear his desk. At that time Barak, who was in telephone contact with Clinton, tried to clear up a number of outstanding issues between the two governments. Some of these were secret, others were open. The Pollard issue was in the twilight zone. The Rich issue was one of the secret ones. Up to the last days of Clinton's presidency, the Rich clemency request remained known to very few people in Washington. "It has to stay below the media's radar," Rich's people agreed among themselves.

Whose idea was it originally to link Rich to Pollard? A clerk in the legal department at the White House at the time remarked with disgust, "It was an unholy union, driven by Rich."

Exhibits which have been collected by the congressional investigating committee show that Barak raised the two clemency requests - that of the agent and that of the millionaire - linked one to the other in a telephone call with President Bill Clinton. A senior official in the White House told 7 DAYS that there were at least three such telephone calls between Clinton and Barak in which the clemency requests for both Rich and Pollard were raised together. According to this official the first call took place in December 2000; two other phone calls took place in January 2001, one at the beginning of the month and the second on the 18th of the month - in other words, two days before the Rich pardon was granted.

In the first half of the month of December 2000, Clinton took a farewell trip to Ireland. He understood that the Middle East would not yield any further accolades and sought at least to sweeten his legacy with the fragile peace that he had achieved in Northern Ireland. On December 12, 2000 while the President was still on his trip, the New York Times published an article by David Johnston which was entitled "Pressure Is Again Emerging to Free Jonathan Pollard." The article said, among other things, "The Prime Minister of Israel, Ehud Barak, brought up the subject with the President on Tuesday and the President again offered the same routine response, that he would examine the request for Pollard along with the rest of the requests for clemency."

Quinn sent photocopies of the article (which would later be seized and presented to the congressional

investigation as exhibit numbers 13 and 14) to Beth Nolan and Bruce Lindsey, members of the legal department at the White House who were dealing with clemency requests. Quinn wrote: "Beth, I've been told that Barak also brought up the issue of Marc Rich with the President of the United States - J.Q (Jack Quinn)". To Lindsey, who was thought by Rich's people to be more supportive, Quinn wrote: "I have been told that Barak also brought up the issue of Marc Rich with the President and so did at least one other person who told him that you and I should talk about this. Great seeing you in Belfast."

For Quinn the article in the New York Times was perfect. Rich's name wasn't even mentioned whereas on the issue of clemency for Pollard, the President was quoted coldly. This was exactly what Rich's people wanted to hear.

On the 4th of January 2001 an email was sent by Avner Azulai to Jack Quinn (exhibit 91) which summed up the situation. Among other things Azulai wrote: " At the end of this week, Mr. R. (Rich) is scheduled to meet with PM (the Prime Minister) and SP (Shimon Peres) as well as E.W. (Elie Wiesel). If possible, it would help a lot to ask the WH (White House) to hold off making a final decision on the pardon until the above-mentioned have the opportunity either to make or to repeat a personal appeal... I can also confirm the information about JP (Jonathan Pollard). The issue was dealt with in a telephone call dealing with the President in the framework of the negotiations for an agreement with Arafat. The release of JP (Jonathan Pollard). is being considered as a sweetener which will help the Israeli public to swallow the more bitter pill of an agreement with Arafat. I am convinced that the President is aware of the fact that releasing JP is going to be a big problem with the intelligence community and Mr. R. (Rich) can be included in this since less attention will be paid to him. On the other hand if he says no to JP (Jonathan Pollard), then this is another reason for him to say yes to Mr. R (Rich)."

In other words, the Azulai email clearly spelled it out: if Pollard were not released then Rich's chances for a pardon would increase.

An example of the close relationship between Barak and Rich at that time is evident in an another email that Azulai sent to attorney Jack Quinn on January 12 ,2001 (Exhibit number 65) after a meeting between Barak and Marc Rich himself. "The PM (Prime Minister) ...called the President of the United States. The President said he is well aware of the case. He said he is examining the case and looking at two very thick books (the letters of recommendation) which were prepared by these people. The President sounded positive but made no concrete promises."

At face value it is understood from the email that the conversation between Barak and Rich and, it appears, Azulai as well, took place in the Prime Minister's office. The way that Azulai can so accurately quote the President and the obvious direct contact he had - with no middleman - speaks volumes about the way that Rich' s people were able to employ Barak in support of the pardon effort.

"The tactic of Rich's people was simple," said a former White House official. "To link Rich's pardon to Pollard's, knowing that given the current political situation the latter would not be released. Look, the President couldn't say no to all of Barak's requests, so they figured that this way Rich's chances would be much better. They used Pollard as a ladder to achieve a pardon for Rich. They knew that either way they had nothing to lose."

Rich's attorney, Jack Quinn, made a similar observation in an email that he wrote to Azulai (exhibit 18) about a conversation that he had had with Beth Nolan, "...In the end, I told her that if they release JP (Jonathan Pollard) that it should be easy for them to pardon Mr. R (Rich), but if they do not release JP then they must pardon Mr. R. (Rich) ...She confirmed that they are in touch with the GOI (Government of Israel)."

Rich's people's strategy of harnessing Barak, it turns out, was a good one. George Stephanopoulos, a Clinton White House official was interviewed on ABC last Thursday when the story broke that a criminal investigation against the former president was being launched:

THE INTERVIEWER: "Quinn said that Barak appealed to Clinton on the matter (of a pardon for Rich)."

STEPHANOPOULOS: "Several times...Barak brought the full weight of his office to bear on the President in the Oval Office and in phone calls to the President. Remember, he presented the two clemencies together - that of Rich and that of Jonathan Pollard, the former spy. Barak did not expect to get Pollard. Mark Rich was a big donor to many philanthropic organizations in Israel... so the President, who was trying to secure Barak's cooperation in the political process (in the Middle East), felt the pressure."

In another interview that Stephanopoulos gave he said: **"Barak asked for both. He asked for Rich and he asked for Pollard. He knew that Clinton wouldn't grant clemency to Pollard. Rich gave a huge amount of money to Israeli charities and also to the [Labor/One Israel] party."**

One thing that was clear to Rich's people was the necessity of redirecting any accusing finger to point at Barak in order to avoid possible charges of bribery against Clinton himself. A week earlier Joseph diGenova, now Quinn's attorney, had already testified, "As you know, the Israelis, in the person of Prime Minister Ehud Barak, very strongly supported the Rich pardon and they supported clemency for Jonathan Pollard. They wanted both. They got the pardon for Rich... Barak had a personal interest in the matter and he spoke directly with President Clinton... When Israel, which is considered one of our closest allies, speaks directly with the President about a pardon then I can tell you the President has a very clear idea of how important the issue is."

Jake Siewart, former White House spokesperson, commented: "The Government of Israel saw Rich as an important ally and the President took that very seriously in deciding to grant the pardon."

It is important to remember that Barak has never denied his direct appeals to Clinton for Rich; but he simply has never provided any information on the linkage that he made between the clemency requests for Pollard and for Rich.

By the way, the only celebrity who refused to make the linkage between Rich and Pollard was Elie Wiesel, the Nobel Prize winner. Wiesel, who claims to have pressed the president for Pollard repeatedly over the last few months, refused the request to link the two clemencies together. "Pollard has sat in prison and suffered long enough. I was afraid that if I did this (linked the two) it would have a negative effect on the request for Pollard," Wiesel explained last week.

BARAK'S INTERESTS

The pressure that Barak brought to bear on the White House was influential in several ways in getting Washington to grant the Rich pardon. In addition to personal requests Barak made to Clinton, appeals also flowed to the professional level in the White House. From there it was brought to the awareness of Eric Holder, the Deputy Attorney General in the Justice Department.

At first Holder was opposed to the pardon but in the end he changed his mind and supported it. Last week he expressed his regret for the decision: "I do not remember who it was who directed my attention to the fact that Prime Minister Ehud Barak had invested the full weight of his office in the pardon request, but this is what convinced me to support it. With this piece of information in mind, I told Ms. Nolan that I am currently neutral and leaning positively towards clemency.... As far as the Pollard clemency is concerned, it is known and it is documented that I have consistently opposed it. Perhaps if it had been proposed in a different context, such as contributing to peace in the Middle East which would then be in America's foreign policy interests, I would have changed my position."

In other words, Holder confirms the assertion made by attorney Jack Quinn that both Israel and the White House regard Pollard as a bargaining chip - a hostage of the peace process - and that both sides consider his release to be reserved as a sweetener for the Israeli people to swallow with the bitter pill of an agreement with Arafat.

The big question is why the Prime Minister of Israel got involved in seeking clemency for Rich, a private individual, whose case he then tied to one that was of national importance both morally and legally, namely, the release of Pollard, an Israeli agent.

The straightest answer was supplied by Jack Quinn, Rich's attorney, when he was asked by the congressional investigator:

Question: "Did Barak write concerning the issue of the pardon?"

Quinn: "He spoke to the President at several opportunities and he (Barak) supported it."

Question: "And Mr. Rich made a number of meaningful donations to organizations in Israel?"

Quinn: "Yes, and as I understand it, Mr. Barak understood that part of those donations would be to support the peace process."

Avner Azulai, manager of the Rich Fund, this week refused to give details about Rich's donations to Israel. Michal Herzog, who works with him, said in a telephone conversation, that she "only works as a freelancer, just a few hours a week, and Avner Azulai is the only person who is authorized to respond." The Fund which is registered in Lucerne, Switzerland is not obliged to register contributions made to Israeli NPOs (amuhtoht) or to give an accounting to any statutory body in any other country.

On January 20, his last day as President of the United States, Bill Clinton pardoned Marc Rich and Pincus Green. When the list of pardons and clemencies was published the next day, many including some of the top officials in the Justice Department who had invested years pursuing the two, were astonished to learn that they had been granted presidential clemency.

It now appears that the criminal investigation of the President that has been launched as a result will be infinitely more trouble for him than the entire Monica Lewinsky affair. In that one, perjury was the issue; in this one the issues are far more weighty, from suspicion of bribe-taking to deception and abuse of presidential powers.

At this point Clinton is still sticking to his story that his decision was not influenced by financial contributions but rather by personal appeals, especially those of the Prime Minister of Israel, Ehud Barak. Clinton's version and the mounting evidence that supports it, point to the need for an investigation into why a pardon for Marc Rich became such a priority item for the Prime Minister's office during Barak's last months in office.

In spite of this, the following statement was made to 7DAYS by the spokesperson for the Israel Ministry of Justice on behalf of the government' s legal counsel: "The Marc Rich pardon is not a subject that is known to the Ministry of Justice other than what has been learned from recent news clippings after the fact. Therefore we will not comment on the issue."

"I imagine that the same questions regarding the motives of the Israeli gentlemen who worked to advance the cause of Marc Rich, should also be asked in Israel," said John Cardarelli, a spokesman for the congressional committee. "A subpoena to Ehud Barak and his colleagues to testify on their involvement in the pardon is up to the U.S. Attorney, MaryJo White, who has started a criminal investigation. She is the one who should perhaps consider issuing a summons."

The US Attorney's office responded that the federal prosecutor will not comment during the course of the investigation. American Justice Department officials stress that she is the one who has the authority to subpoena "the Israeli gentlemen" to testify. -30-

Part II: Evasive Responses from Barak And Top Officials

Bill Clinton asserts that his decision to pardon Marc Rich was influenced principally by the intervention of Ehud Barak and top Israeli government officials and public personalities. Israeli politicians, however, prefer to think otherwise. 7DAYS submitted a series of specific questions to Prime Minister Ehud Barak, to Minister Shimon Peres and to Minister Shlomo Ben-Ami and others and received sketchy and evasive answers.

Barak's office stated: "The Prime Minister has worked ceaselessly and at every opportunity for the release of Pollard and brought up the issue with President Clinton at every opportunity and even in a special letter at the end of Clinton's term in office. By comparison, the Rich matter was simply a marginal issue which he mentioned to the President in the course of a telephone conversation about another matter entirely - no connection whatsoever to Pollard - which the Prime Minister felt was the right thing to do, to speak directly to the President, because this was a man [Rich] who had made large contributions to Israel, both in the field of social welfare and in sensitive security matters related to 'pikuach nefesh'."

In response to the questions: "Are any of your family or close friends employed by Marc Rich, and is the Prime Minister aware of monetary donations Rich made via his people or organizations, to organizations involved in the policy-making or political activities of the Labor Party, or to other organizations related to the Labor Party?" Barak's office responded: " The Prime Minister does not deal with such matters and he has no idea about or interest in such questions."

Minister Shimon Peres, like Barak, ducked responding to questions about his involvement in the recent

campaign to secure a pardon for Marc Rich, and of course all of the questions about Rich's donations. Peres' response focused on his efforts to soften up the Americans towards Rich in 1995. "When he was the Foreign Minister in 1995," his office relayed, "he approached various international bodies in the framework of world trade, and among them Marc Rich's company, to seek assistance in developing trade relations between Israel and other countries in the Middle East. At that time Rich's company, which was one of the world's largest world trade and guarantee companies, was the only company willing to extend guarantees on behalf of Israel. In order to further respond to Peres' request, Rich asked Peres to help him secure freedom of movement throughout the world so that he could travel wherever he needed to. It was in this context that Peres appealed to the American ambassador on Rich's behalf."

Jonathan Pollard named Knesset Speaker Avrum Burg as an example of those Israeli politicians who had helped Rich, a criminal fugitive, but who had never in 16 years helped him, an Israeli agent, in any way.

Burg's spokesperson responded to 7Days that the Knesset speaker feels that there is no comparison between the two. "Avrum Burg never had anything to do with the issue of Jonathan Pollard. He does not believe that as Speaker of the Knesset he should involve himself personally on behalf of Pollard, who was indicted in the United States for espionage and who hurt American national security."

Regarding his involvement in the Marc Rich pardon, Burg's spokesperson said: "The Knesset Speaker was not aware of the criminal record of Marc Rich or of his trade deals with Iran which have recently been exposed. Burg simply responded to the request of Israel Singer, head of the World Jewish Congress, that he assist in efforts to secure a pardon for Rich. The efforts in Israel were organized by such officials as Shimon Peres, Shlomo Ben-Ami and Prime Minister Ehud Barak. Knesset Speaker Burg was not personally acquainted with Marc Rich, but was aware of his philanthropic activities in Israel."

Part III: Barak Wasn't the Only One

Marc Rich's people did not satisfy themselves with the support of Ehud Barak alone. All the elite of Israeli society from Shimon Peres to Gila Almog were enlisted to participate in the mighty effort to convince President Clinton to sign the presidential clemency papers during his last hours in office. An example of the way that support was solicited can be seen in exhibit 42 of the congressional investigation. It is an email that was sent to attorney Kathleen Bihan on December 19, 2000 by Avner Azulai. It read: "Would another personal appeal by a VIP to the President help? I can approach the Speaker of the Knesset Avrum Burg. He was the keynote guest speaker at the annual Marc Rich Seminar which began this evening. Among the other speakers tonight were the President of Israel and other VIPs, ambassadors etc... I don't know how he will respond. Burg is on good terms with Hillary and knows the President from previous contacts. Burg, by the way did send a letter appealing to Clinton on behalf of Rich."

Minister Shimon Peres also intervened orally, in a call to President Clinton, and this is apparent in exhibit 84, an email from Azulai to Clinton on December 25, 2000: "Shimon confirmed that he spoke with the President on Monday, December 11, and that 'he took note of his involvement'."

The Rich people still faced a problem from Rudy Giuliani, the charismatic Mayor of New York and former U.S. attorney who led the battle against the millionaire. They toyed with the possibility that they might even be able to enlist him on behalf of Rich. How? Via the Mayor of Jerusalem, Ehud Olmert, who had repeatedly declared his great friendship with Giuliani. But Avner Azulai in an email on the 27 December 2000, (exhibit 46) expressed some doubt: "As far as Olmert is concerned, PG (Pincus Green, Rich's partner) is not so sure that this great friendship with Giuliani that he always talks about is as close as he makes it out to be. At this stage, it is too soon to think about how to neutralize the Giuliani hangover."

On December 30, a confused Quinn wrote in an email to his friends in Israel: "Maybe it is possible to convince Mrs. Rabin to call the President? He had deep feelings for her husband." The same day, Avner Azulai answered him, "The idea of contacting Leah Rabin is not bad at all. The question is how to do it. Leah died last November."

In the end, they found another member of the Rabin family. According to an email that Azulai sent to Quinn on 10 January 2001, "I met Rabin's daughter today. She is going to call the President tonight or tomorrow."

Rabin-Philosof (Rabin's daughter), this week: "At this time I do not have any interest in addressing this. I

understand that Rich knew my father. I never met him. I know that they wanted to approach my mother but in the end did not. Beyond that I have no comment."

7DAYS indicated that the congressional committee is planning to subpoena the White House telephone records in which the name Rich is mentioned. Rabin-Philosof: "They won't find me there. I did not speak to Clinton about Marc Rich."

One who did appeal to the White House for Marc Rich was the former head of the MOSSAD, Shabtai Shavit. Shavit stressed Rich's contribution to the security of Israel to the President. Was Rich connected to or involved in the MOSSAD's activities? In a letter from Shavit to Clinton, he wrote that Rich had assisted the MOSSAD in searching for the Israeli MIAs and for Jews in enemy countries who had disappeared. Rich's oil deals with such nations as Iran and Iraq surely did not escape the notice of the MOSSAD. Vincent Cannistrano, a former senior official in the CIA claims that Rich was not a paid employee of the MOSSAD, but rather an "international businessman who because of his contacts could easily pass along messages, information and money for various operations. The MOSSAD found his connections in Iran useful."

Rich's people in Israel collected other letters of appreciation and thanks, among others from the former Mayor of Jerusalem, Teddy Kollek, and the head of Shaarei Tzedek Hospital, Dr. Yonatan HaLevy. Even the Minister of Health for the Palestinian Authority added his letter of support to the book of recommendations. Some of those who wrote thank-you letters were unaware that their letters would be included in the pardon request to Clinton. According to the American media, both Minister Shlomo Ben-Ami and former Minister Yaacov Ne'eman added their own letters of support.

Avner Azulai again sums it up best in an email: "I want to add as well that the list of supporters who have appealed to Clinton is wall to wall, politically. This should remove any possibility that this initiative can be used to hurt any one specifically ... You may understand from my caution what it is that worries me. It is up to us to do everything we can to avoid having the issue politicized or traced to the names of senior officials as, of course, the media loves to do." In another correspondence he adds: "Please keep Barak out of the media. We have enough other names on the list, other than his. It is important to keep the names of all the politicians out of this business. It is election time here and this has the potential to explode."

Part IV: Jonathan Pollard In Prison: "I was betrayed."

"I've become disillusioned," said a heartbroken Pollard. "This is the hardest thing for me... I'm a nationalist, I admit it. My eyes well up with tears when I hear Hatikvah. But what has shaken me to my very bones is to finally realize, after 16 years, that I made a mistake. For 16 years I have been desperately waving the Israeli flag, crying out for help to the Israeli political establishment. But since the Marc Rich campaign, I realize that I made a mistake. All those years I should have waved something else to get their attention. I should have waved a dollar bill in front of them and convinced them that I had a lot of money. That is the depths to which we have sunk as a nation, that an agent has to bribe his own government to rescue him. That is how low we have sunk.

"Esther and I are pinching pennies in order to stay alive. Israel has never assisted us. But this Marc Rich fellow, with all of his millions, he's the one that everyone in Israel is breaking their backs for. You have to understand that at the same time that Israeli politicians are coming to the US to be wined and dined and celebrated at cocktail parties in Washington, Esther and I are just barely surviving.

"The greatest tragedy is what this says about the treatment of all of Israel 's MIA's and prisoners of war. It proves that if you don't have money to bribe the top Israeli officials, you will be relegated to a back burner and dismissed as a problem that can't be solved."

"If you look at how the Marc Rich pardon campaign was run," said Jonathan Pollard to 7DAYS, "every person involved knew that if this initiative leaked, it would explode. It was done quietly, at the last moment, in back rooms, in utter secrecy.

"What Prime Minister Ehud Barak and the Israeli officials and politicians did for Marc Rich in 16 days, they have never done for me in all of the 16 years I have been rotting in prison. I feel like the government of Ehud Barak placed a gun at the back of my head and then pulled the trigger.

"Barak, the politicians, and all those who were involved, were corrupted and debased by Marc Rich's money. Every one of them was corrupted at some level or another. The corruption and the repulsiveness that characterized the Rich pardon campaign is appalling.

"I feel that what was done to me was a personal betrayal which even the top levels of the Mossad participated in. There is no room here for error. I worked for LAKAM, not the Mossad. The Mossad takes care of its own people, and to hell with everyone else.

"The claim that Rich helped the Israeli intelligence services is a barefaced lie, calculated to promote a self-serving deception. This whole effort to secure a pardon for such a dubious character, an unethical tax cheat, was debased and unjust.

"Rich was living like a king; yet the whole Israeli national security and government establishment in Israel ran to his aid.

"I have been languishing in prison for years. Marc Rich appears, and they succeed in arranging a pardon for him in a matter of days - something they've never been willing to do for me. What's the deal, here? He, after all, was living like a king, yet suddenly they all ran to rescue him? Why did Israel do this? Because they are corrupt - morally and legally corrupt.

"The Knesset Speaker, Avrum Burg, for example, is one of those who assisted the pardon request for Rich; but he has never done a thing to help secure my release. I know that the last time he came to Washington he asked that my name not even be mentioned at the cocktail parties he attended in order not to ruin the atmosphere with "the smell of Pollard" - and that's a quote."

Jonathan Pollard hopes and prays that Prime Minister-elect Ariel Sharon will act differently from his predecessor. "Sharon simply has to call George W. Bush and let him know that the issue of my release is beyond negotiation. To make it clear to him that my release is a top priority. If Sharon wants me home, he has to pick up the telephone to Bush. He simply has to run the same kind of intense campaign for my release that was run by Israel to secure a pardon for Rich."

Esther Pollard, Jonathan Pollard's wife, adds, "I am disgusted. Ehud Barak took an active role in running Jonathan as a spy when he, Barak, was the head of Israel's military intelligence. "For the last 16 years we have watched Israeli politicians go to Washington. They always claim to be raising the name of Jonathan Pollard there. What they neglect to tell you is that they raised Jonathan's name as number 50 on an agenda of 50 items. Obviously, when they raise Jonathan's name in this way, it is clear to the Americans that they are only going through the motions. If this is how Israel treats its agents, who would ever want to serve the State?"

Esther continues, "The biggest lie that is still being perpetrated by Israel is that it was impossible for President Clinton to let Jonathan go because of the objections of the American Intelligence community. This is a lie of the first order. The list of commutations and pardons granted by President Clinton includes 14 unrepentant FALN terrorists, whose release was met by a solid wall of opposition from the Justice, Intelligence and Defense departments - the same agencies that oppose Jonathan's release. Clinton just ignored them and freed the FALN terrorists to gain favor with the Hispanic community for his wife's Senate campaign.

"Israel has simply never bothered to make a case in America for the release of Jonathan Pollard"

SEE ALSO on the web http://www.jonathanpollard.org: Denise Rich Accompanied Clinton to Funeral of Yitzhak Rabin (coming soon) Conference Was Told Agencies Would Not Oppose Pollard Clemency (coming soon) The Clemency Page The Facts Page



BACK TO GAMLA

azulrich@[redacted]n 11/15/2000 11:56:31 AM

To: Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted] robert.fink@[redacted]
marc.rich@[redacted]

cc:

Subject: meeting with gershon kekst

The following are the main points:

-GK supports the idea of presenting the request for a P. Although chances are n
ot high , no damage could result thereof if plea is rejected. It could also generate a
positive effect on the DOJ even if case isnot resolved.
-Media & public criticism can be countered by the fact that for years DOJ and SD
stonewalled and were never open to find a solution that the interested parties
offered.The most recent rejection of JQ's proposal for a review can be used as an
example.

-GK proposed Elie Weisel as the "moral authority" to present the plea. We discu
ssed some ideas how to reach him - and that I shall do in the next few days.

-I gave GK a copy of my updated long list of potential supporters (Bob - pse fax
a copy to KittY), and reported on my contacts with DR's friend. I expect to recieve a
priority list from these to work on.

-GK pointed out that Prof. Itamar Rabiinovitch is an important supporter becaus
e he is highly respected in the US and could help with additional names in the US -
which are lacking in my list.

-The time-table for implementing this project with a dead line should be decided
upon with JQ.

-I also raised the idea that "a task force" under his guidance and strategy shoul
d be established to make sure we make good use of the time and means available.I
understood from GK that he shall undertake this project.

-GK is meeting Bob on Thursday, shall contact JQ and decide on how to proceed.

Regards,
Avner

Bob, pse transfer a copy to GK. I don't have his email or fax.

- ALTERNATIVE.HTM



Micciulli, Rosemary - NY

From: The Rich Foundation [richfnd@[redacted]
Sent: Wednesday, November 29, 2000 5:48 AM
To: Fink, Robert - NY
Cc: Rich, Marc
Subject: trip

Bob, I hope to have all the material originating here ready by Monday. I plan to arrive on Dec 5th - with it. Could you ask your office to reserve a hotel room (corporate rate) in a decent hotel near your office)

We shall have a few days to get additional letters in New York (Elie Wiesel, Abe Foxman and others). I assume by now you are getting letters from Switzerland and Spain . We shall integrate all into one file with the Foundation material. I am preparing maximum - and it will be up to JQ & co to decide what is or not relevant.

Regrads,
Avner

While writing this msg , I have just been informed that Elie Wiesel has cancelled his trip to Paris (30 Nov)and they are arranging for me to meet him in NY on Dec 6th.The ceremony where Vaclev Havel and Elie Wisel were to awarded was cancelled due to Havel's sickness.

EXHIBIT
109

PMR&W 00066



JQuinn@[redacted] on 12/21/2000 03:16:41 PM

To: robert.fink@[redacted] azulrich@[redacted]
cc: JQuinn@[redacted], Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]

Subject: RE: teloecon to potus

I think another call is fine, but it needs to come from someone who can get POTUS personally on the line. Did Elie Wiesel call? Denise had a communication she thought was positive, but I emphasized to her that we have a long way to go with the lawyers. One shd not read into anyone's head nodding a definitive conclusion. More to come.

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@[redacted]
Sent: Tuesday, December 19, 2000 5:52 PM
To: 'Avner Azulay'
Cc: 'Jack Quinn'; 'Kitty Behan'
Subject: RE: teloecon to potus

Let's see what Jack says. I should tell him that Kitty did not see much of an up side. Because his season party is tonight, I do not expect to hear from him until tomorrow. But it is already tomorrow in Israel. Bob

> -----Original Message-----
> From: Avner Azulay [SMTP:azulrich@[redacted]
> Sent: Tuesday, December 19, 2000 4:44 PM
> To: kathleen_Behan@[redacted]
> Cc: robert.fink@[redacted]
> Subject: teloecon to potus
> > > Would it still be useful to have another VIP place an additional call to
> Potus to support the petition.I could try asking the Speaker of the
> Knesset (Parlement) Avraham Burg who was the guest speaker at the "Marc
> Rich Annual Seminar" which opened tonight .I faxed a copy of the program
> to Bob earlier in the day . Among the spaekers attending the seminar was
> the President of the State and other diginatiries,ambassadors etc.. I
> don't know what his reaction would be to such a request ,and before I give
> it a try - is this worhwhile trying?Will it make any difference?. Burg is
> on very friendly terms with Hilary and knows potus from previous
> contacts.Pse advise/comments.Thanks & regards-Avner

The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system.
Thank you.

For more information about Piper Marbury Rudnick & Wolfe, please visit us at http://www.piperrudnick.com/





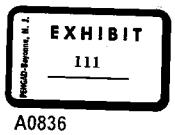
azulrich@[redacted] on 12/22/2000 08:02:02 AM

To: JQuinn@[redacted]
cc: Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted], robert.fink@[redacted]

Subject: Re: teloecon to potus

I shall try to get elie wiesel today again.I don't know positively if he talked directly to potus and if he did what was his reaction. All he told me was that "..he was at the WH the day potus traveled but he couldn't give me any reaction".
I already sent him a message this week asking for an update - and he didn't react.
----- Original Message -----
From: Jack Quinn <JQuinn@[redacted]>
To: 'Fink, Robert - NY' <robert.fink@[redacted]>; 'Avner Azulay' <[redacted]>
Cc: Jack Quinn <JQuinn@[redacted]>; 'Kitty Behan' <Kathleen_Behan@[redacted]>
Sent: Thursday, December 21, 2000 10:20 PM
Subject: RE: teloecon to potus

> I think another call is fine, but it needs to come from someone who can get
> POTUS personally on the line. Did Elie Wiesel call? Denise had a
> communication she thought was positive, but I emphasized to her that we have
> a long way to go with the lawyers. One shd not read into anyone's head
> nodding a definitive conclusion. More to come.
>
> -----Original Message-----
> From: Fink, Robert - NY [mailto:robert.fink@[redacted]]
> Sent: Tuesday, December 19, 2000 5:52 PM
> To: 'Avner Azulay'
> Cc: 'Jack Quinn'; 'Kitty Behan'
> Subject: RE: teloecon to potus
>
>
> Let's see what Jack says. I should tell him that Kitty did not see much of
> an up side. Because his season party is tonight, I do not expect to hear
> from him until tomorrow.
> But it is already tomorrow in Israel.
> Bob
>
> > -----Original Message-----
> > From: Avner Azulay [SMTP:azulrich@[redacted]]
> > Sent: Tuesday, December 19, 2000 4:44 PM
> > To: kathleen_Behan@[redacted]
> > Cc: robert.fink@[redacted]
> > Subject: teloecon to potus
> >
> >
> > Would it still be useful to have another VIP place an additional call



A0836

azulrich@[redacted]n 12/25/2000 04:33:01 PM

To: JQuinn@[redacted], marc.rich@[redacted]
cc: robert.fink@[redacted]Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]

Subject: elie wiesel

I talked to him today. He says that he brought up the topic at the WH on Monday Dec 12th , he refused to disclose who he met. He was told of the difficulties lying ahead in dealing with it (he would explain it only in a face to face meeting) and hopes that they can be surmounted (end quote).

- ALTERNATIVE.HTM

EXHIBIT
112

A0845



JQuinn@[redacted]on 12/27/2000 08:25:13 PM

To: azulrich@[redacted] JQuinn@[redacted] gershon-kekst@[redacted] Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted] marc.rich@[redacted]
cc: robert.fink@[redacted]

Subject: RE: follow-up

---

we should do everything we are going to do at the eaarliest possible moment.

-----Original Message-----
From: Avner
To: quinn jack; gershon-kekst@[redacted] behan kathleen; Rich, Marc
Cc: Fink, Robert - NY
Sent: 12/27/00 2:20 AM
Subject: follow-up

1.I agree with you that contacting HRC thru DR is the best channel. I shall try to contact Abe to back her .I need to know the timing so that he shall follow her call to make it coherent.
2.An option for talking to Rudy is Ehud Olmert (he provided a letter of support to the petition). In the past he offered me several times the possibility of talking to Rudy - with whom he has a very close relationship. Maybe this is the time to use it. However I agree that he shouldnot be brought into the picture too early - because we don't know what his reaction may be. PG could check with Olmert. I shall discuss it with him today without going ahead yet.
3.Elie Wiesel- I am still checking if there is a way to get from him a straight forward support statement- direct call to potus.
Some of the above shall have to be done in person. Therefore, the knowledge on the time table and timing is important.
regards-Avner



A0851

richfnd@[redacted] 12/31/2000 04:55:24 AM

To: jquinn@[redacted]
cc: robert.fink@[redacted] Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]

Subject: EW - update

I was informed today that EW visited the WH last Dec 12th. He didn't meet or speak directly with potus. EW had a scheduled mtg with the "person responsible for the pardons". His original goal was to discuss Pollard - and at the same time raised a question about the MRPG case. He was told that the MRPG case can't be defined as humanitarian because there was no trial,conviction or punishment to deal with. (end quote).

I understand - although he didn't disclose it that he talked with a lawyer, the WH counsel. Perhaps BL.

This is not new to you.What the lawyers think or thought at the time.However,I think it worthwhile mentioning that EW's mtg was held in the morniing hours of Monday Dec 12th - before xx before the formal petition was delivered in the afternoon hours. I hope that the lawyers have a different view of the case by now?

It is clear that EW is reluctant to make a direct appeal to potus - with the uncertainty that he is doing something that doesn't stand a chance. Therefore, it seems plausible that if someone he respects will convince him that he is doing the right thing it might still be possible.

Any comment shall be helpful, in particular if it is worthwhile investing the effort.

- ALTERNATIVE.HTM

EXHIBIT
114

A0854

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, January 02, 2001 1:05 PM
To: 'azulrich@[redacted]
Cc: 'Jack Quinn'; 'Kitty Behan'
Subject: RE: update

As far as I know he gets them but his Blackberry does not work there so he has to dial into the office for them and he may actually be on the slopes with his family. I have a call into his office to find out his whereabouts and will call or email you with the information. I have not heard from him in response to your last emails either.
bob

-----Original Message-----
From: Avner Azulay [SMTP:azulrich@[redacted]
Sent: Tuesday, January 02, 2001 12:42 PM
To: robert.fink@[redacted] JQuinn@[redacted] kathleen_Behan@[redacted] richfnd@[redacted]
Subject: update

I would like to know if JQ rcvd my last emails - and if there are any comments.

I met today with A. Burg (The Speaker of the House). He shall see if he can recruit Israel Singer, Edgar Bronfman and Elie Wiesel.He is leaving for NY this wknd and shall be meeting potus in the IPF .He doesn't have a private seance with him,but shall see if he can use the opportunity.

Has anyone an idea how to reach VernonJ.?

You should know that MR spoke with DR. Her impression-from Beth is that HRC shall try to be protective of her husband and stay out of potential trouble.

EXHIBIT
115

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, January 09, 2001 4:48 PM
To: 'gkekst'
Subject: RE: Herald Tribune

I agree with your views on publicity and I will tell Marc about Elie. Thanks. Bob

-----Original Message-----
From: gkekst [SMTP:gershon-keks@[redacted]
Sent: Tuesday, January 09, 2001 2:35 PM
To: 'Fink, Robert - NY'
Cc: Jack Quinn (E-mail)
Subject: RE: Herald Tribune

Unless jack quinn changes his views about the risk-reward ratio for publicity, I vote against it. The hearald tribune, in any event, is not the place for us to be. The publicity I was referring to relates to the repair of marc's name assuming we fail, not to help make it happen (unless jack says it would). By the way, please tell marc that I am "assured" the call has been made by elie.

Gershon

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@[redacted]
Sent: Tuesday, January 09, 2001 12:21 PM
To: gkekst
Cc: 'Jack Quinn'
Subject: Herald Tribune

Marc heard today from a friend in Paris that a reporter named Joseph Sitches of the Herald Tribune was going to write a story on the people who were (adversely) affected by Rudy Giuliani. Apparently, Marc will be among those about whom he deals, although he has not attempted to reach Marc. Basically, Marc was interested in your reaction to this (and no doubt your judgement on whether we should try to be helpful and volunteer information), which led to a discussion on whether we seek any publicity about the pardon application if we do not succeed (something you were thinking about when we were last together) or even if we attempt to do something now. I explained that we did not want publicity now. He understands that is our view.
I look forward to hearing from you.
Bob

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Thank you.

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azulrich@[redacted]n 01/13/2001 02:32:13 PM

Please respond to azulrich@[redacted]

To: jquinn@[redacted], Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]
robert.fink@[redacted]gershon-kekst@[redacted]marc.rich@[redacted]

cc:

Subject: update

---

one more update before I leave toNY:
1. we have a CFM that the king of spain talked to potus.He reports a postive conversation.No concrete sayings.
2.our FM talked to sandy berger a few days ago and shall check with him agian if he talked to potus.
See you soon.



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ONE HUNDRED SEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM
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WASHINGTON, DC 20515–6143

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BERNARD SANDERS, VERMONT,
INDEPENDENT

March 8, 2001

Avner Azulay
Director
The Marc Rich Foundation
Asia House, 4 Weizman Street
Tel Aviv 64239
Israel

Dear Mr. Azulay:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Government Reform is conducting an inquiry into several grants of executive clemency made by then-President Clinton shortly before he left office. In particular, we are looking into the pardons of Mr. Marc Rich and Mr. Pincus Green. I am writing to request that you participate in an interview with Committee staff regarding this matter.

The Committee held two hearings on this matter and has spoken to many of the attorneys who assisted in obtaining a pardon for Mr. Rich. As you may be aware, other key individuals in the investigation have invoked their Fifth Amendment rights under the United States Constitution. The Committee would like to interview you regarding your knowledge of the circumstances leading up to the pardons granted to Messrs. Rich and Green.

As the Committee is attempting to complete its investigation of the Rich pardon in as timely a manner as possible, we would like to conduct this interview during the week of March 12, 2001. We are also prepared to conduct the interview at a location convenient for you. Please contact the Committee's Chief Counsel, James C. Wilson, at (202) 225-5074 to arrange a mutually acceptable time for the interview. Thank you for your cooperation with this matter.

Sincerely,

Dan Burton
Chairman

cc: The Honorable Henry A. Waxman



THE RICH FOUNDATION
For Education, Culture & Welfare

Asia House, 4 Weizmann Street
Tel Aviv 64239, Israel
POB 33622, Tel Aviv 61336

Tel + 972 3[redacted]
Fax + 972 3[redacted]
e-mail : richfnd@[redacted]

March 15 2001

The Honorable Dan Burton
Chairman, Committee on Government Reform
USA House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman Burton:

I received your letter dated March 8th, 2001 on March 11th requesting an interview during the week of March 12th, 2001. I am unable to comply with this request at this time because I have a long scheduled appointment for a medical evaluation and treatment in Europe. I hope to be back in Israel on April 1rst, 2001.

It may be helpful for you to note that I have retained an attorney in New York, Robert G. Morvillo, Esq., to advise me with respect to all proceedings stemming from the granting of pardons by Ex-President Clinton. Mr. Morvillo is a principal in the firm of Morvillo, Abramowitz, Grand, Iason & Siberberg P.C., located at 565 Fifth Avenue, New York 10017 (Tel 212 880 9400).

I would like to suggest that someone from your staff contact Mr.Morvillo.

Thank you for your anticipated courtesy in this matter.

Very truly yours,

Avner Azulay

Cc: The Honorable Henry Waxman

RECEIVED
MAR 2 2 2001
HOUSE COMMITTEE ON
GOVERNMENT REFORM

EXHIBIT
119

MICHAEL H. STEINHARDT
[redacted] NEW YORK, NEW YORK 10022
TELEPHONE (212) [redacted] FAX (212) [redacted]

December 7, 2000

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Dear Mr. President,

I think you may remember me as one of your earliest national supporters. We met when I was chairman of both the Democratic Leadership Council and the Progressive Policy Institute, positions that I held until my resignation in 1995. I became involved in the political world in the mid 80's primarily because of my interest in "ideas", and the DLC best represented where I thought I was on the political continuum. But when ideas and human judgments seemingly led in different directions I stepped away. I recently revisited that period with Al From, and I am not sure I would make that same decision.

Invariably, life is filled with conflictual judgements and none of us escapes unscathed. I am writing this letter, Mr. President, to appeal to you on behalf of my friend, Mr. Marc Rich, who, I think, has been punished enough. While there remains controversy as to the facts surrounding Marc Rich's indictment in the early 1980's, there's no doubt that he was a successful person both, before and after, that horrific experience. He has continuously been successful in business. He's a responsible parent, grandparent, and son, as well as an unusually philanthropic individual throughout his life. Aside from this one experience, Marc has led a totally admirable life.

It would not be possible to recreate the circumstances surrounding a highly complicated series of facts occurring over a long period in the early 1980's. The people are no longer there, the attitudes have changed, and even many of the laws have changed. For Marc Rich, whose personal life has already been burdened by the profound constraints imposed by the circumstances of this case punishment, have been in some ways severe. He could not properly mourn his daughter. He could not live with his children or grandchildren. He has suffered more that most. As in his mid 60's, there is nothing that would be more important to him than to return to the United States of America and to live in peace.

Mr. President, I have known Marc for more than twenty-five years. I assure you that Marc Rich's moral and ethical standards amply justify your consideration of his pardon, so that in his remaining years he could fulfill his highest aspirations, which will make all of us, as Americans, proud.

Thank you very much.

Sincerely yours,

Michael Steinhardt

Michael Steinhardt

EXHIBIT
120

MICHAEL H. STEINHARDT
[redacted] NEW YORK, NEW YORK 10022
TELEPHONE (212) [redacted] FAX (212) [redacted]

January 16, 2001

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Dear Mr. President,

Time is short, and while I have written to you, I would like to again plead for your help with Marc Rich.

As you've come to know, this is an unusual, perhaps unique, circumstance. I believe that freeing him of this 20 year old yoke would do good and no harm.

No one can do this but you Bill, and if you choose not to, he will languish- I believe a sad and unjust outcome. Moreover, I recognize that your acting on his behalf is not without its risks for you. Thus Mr. President, what I ask is not easy, but to the depths of my soul, I believe the right thing to do.

Again, I know how much you've had to read about this and forgive my adding one additional missive.

I look forward to seeing you in New York.

Thank you.

Michael Steinhardt

EXHIBIT
121

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, January 16, 2001 7:41 PM
To: 'Avner Azulay'
Subject: RE: follow up

You are a busy guy. I do not have an email to which you are responding, so I do not know for sure who Michael is. Can you identify the first letter of his last name?
See you for breakfast.
Bob

-----Original Message-----
From: Avner Azulay [SMTP:azulrich@[redacted]
Sent: Tuesday, January 16, 2001 7:38 PM
To: Jack Quinn
Cc: Fink, Robert - NY; Rich, Marc
Subject: follow up

Michael faxed the letter to potus as requested.Edgar B. is in DC.Michael is trying to contact him to enlist his support.

EXHIBIT
122

Fink, Robert - NY

From: Rich, Marc [marc.rich@[redacted]
Sent: Friday, October 15, 1999 3:52 AM
To: 'Fink, Robert - NY'
Subject: RE:

REDACTED

-----Original Message-----
From: Fink, Robert - NY [SMTP:rfink@[redacted]]
Sent: Donnerstag, 14. Oktober 1999 22:04
To: 'Marc Rich'
Cc: 'Gershon Kekst'; 'Jack Quinn'
Subject: FW:

Here is Gershon's view on the Israeli article.
I also told him of what happened with the professor and he is in agreement
that you should not discuss your case with the press or do anything to
promote the press covering the matter. Gershon's general view is that no
publicity is good, and that is especially so now at a delicate point with
Jack's efforts as he is within eight days of his preliminary meeting.
He also feels that even if Jack's effort is unsuccessful that you should
maintain a policy of not discussing or promoting a discussion of the case.
He sees no advantage to you from any resulting publicity..
As I have told you, it is hard for me to ignore Gershon's views on this
issue, so I feel even more comfortable with your decision.
Best regards, Bob

> -----Original Message-----
> From: gkekst [SMTP:gershon-kekst@[redacted]]
> Sent: Wednesday, October 13, 1999 3:57 PM
> To: 'Fink, Robert - NY'
> Subject: RE:
>
> I did not like it because we had agreed that no publcity best serves us
> for
> the time being. If someone wanted to change that position, I would have
> liked to have known so I could argue a bit
> Gershon
>
> -----Original Message-----
> From: Fink, Robert - NY [mailto:rfink@pipermar.com]
> Sent: Wednesday, October 13, 1999 12:52 PM
> To: 'Gershon Kekst'

PMR&W 00642

EXHIBIT 123

> Subject:
>
> Jack is away, returning tomorrow, so I do not expect to hear
> from him today.
>
> Marc also wanted to know our reaction to the Bloomberg
> piece. I wrote him
> that you did not like the Israeli piece as it did not paint
> him as a victim,
> and that we would be talking about the current proposal when
> Jack returns.
> Hope all is well. Your friend, Bob

P' S COPY

200052-7

MR-198

THE RICH FOUNDATION
Asia House, 4 Weizman Street
Tel Aviv 64329 Israel

F A X

DATE:	October 12, 1999	TIME:	8:58 AM
TO:	Bob Fink	PHONE:	00 1 212 [redacted]
		FAX:	00 1 212 [redacted]
FROM:	Avner Azulay	PHONE:	+ 972 3 [redacted]
		FAX:	+ 972 3 [redacted]
		EMAIL :	AZULRICH.@NETVISION.NET.IL

Number of pages including cover sheet: 10

Dear Bob :

Please see the attached letters from the Bloomberg correspondent in Israel. I suggest that you check with GK+JQ & Co what their recommendation is. It seems that this is an opportunity which could be negotiated with favorable conditions. MR told me he turned down a previous request by the Bloomberg network (not this reporter - probably the one in London or Switzerland). The Gerald Barton's case mentioned seems to have some public relevance - even if the legal aspects are different. I sent the attached to MR this morning.

Best regards,

Avner

PMR&W 00839

EXHIBIT
124

file
MRich
cm-jfp



robert.fink@[redacted] on 01/26/2000 12:53:52 PM

To: marc.rich@[redacted]
cc: azulrich@[redacted] jquinn@[redacted] Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]

Subject: Status of efforts to have dialogue with SDNY

I wanted to try to keep you posted on events.
We heard that Mary Jo White was opened to Jack's suggestion of a meeting with the professors, but that her deputy, Shira Neiman, was not so sure and that she (Shira) might be calling Jack for some information before she is comfortable. I made some inquires, especially with a partner of Kitty's here in New York who in 1998 left the Southern District (where his last post was as the head of appeals) after eleven years in the office. He knows all of the important characters, including Pat Fitzgerald. He felt that Pat was a very fine trial lawyer, who is only involved in this
matter because he was a close friend of Jim Comey. Pat is almost full time (it would be full time for anyone else it seems) on terrorist matters and travels a lot and will not have much time to spend on our matter. Shira has been there 30 years, including while your case was active, and was there under Otto, etc. but only became important with the arrival of Mary Jo, with whom she enjoys a close mutual friendship. She is now the number 2 person in the office.
Kitty's partner's perception is that each of Mary Jo, Shira and Pat tend to be hardliners, and that Mary Jo may be more comfortable entering a discussion with us knowing that Shira and Pat are there to prevent anything from happening without their considering how it might adversely affect the office. In other words, he believes that Mary Jo is likely to think they will help protect her, so she has less to fear.
Separately, he speculated (no doubt based on some information) that Mary Jo will leave this year and Shira will become the acting US Attorney, so we may have to deal with her in all events. He felt that Shira is the person in the office most attracted to matters
where there will be interchange with Main Justice and where people will have to write memos and coordinate. He did not mean this as pejorative, only that others were less likely to be willing to do it.
Still, he considered her to be the most "hard line" of the group, and volunteered that Otto would have been most open to this and that he thinks Mary Jo will be more open than Shira.
All of that is one man's opinion, who now works for Arnold and Porter but who has worked closely with these people. Still he does not know anything about your case. Once he does, I will let you know if he has any other thoughts.
I also asked Larry Urgenson by email, if had experience with Shari, and he said he ran into her once when he went to see his friend who was head of the criminal division and at that time she did not seem interested in doing anything with us. It may well be that the encouragement from Main Justice will make a difference. We will see.
Kitty (who participated in the conversation with her partner) and I went over all of this with Jack, who intends to check again with Eric and unless waived off with try to call Mary Jo again next week to see if he can help



A1011

keep some momentum going.
Meanwhile Jack and I are meeting with Gershon on Friday and I will let you know if anything new comes out of the meeting. That is all for now. Hope you are and remain well.
Best regards, Bob

The e-mail address and domain name of the sender changed on November 1, 1999. Please update your records.

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Thank you.

Fink, Robert - NY

From: Avner Azulay [azulrich@[redacted]
Sent: Thursday, February 10, 2000 11:31 AM
To: robert.fink@piperrudnick.com
Subject: more questions

Just for the sake of understanding this : I note that Shirah's ltr is dated feb 2. This means that she had already issued the ltr when you JQ GK were discussing what to do and how to approach her. How come that that Eric didn't update JQ on the phone ? Something isn't or deosn't look correct.When was it sent to MR ? I got it today Feb 10th - where has it been held? at JQ's office or at Kitty's?

Concerning the "surrender" what was MR willing to accept ?Rgds-AA





robert.fink@[redacted] on 11/15/2000 09:23:44 AM

To: Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]
cc: azulrich@[redacted]

Subject: Update.

Avner is meeting with Gershon as I write. I hope to see Gershon on Friday. We will keep you updated on his advice.
Avner wants to know to whom the letters should be addressed. I assume "To whom it may concern" or something like that as they are the types of letters that could be requested and used for a variety of purposes.
Let him know. Also, we are curious about the timing. Generally, what steps and timetable do you contemplate and will/might Jack have a particular perception in this area?
I hope we will speak later. Let me know when is good for you.
Best regards, Bob

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Thank you.

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Kathleen Behan
11/16/2000 10:23 AM

To: jquinn@[redacted]
cc:

Subject: Fw: meeting with gershon kekst

---------- Forwarded by Kathleen Behan/Atty/DC/ArnoldAndPorter on 11/16/2000 10:25 AM ----------

azulrich@[redacted]on 11/15/2000 01:37:54 PM

To: robert.fink@[redacted]h, Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted],
marc.rich@[redacted]
cc:

Subject: Fw: meeting with gershon kekst

I am sending it again hoping it will reach you ingood shape.

I am also adding the following point made:
:
-GK thinks it is better to present the plea in 2 consecutive steps (MR first and
PG later) .It might be easier to obtain positive results , if any , for one single
.If it succeeds then the second shall be easier to obtain.

Regards.Avner
----- Original Message -----
From: Avner Azulay
To: Kathleen_Behan@[redacted] ; robert.fink@[redacted] ; marc.rich@[redacted]
Sent: Wednesday, November 15, 2000 6:49 PM
Subject: meeting with gershon kekst

The following are the main points:

-GK supports the idea of presenting the request for a P. Although chances are n
ot high , no damage could result thereof if plea is rejected. It could also generate a
positive effect on the DOJ even if case isnot resolved.
-Media & public criticism can be countered by the fact that for years DOJ and SD
stonewalled and were never open to find a solution that the interested parties
offered.The most recent rejection of JQ's proposal for a review can be used as an
example.

-GK proposed Elie Weisel as the "moral authority" to present the plea. We discu
ssed some ideas how to reach him - and that I shall do in the next few days.

-I gave GK a copy of my updated long list of potential supporters (Bob - pse fax
a copy to KittY), and reported on my contacts with DR's friend. I expect to recieve a
priority list from these to work on.

EXHIBIT
128

A0552

-GK pointed out that Prof. Itamar Rabiinovitch is an important supporter becaus
e he is highly respected in the US and could help with additional names in the US -
which are lacking in my list.

-The time-table for implementing this project with a dead line should be decided
upon with JQ.

-I also raised the idea that "a task force" under his guidance and strategy shoul
d be established to make sure we make good use of the time and means available.I
understood from GK that he shall undertake this project.

-GK is meeting Bob on Thursday, shall contact JQ and decide on how to proceed.

Regards,
Avner

Bob, pse transfer a copy to GK. I don't have his email or fax.

 - ALTERNATIVE.HTM



robert.fink@[redacted] on 11/17/2000 09:27:00 AM

To: azulrich@[redacted] Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]
cc:

Subject: RE: letters

I think the former. But Gershon made it clear that he thinks his proposed moral authority, EW,
is the most important person by far.
I do not understand that we have agreed on how EW is to be contacted. But I think all of that should wait until we have the meeting with Jack on Tuesday to make sure we have no false starts.
Bob

> -----Original Message-----
> From: Avner Azulay [SMTP:azulrich@[redacted]]
> Sent: Friday, November 17, 2000 4:31 AM
> To: kathleen_behan@[redacted]; robert.fink@[redacted]
> Subject: letters
> > as an exception could we get support letters addressed to the president
> by persons such as shimon peres ?or they should all be "to whom it may
> concern"

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Fink, Robert - NY

From: Fink, Robert - NY
Sent: Friday, January 05, 2001 5:11 PM
To: 'Jack Quinn'

I meant to ask but didn't in our last conversation whether you heard from Israel Singer. I assume you did not. I did not. Gershon continues to believe, indeed, he is very consistent, that Elie Weisel is the key. I will email Avner and ask where he is on that. Bob



PMR&W 00403



robert.fink@[redacted] on 11/20/2000 09:19:38 AM

To: Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]
cc: azulrich@[redacted]

Subject: FW: #761323 v1 - agenda

As Gershon seemed not to have sent this to you, I am forwarding. Bob

> -----Original Message-----
> From: gkekst [SMTP:gershon-kekst@[redacted]
> Sent: Sunday, November 19, 2000 4:44 PM
> To: 'Fink, Robert - NY'
> Cc: Jack Quinn (E-mail)
> Subject: RE: #761323 v1 - agenda
> > ALL I CAN SAY IS THAT THE CASE MUST BE MADE (FOLLOWING THE GUIDELINES
> MEMO
>) IN THE CORE DOCUMENT. AS THERE IS NO MARGIN FOR ERROR OR OMISSION, I
> MUST LEAVE THE DRAFTING TO THE EXPERTS (YOU, KITTY AND JACK). I
> WOULD
> WANT A SHOT AT IT , THOUGH, BECAUSE ONCE THE DOCUMENT HAS PASSED THAT
> TEST,
> IT SHOULD BE LOOKED AT FROM A PUBLIC AND PERSUASION TEST, AS WELL.
> SECOND, THE SUPPORT-SPONSORSHIP OF AN ELIE WEISEL IS CRUCIAL: AVNER
> SAID
> HE WOULD WORK ON THAT.A AND THE LIST OF SUPPORTERS MUST NOT BE ALL
> RECIPIENTS OF PHILANTHROPY, JEWS AND ISRAELIS: IT MUST INCLUDE
> POLITICAL
> AND BUSINESS LEADERS FROM AROUND THE WORKLD , INCLUDING THE U.S.A.
> I
> BELIEVE AVNER SAID HE WOULD START ON THAT. (AS TO HOW TO USE GERSHON
> BEST.....GEE, LET ME KNOIW WHEN YOU DECIDE !) BY THE WAY, I
> WILL ONLY HAVE ABOUT AN HOUR (PERHAPS A FEW MINUTES LESS) BECAUSE I AM TO
> CATCH A PLANE THAT AFTERNOON. > > Gershon
> > -----Original Message-----
> From: Fink, Robert - NY [mailto:robert.fink@[redacted]] > Sent:
Sunday, November 19, 2000 3:19 PM
> To: 'Jack Quinn'; 'Gershon Kekst'; 'Kitty Behan'
> Cc: 'Avner Azulay'
> Subject: #761323 v1 - agenda
> > << File: GBFV01!.DOC >> <<GBFV01!.DOC>> Here is my draft agenda for
> Tuesday. It only looks long
> because of Item 3. Please let me know what else should be covered and I
> will
> circulate another copy -- assuming I receive comments. > Bob
> > > _____
> __
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A0570

Green, G. Michael

From: Fink, Robert - NY [robert.fink@[redacted]
Sent: Thursday, November 30, 2000 4:22 PM
To: 'Kitty Behan'; 'Jack Quinn'; 'Gershon Kekst'
Cc: 'Mike Green'
Subject: FW: [Fwd: revised]



> http://explorer.msn.com <<revised.doc>>
Here is a revised copy of Avner's report on the Foundations's activities. Your reactions and comments will be appreciated. Just click on the icon, not the line about explorer.msn.com
Thanks. Bob

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Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, December 27, 2000 9:40 AM
To: 'gkekst'
Subject: RE:

I am honored.
I hope you and your family have a healthy, happy New Year.
Despite that wish, I will keep you posted on events. Bob

-----Original Message-----
From: gkekst [SMTP:gershon-kekst@[redacted]
Sent: Tuesday, December 26, 2000 5:55 PM
To: 'Fink, Robert - NY'
Subject: RE:

I am in agreement....

Gershon

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@[redacted]
Sent: Tuesday, December 26, 2000 5:25 PM
To: 'Jack Quinn'
Cc: 'Marc Rich'; 'Avner Azulay'; gkekst; 'Kitty Behan'; 'Mike Green'
Subject:

Of all the options we discussed, the only one that seems to have real potential for making a difference is the HRC option and even that has peril if not handled correctly. I assume, and am emphasizing that this is an assumption, that we want Avner to speak to Abe about the support this will get in NY to see if Abe could make the necessary representation to HRC. As for contacting Rudy, that seems to be too fraught with peril, and I am against it unless someone has some inside information which would strongly suggest he is willing to stay on the side lines and we only want confirmation. I doubt there is anyone who can do that.
Frankly, I think we benefit from not having the existence of the petition known, and do not want to contact people who are unlikely to really make a difference but who could create press or other exposure. By this analysis, I would probably pass on having Michael contact Morganthau, but, in any event, I have not had any success in reaching Michael. I will keep trying and have asked his secretary to pass on to him that I am trying to reach him.
Moreover, based on your reaction to the possibility of raising this with Scooter, and based on my conversations with Mike Green on how Scooter is likely to feel compelled to react, and the fact that Scooter already knows what we are doing and could easily volunteer if he saw a way to be helpful, I would pass on that as well.
Thus, I think we (but mostly you and Avner) should discuss the possibility of a call from Denise and Abe (maybe together?), otherwise I would have you do what you are already doing, and volunteer our help if there are any questions raised by the WH lawyers or by the SDNY if it is contacted.
To all, please feel free to comment. I am only giving my view with the goal of reaching a decision.
Bob

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Thank you.

EXHIBIT
133

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, December 27, 2000 5:40 PM
To: 'gkekst'
Cc: 'Jack Quinn'
Subject: RE: PG- proposal

I recall. But I do not think it is easy to do now. I am waiting to hear from Jack on this and the other matters. I spoke to Kitty earlier and she thought delinking now would be hard.
Bob

-----Original Message-----
From: gkekst [SMTP:gershon-kekst@[redacted]
Sent: Wednesday, December 27, 2000 5:23 PM
To: 'Fink, Robert - NY'
Subject: RE: PG- proposal

As you will recall, I always thought it best to de-link the two. But...

Gershon

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@[redacted]
Sent: Wednesday, December 27, 2000 10:22 AM
To: gkekst
Cc: 'Avner Azulay'
Subject: FW: PG- proposal

Avner asked me to forward this as he does not seem to have your email address.
Bob

> -----Original Message-----
> From: Avner [SMTP:azulrich@[redacted]
> Sent: Wednesday, December 27, 2000 4:56 AM
> To: quinn jack; behan kathleen; gershon-kekst@[redacted]
> Cc: Fink, Robert - NY; Rich, Marc
> Subject: PG- proposal
>
> In order to reduce the impact of - or bypass - any of the legal
> aspects/difficulties which might be brought to potus by the lawyers - and
> stress the "humanitarian" side of the petition - PG proposes that the
> option of "dropping him" from the petition be made available to potus if
> that can facilitate his decision on MR.This would qualify his decison as
> an individual humanitarian act rather than the solution to the legal case.
>
> (Note: Jack, if you agree with the above ,perhaps this idea/option should
> be delivered before he gets entangled to deep with with lawyers?)
>
> PG beleives that making the decision easier for MR - shall in the
> continuation make his own solution less problematic.MR agrees to PG's
> above proposal/idea.
>
> Concerning Olmert - PG is not sure that the declared friendship with Rudy
> is as close as he says. Anyway , at this stage, it seems to be premature
> to discuss how to neutralize Rudy's hangovers.
>
> I shall appreciate any comments on the above.
> Rgds-AA
>
>

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EXHIBIT
134

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, December 27, 2000 5:41 PM
To: 'gkekst'
Cc: 'Jack Quinn'
Subject: RE: Chuck Shumer

I will ask Jack. Hopefully his Blackberry has not run out of battery.
bob

-----Original Message-----
From: gkekst [SMTP:gershon-kekst@[redacted]
Sent: Wednesday, December 27, 2000 5:20 PM
To: 'Fink, Robert - NY'
Subject: RE: Chuck Shumer

Good point. Can quinn tell us who is close enough to lean on schumer ?? I am certainly willing to call him, but have no real clout. Jack might be able to tell us quickly who the top contributors are.....maybe Bernard Schwartz ??

Gershon

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@[redacted]
Sent: Wednesday, December 27, 2000 11:04 AM
To: gkekst
Cc: 'Avner Azulay'; 'Jack Quinn'; 'Kitty Behan'
Subject: FW: Chuck Shumer

Here is another message from Avner which you did not receive. Avner is looking for suggestions on who could contact the senior Senator and ask for support so that the only request for help from the Jewish community is not to HRC. It may be that DR can play this role as well. What do you think? And what do you think of Pinky's suggestion?
Best regards,
Bob

> -----Original Message-----
> From: Avner [SMTP:azulrich@[redacted]
> Sent: Wednesday, December 27, 2000 8:26 AM
> To: quinn jack; Fink, Robert - NY
> Cc: Rich, Marc; behan kathleen
> Subject: Chuck Shumer
>
> I have been advised that HRC shall feel more at ease if she is joined by
> her elder senator of NY who also represents the jewish population.The
> private request from DR shall not be sufficient.It seems that this shall
> be a pre requisite from her formal position.
>
> All senators are meeting on Jan 3rd. and then shall take off.
>
> Bob, can you check with Gershon which is the best way to get him
> involved.I shall check with Abe.
> rgds-AA
>

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Thank you.



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Thursday, January 11, 2001 10:00 AM
To: 'Marc Rich'; 'Avner Azulay'
Subject: Not much to report

I hoped to give you a full report on Jack's recent activities, but Jack and I have missed each other. He did send me an email telling me that he has been very busy on the phone and would give me a full briefing when we spoke. He called while changing planes and I was unavailable and could not call him back. He is now in Washington State so I do not expect to hear from him until later and will let you know when I know. Meanwhile I spoke to Gershon yesterday, and he said he would call first thing this morning to specifically ask that EW call Potus and no one else.
Marc I hope you are taking care of yourself.
Best regards to both of you.
Bob



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, January 16, 2001 11:17 AM
To: 'Marc Rich'
Subject: FW: Denise

As you can see from his email at the bottom, Jack is still at work on this. Having said that, Gershon just called and said he is convinced this is still possible and that this is a critical week, and suggests you call Jack directly and encourage him to keep plugging away, and thanking him for what he has done.
Gershon is also convinced that the no publicity route was correct. The WSJ article from yesterday, which I am about to fax, showed that publicity can stir up opposition. In this case the SEC and the SDNY are opposing Milken's even though Rudy is in favor.
Best regards, Bob
PS Jack's number, for ease of reference, is 202-[redacted] and his secretary April will be able to reach him as of about 6PM your time.

-----Original Message-----
From: Fink, Robert - NY
Sent: Tuesday, January 16, 2001 10:29 AM
To: 'Jack Quinn'; Fink, Robert - NY
Cc: 'azulrich@[redacted]
Subject: RE: Denise

I called at 10:30 AM and she is still asleep (she was at her Dad's yesterday and it as a very full day) but I left a message that I had to talk to her before a noon meeting. I expect I will hear from her and I will give her the message.
Hope all is well. Bob

iginal Message—
From: Jack Quinn [SMTP:JQuinn@[redacted]]
Sent: Tuesday, January 16, 2001 9:48 AM
To: 'robert.fink@[redacted]'
Cc: 'azulrich@[redacted]'
Subject: Denise

I am advised that it would be useful if she made another call to P. I am in a fannie mae bd mtg, but would like to set this in motion asap. Message shd be simple: "I'm not calling to argue the merits. Jack has done that, and we believe a pardon is defensible and justified. I'm calling to impress upon you that MR and our whole family has paid a dear price over 18 yrs for a prosecution that shd never have been brought and that singled out MR while letting the oil companies he dealt with go scot free. Please know how important this is to me personally." can you or avner call her this morning? I can be reached via email till noon after that through april in my car. Thx.

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

PMR&W
00168

EXHIBIT
137

Jack Quinn

From: gkekst [gershon-kekst@[redacted]
Sent: Tuesday, January 23, 2001 1:06 PM
To: 'Jack Quinn'
Cc: Robert Fink (E-mail)
Subject: RE:

I spoke with marc. He asked the question and I told him that he
should not speak with any reporters anywhere,,,,,,,if after his first trip
to America and that "trauma" passes, he may be able to make "courtesy calls"
in Europe.

Gershon

-----Original Message-----
From: Jack Quinn [mailto:JQuinn@[redacted]]
Sent: Tuesday, January 23, 2001 12:45 PM
To: gkekst; 'robert.fink@[redacted]'
Subject: Fw:
Importance: High

Bob, will you consult Gershon?

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----
From: Rich, Marc <marc.rich@[redacted]>
To: 'JQuinn@[redacted]' <JQuinn@[redacted]>
CC: Robert Fink (E-mail) <robert.fink@[redacted]>
Sent: Tue Jan 23 06:19:17 2001
Subject:

Dear Jack,

I understand that I should not talk to the US Press and I'm glad not to, but
I wonder if I should not talk to the Press in Spain and Switzerland and also
perhaps to the Financial Times. Please let me know. I'll do whatever you say. I'd appreciate it if you would fax me your answer to Madrid, where I'll
be this afternoon.

The Madrid fax number is : [redacted]

Best regards,

Marc Rich

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Jack Quinn

From: gkekst [gershon-kekst@[redacted]]
Sent: Monday, January 22, 2001 12:42 PM
To: 'Fink, Robert - NY'
Cc: Jack Quinn (E-mail)
Subject: RE:

I think he needs to make reference to the fact that the president's opinion
and action were based on his having been willing to take the time and give
consideration to the best professional analysius of the matter which made
clear the need to " do justice" at this point

Gershon

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@[redacted]
Sent: Monday, January 22, 2001 10:25 AM
To: gkekst; 'Jack Quinn'
Subject: FW:

<< File: 223clin.doc >> Here is a draft of what Marc proposes to send to
former President Clinton.
He is open to any suggestions.
Let me know what you think. Bob

> -----Original Message-----
> From: Rich, Marc [SMTP:marc.rich@[redacted]
> Sent: Monday, January 22, 2001 9:45 AM
> To: Robert Fink (E-mail)
> Subject:
>
>
> Dear Bob,
>
> Attached is my first effort at the letter. Please let me know what you and
> Jack think about it. I'll be glad to make it more elaborate if you wish. I
> also look forward to further news with details from you both and in that
> connection maybe I should postpone issuing the letter for a couple of
> days.
>
> I'll be away tomorrow so it will be difficult to resend it.
>
> <<223clin.doc>>
>
> Best regards,
>
>
> <<223clin.doc>>

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Jack Quinn

From: Jack Quinn
Sent: Wednesday, January 24, 2001 7:09 PM
To: 'Fink, Robert - NY'; 'rkulakoff'; Kekst, Gershon
Cc: Jack Quinn; 'Kitty Behan'; 'Mike Green'
Subject: RE: WHY MARC RICH DESERVED A PARDON

spoke to BC. thinks we shd offer op-ed to daily news. can anyone help?

-----Original Message-----
From: Fink, Robert - NY [redacted]
Sent: Wednesday, January 24, 2001 6:57 PM
To: 'rkulakoff'
Cc: 'Jack Quinn'; 'Kitty Behan'; 'Mike Green'
Subject: RE: WHY MARC RICH DESERVED A PARDON

Kitty is friendly with Ben Wittes, I think. She is from DC as you may know.
Call her at [redacted]
When I spoke with him on Monday, he sounded ok, but the editorial was not--
go figure. Good luck. Bob

> -----Original Message-----
> From: rkulakoff [redacted]
> Sent: Wednesday, January 24, 2001 6:44 PM
> To: 'robert.fink@[redacted]
> Subject: WHY MARC RICH DESERVED A PARDON
>
>
> This draft reflects the comments of Bob Fink and Mike Green. It is
> Gershon's view that The New York Times is the first choice for placement.
> He suggests that Jack resubmit this version for the Time's consideration.
> If they pass, do any of you have an editorial contact at the Washington
> Post
> as choice two? If not, let us know and we will submit to Paul Steiger at
> The Wall Street Journal.
> <<richoped.doc>> << File: richoped.doc >>

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Jack Quinn

From: gkekst [gershon-kekst@[redacted]
Sent: Wednesday, January 24, 2001 12:08 PM
To: 'Avner'
Cc: Robert F. Fink (E-mail); Jack Quinn (E-mail)
Subject: RE: NY Times

I believe the paper is being dealt with ....and has been...

Gershon

-----Original Message-----
From: Avner [mailto:azulrich@[redacted]
Sent: Wednesday, January 24, 2001 9:54 AM
To: gkekst; quinn jack; Fink, Robert - NY; behan kathleen
Cc: Rich, Marc
Subject: NY Times

Zev Furst called me to inform that the NY Times has assigned a team of 5 of itds top investigative reporters to work on the case.There seems to be a political slant.He thinks this can get out of hand although it cannot be turned around.He advises to connest us with a senior NY Times reporter - Eichenwald and have a meeting with him in Europe somewhere and give him our best version.He is a tough man but decent - according to Furst.He proposes that we don't let this to blow out of proportion.Pse advise. I'd appreciate a call from Gershon.

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Jack Quinn

From: Jack Quinn
Sent: Saturday, January 27, 2001 3:11 PM
To: 'gkekst'
Subject: RE: NY Times

fink, green and people from my ofc are going to do a conf call at 5pm today to discuss russert show i'm doing with the mayor. would love to have you on that call. dial-in is [redacted], pin # [redacted], coordinator is scott.

-----Original Message-----
From: gkekst [mailto:gershon-kekst@[redacted]
Sent: Thursday, January 25, 2001 8:40 AM
To: 'Avner'
Cc: Robert F. Fink (E-mail); Jack Quinn (E-mail)
Subject: RE: NY Times
Importance: High

The reporter at the ny times is Allison cowan working with Johnny apple. A senior, well-experienced team. They have met with jack and I believe you should run this past him. Unless there is strong evidence , they are not likely to fabricate a story. Is there any trace of evidence ?? lenzner told me that forbes believes milkin should have been pardoned and he wanted to do a piece contrasting the two and showing that if mike did'nt deserve one certainly m.,r. didn't either. Talk with fink about him. PLEASE be careful about letting so many people talk with reporters.....all that is being accomplished is that, however 'well-intentioned' they stir the story and keep it cooking !! we are a stage now at which the story is being kept alive be wannabe heroes.

EXHIBIT
142

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street NW • Washington, DC 20037-1526 • Tel (202) 785-9700 • Fax (202) 887-0689
Federal Tax ID 53-0246695

Robert F. Fink, Esq.
Piper & Marbury, LLP
1251 Avenue of the Americas
New York, NY 10020-1104

December 12, 2000
Client/Matter No. M0375.0000
Invoice No. 2025426

FOR PROFESSIONAL SERVICES RENDERED through November 30, 2000:

Re: M&P Securities
General

Timekeeper	Rate	Hours	Amount
M Green	350.00	9.00	3,150.00
P Kadzik	350.00	1.00	350.00
Totals		10.00	3,500.00

TOTAL FEES	$ 3,500.00
TOTAL FEES AND COSTS	$ 3,500.00
TOTAL DUE UPON RECEIPT	$ 3,500.00

1/5/0
29

DSM0059

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EXHIBIT
143

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Re: General
M0375.0000

Invoice No. 2025426
M&P Securities
Page 2

Date	Attorney	Description	Hours	Amount
11/28/00	M Green	Telephone conversation with RFF; telephone conversation with SL regarding pardon application; document review	1.50	525.00
11/29/00	M Green	Meeting with JQ, KB and RFF; document review regarding pardon application; meeting with P. Kadzik	5.50	1,925.00
11/29/00	P Kadzik	Conference with M.Green re: application issues and communications with Administration.	1.00	350.00
11/30/00	M Green	Telephone conversation with RFF; document review regarding pardon petition	2.00	700.00
		TOTAL FEES		$ 3,500.00
		TOTAL FEES AND COSTS		$ 3,500.00

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street NW • Washington, DC 20037-1526 • Tel (202) 785-9700 • Fax (202) 887-0689
Federal Tax ID [redacted]

REMITTANCE PAGE

Robert F. Fink, Esq.
Piper & Marbury, LLP
1251 Avenue of the Americas
New York, NY 10020-1104

December 12, 2000
Client/Matter No. M0375.0000
Invoice No. 2025426

Remit To:

Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street NW
Washington, DC 20037-1526
Attn. Accounts Receivable

FOR PROFESSIONAL SERVICES RENDERED through November 30, 2000:

TOTAL FEES	$ 3,500.00
TOTAL FEES AND COSTS	$ 3,500.00
TOTAL DUE UPON RECEIPT	$ 3,500.00

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DSM0061

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street NW • Washington, DC 20037-1526 • Tel (202) 785-9700 • Fax (202) 887-0689
Federal Tax ID [redacted]

Robert F. Fink, Esq.
Piper & Marbury, LLP
1251 Avenue of the Americas
New York, NY 10020-1104

February 13, 2001
Client/Matter No. M0375.0000
Invoice No. 2028257

FOR PROFESSIONAL SERVICES RENDERED through January 31, 2001:

Re: General

OUTSTANDING BALANCE	$ 3,500.00
PAYMENTS RECEIVED SINCE PREVIOUS STATEMENT	$ (3,500.00)
BALANCE FORWARD	$ .00
TOTAL FEES	$ 91,207.00
OTHER SERVICES AND EXPENSES	$ 375.22
TOTAL FEES AND COSTS	$ 91,582.22
TOTAL DUE UPON RECEIPT	$ 91,582.22

Your Bank may wire transfer by the U.S. Federal Reserve Wire System to:
Bank of America, Washington D.C. Transit Code #[redacted] for Credit to Dickstein Shapiro Morin & Oshinsky LLP
Acct #[redacted] for Further credit to: *Remitters Name.* Please refer to invoice and matter number when remitting
Invoices are payable upon receipt.

Date	Attorney	Description	Hours
12/01/00	P Kadzik	Telecon with J.Quinn re: application.	.50
12/01/00	M Green	Document review and revisions regarding pardon petition; telephone conversation with RFF; meeting with PK	5.00
12/03/00	M Green	Document review and revisions regarding pardon petition; telephone conversation with RFF	5.50
12/04/00	M Green	Document review and revisions regarding pardon petition; telephone conversation with RFF; telephone conversation with PK	6.50
12/04/00	P Kadzik	Conference with M.Green re: application.	.20
12/05/00	M Green	Telephone conversation with RFF and KB; meeting with RFF and KB; document review and revisions regarding pardon petition	10.50
12/06/00	M Green	Document review and revisions regarding pardon petition; telephone conversation with RFF; telephone conversation with KB and RFF; telephone conversation with KB	11.00
12/07/00	M Green	Document review and revisions regarding pardon petition; telephone conversation with RFF; telephone conversation with RFF and KB	11.50
12/08/00	P Kadzik	Conference with M.Green re: application.	.50
12/08/00	M Green	Document review and revisions regarding pardon petition; meeting with RFF, AA and KB; meeting with PK; telephone conversation with RFF	12.50
12/09/00	M Green	Document review and revisions regarding pardon petition; telephone conversation with RFF	5.50
12/10/00	M Green	Telephone conversation with PK; document review and revisions regarding pardon petition; meeting with PK; meeting with RFF, KB and AA	13.00
12/10/00	P Kadzik	Reviewed and commented on draft application; telecon and conference with M.Green re: application.	1.50
12/11/00	M Green	Telephone conversation with KB; telephone conversation with RFF and KB; meeting with RFF and AA; document review and revisions regarding pardon petition	3.50
12/12/00	M Green	Meeting with PK; telephone conversation with RFF; document review regarding pardon petition	1.50

Date	Attorney	Description	Hours
12/12/00	P Kadzik	Review of final version of petition; telecon with JDP re: status; conference with M.Green re: status REDACTED	1.00
12/13/00	M Green	Telephone conversation with RFF; document review	1.00
12/18/00	M Green	Telephone conversation with RFF regarding pardon issues; document review regarding same	1.50
12/22/00	M Green	Telephone conversation with RFF; document review regarding pardon issues	1.00
12/26/00	M Green	Telephone conversation with RFF; document review regarding pardon issues; telephone conversation with RFF	1.00
12/28/00	M Green	Telephone conversation with RFF regarding pardon issues	.20
01/02/01	M Green	Meeting with PK; telephone conference with RFF	.50
01/02/01	P Kadzik	Telecons and conferences with M.Green and JDP re: status of pardon application REDACTED	1.00
01/03/01	P Kadzik	Telecon with M.Green re: status of pardon application REDACTED	.30
01/03/01	M Green	Telephone conversation with RFF and JQ; telephone conversation with RFF; document review; telephone conversation with PK	1.00
01/04/01	M Green	Telephone conversation with PK; document review regarding pardon	1.00
01/05/01	M Green	Telephone conversation with RFF; telephone conversation with PK; document review regarding pardon issues; telephone conversation with RFF; telephone conversation with PK	2.50
01/06/01	P Kadzik	Prepared for and conferences with JDP and M.Green re: pardon application.	1.50
01/06/01	M Green	Meeting with PK; document review regarding pardon issues; telephone conversation with RFF	1.00
01/08/01	M Green	Telephone conversation with JQ; document review regarding pardon issue; telephone conversation with RFF; telephone conversation with PK	1.00
01/16/01	P Kadzik	Telecon with JDP and M.Green re: status of application.	.50
01/16/01	M Green	Telephone conversation with PK; telephone	.50

Date	Attorney	Description	Hours
		conversation with RFF	
01/18/01	M Green	Telephone conversation with RFF; document review regarding pardon issues; telephone conversation with RFF and P. Rodgers regarding same; telephone conversation with PK; telephone conversation with RFF and KB; telephone conversation with RFF; research regarding pardon issues	4.00
01/18/01	P Kadzik	REDACTED re: pardon; telecons with WHO.	1.00
01/19/01	P Kadzik	Telecons with WHO and M.Green re: status of pardon applications.	.50
01/19/01	M Green	Telephone conversation with RFF; document review and research regarding pardon issues; telephone conversation with JQ, RFF and KB; telephone conversation with RFF; telephone conversation with PK	6.50
01/20/01	P Kadzik	Telecons with WHO and M.Green re: pardon.	.50
01/20/01	M Green	Telephone conversation with RFF, JQ and MR; telephone conversation with PK; document review	3.00
01/21/01	M Green	Telephone conversation with RFF; document review regarding pardon issues	2.00
01/22/01	M Green	Telephone conversation with RFF and Mr; telephone conversation with RFF, JQ, GK and KB; telephone conversation with RFF and LG; telephone conversation with BK; telephone conversation with RFF; document review; telephone conversation with R. Adams (pardon attorney); telephone conversation with JQ and RFF; document review	6.50
01/23/01	M Green	Document review; meeting with RFF; telephone conversation with LG; telephone conversation with MG; meeting with KB and RFF; telephone conversation with RFF and BR; telephone conversation with RFF; REDACTED	9.50
01/23/01	P Kadzik	Telecons with M.Green re: REDACTED	.30
01/24/01	M Green	Telephone conversation with MG; telephone conversation with BW; meeting with JQ, KB and RFF; document review; attend NYT interview	11.00

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Invoice No. 20282
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Re: General
M0375.0000

Date	Attorney	Description	Hours
01/24/01	P Kadzik	Telecons with M.Green re: REDACTED	.30
01/25/01	M Green	Meeting with JQ and BR; telephone conversation with RFF and AD; W. Post interview; WSJ interview; Time interview; document review; REDACTED ; meeting with JQ and KB	12.50
01/25/01	A Zausner	Telephone call with M. Green; office conference with M. Green.	.50
01/26/01	A Zausner	Telephone conferences with M. Green and S. Parris; reviewed materials.	1.20
01/26/01	M Green	Telephone conversation with MR; telephone conversation with BR; telephone conversation with KB; meeting with JQ; document review; meeting with JQ and KB; telephone conversation with PK; telephone conversation with AZ; meeting with LDG; (redacted) telephone conversation with LG; WSJ interview; People interview; telephone conversation with RFF; telephone conversation with BR and AD; telephone conversation with JQ	11.00
01/26/01	L Garr	REDACTED	6.40
01/26/01	P Kadzik	Telecons with M.Green and former WHO staff re: REDACTED	1.00
01/26/01	S Parris	Telephone conferences with A. Zausner re: REDACTED	.50
01/27/01	M Green	Telephone conversation with RFF; telephone conversation with LG; document review; telephone conversation with BW; telephone conversation with JQ, RFF, BR, KB and QG staff; telephone conversation with JQ	7.50
01/28/01	M Green	Telephone conversation with MR; telephone conversation with JQ; telephone conversation with KB; telephone conversation with BW; telephone conversation with JQ and BR; telephone conversation with MR; telephone conversation with G. Fields (WSJ); telephone conversation with JQ; document review; telephone conversation with RFF	4.50
01/29/01	M Green	Document review; telephone conversation with RFF, AD and BR;; telephone conversation with	10.50

Date	Attorney	Description	Hours
		JQ, KB, RFF, BR and AD; telephone conversation with LG; telephone conversation with RFF, JQ and AD; t REDACTED elephone conversation with KB; telephone conversation with BR; telephone conversation with JQ, RFF and AD; telephone conversation with AZ	
01/29/01	L Garr	REDACTED	4.70
01/30/01	A Zausner	Reviewed article; office conference with R. Conway.	.50
01/30/01	P Kadzik	Telecons with J.Quinn, M.Green and former WHO staff re: REDACTED	1.00
01/30/01	L Garr	REDACTED	8.10
01/30/01	M Green	Document review; telephone conversation with RFF; telephone conversation with BW; telephone conversation with PK; meeting with JQ; telephone conversation with BR; telephone conversation with KB; telephone conversation with RFF and AD; telephone conversation with LG; telephone conversation with JQ, RFF and AD; REDACTED	12.00
01/31/01	M Green	Document review; meeting with RFF; meeting with JQ; telephone conference with KB; meeting with JQ, KB and RFF, I. Rogovin and J. Bash regarding REDACTED telephone conversation with PK; telephone conversation with BR; telephone conversation with BR and RFF	11.50
01/31/01	L Garr	REDACTED	5.10

Timekeeper	Rate	Hours	Amount
A Zausner	450.00	2.20	990.00
L Garr	375.00	24.30	9,112.50
M Green	375.00	119.50	44,812.50
M Green	350.00	90.70	31,745.00
P Kadzik	380.00	7.90	3,002.00
P Kadzik	350.00	3.70	1,295.00
S Parris	500.00	.50	250.00
Totals		248.80	91,207.00

TOTAL FEES $ 91,207.00

Costs	Amount
Business Meals	60.08
Courier	10.58
Duplicating	24.80
Fax	139.50
Local Transportation	64.00
Telephone	76.26
Total	375.22

OTHER SERVICES AND EXPENSES $ 375.22

TOTAL FEES AND COSTS $ 91,582.22

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REMITTANCE PAGE

Robert F. Fink, Esq.
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New York, NY 10020-1104

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DSM0069

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, January 09, 2001 3:57 PM
To: 'Jack Quinn'
Subject: RE: Herald Tribune

Agreed.

-----Original Message-----
From: Jack Quinn [SMTP:JQuinn@[redacted]
Sent: Tuesday, January 09, 2001 1:12 PM
To: 'Fink, Robert - NY'; 'Gershon Kekst'
Cc: Jack Quinn
Subject: RE: Herald Tribune

i think we've benefitted from being under the press radar. podesta said as much.

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@[redacted]
Sent: Tuesday, January 09, 2001 12:21 PM
To: 'Gershon Kekst'
Cc: 'Jack Quinn'
Subject: Herald Tribune

Marc heard today from a friend in Paris that a reporter named Joseph Sitches of the Herald Tribune was going to write a story on the people who were (adversely) affected by Rudy Giuliani. Apparently, Marc will be among those about whom he deals, although he has not attempted to reach Marc. Basically, Marc was interested in your reaction to this (and no doubt your judgement on whether we should try to be helpful and volunteer information), which led to a discussion on whether we seek any publicity about the pardon application if we do not succeed (something you were thinking about when we were last together) or even if we attempt to do something now. I explained that we did not want publicity now. He understands that is our view.
I look forward to hearing from you.
Bob

The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system.
Thank you.

For more information about Piper Marbury Rudnick & Wolfe, please visit us at http://www.piperrudnick.com/



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Friday, January 19, 2001 12:36 PM
To: 'Avner Azulay'; 'Mike Green'; 'Kitty Behan'

I just spoke to Jack. He has not heard from the President, but agreed to call him as soon as he gets to a hard line phone (he was in the car). He said that the SEC knows of the request and for some reason opposed it. But not like they opposed Milken. He does not know how they learned of it. (He found out when the head of the SEC gave one of his partners a hard time about Marc yesterday.). We agree that is not good and that maybe the SDNY knows too, but we have no information on it. No other pardons have been announced yet, as far as we know. Bob





JQuinn@[redacted] on 11/18/2000 11:39:32 AM

To: Kathleen Behan[redacted], robert.fink@[redacted]
gershon-kekst@[redacted]
cc:

Subject: eric

---

spoke to him last evening. he says go straight to wh. also says timing is good. we shd get in soon. will elab when we speak.

-----Original Message-----
From: Kathleen_Behan[redacted]
Sent: Saturday, November 18, 2000 11:24 AM
To: JQuinn[redacted]
Subject: Re: Depo



Jack Quinn, Esq.
1133 Connecticut Avenue, N.W.
2nd Floor
Washington, D.C. 20009
[redacted]

December 11, 2000

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Dear Mr. President:

I am personally delivering this Application for Pardon for Marc Rich and Pincus Green because almost two decades of using ordinary channels have led this matter to an impasse. I appear in this matter pursuant to Executive Order No. 12834. Far more importantly, I appear because I am absolutely certain that a grave injustice has been done that can only be rectified by you through an act of Executive Clemency.

Following a highly publicized and aggressive investigation, Mr. Rich and Mr. Green and two of their firms were indicted primarily on tax, energy and RICO charges in 1983 by the U.S. Attorney in New York, Rudolph Giuliani. Because Mr. Rich and Mr. Green did not come to this country from Switzerland, they were never tried or convicted. The charges in the indictment were unprecedented and unique, as they have never been brought against others similarly situated. However, the firms, which were under enormous pressure from restraints on their assets and threats of RICO forfeiture, settled and effectively paid almost 200 million dollars.

Since then, two of the most respected tax professors in the country concluded that the tax returns were correct as filed, and Justice Department Guidelines put in effect after the indictment and still in effect today bar most of the other serious charges made in the indictment. Moreover, the indictment is inconsistent with other positions taken by the Government.



Despite this, Mr. Rich's and Mr. Green's efforts at meaningful dialogue with prosecutors over the last two decades have been rebuffed -- unless Mr. Rich and Mr. Green first come to the United States for an arraignment. A fair trial, however, appears highly unlikely: the prejudicial press coverage -- broadcast nationally, and fueled by the prosecutors' own press conferences -- has simply been too one-sided, inflammatory, and extensive.

A pardon in the interests of justice is a reasonable end to all this. The indictment is seventeen years old and unfair by objective legal standards. Exile for two decades has been punishment without trial or resolution. And there is, frankly, an extraordinary amount to say about the exemplary contributions by Mr. Rich and Mr. Green to humanitarian and charitable causes this country encourages and admires—all told, over $200 million throughout the world; contributions made over decades without any effort at publicity.

The pardon application comes with support from world figures you know. The extraordinary humanitarian and charitable support from Mr. Rich and Mr. Green is documented.

I believe this application is worth your close attention; indeed, I believe a great injustice has been done which you alone can remedy. Naturally, I am available to answer any questions you may have.

Respectfully yours,

Jack Quinn, Esq.
1133 Connecticut Avenue, N.W.
2nd Floor
Washington, D.C. 20009

cc: Beth Nolan, Esq.
Bruce Lindsey, Esq.

VERBATIM NOTES OF NON-REDACTED PORTIONS OF TRANSCRIPTS OF CLINTON/BARAK CONVERSATIONS
From late-2000 and early-2001

(1) December 11, 2000, 6:17 – 6:36 p.m. (in the Residence):

(notetakers: Jenny McGee, Sean Tarver, Deana Sutliff, Rob Hargis, John Sherman)

(begins with 3 pages of redactions)

Prime Minister Barak: Okay, thank you. One last remark. There is an American Jewish businessman living in Switzerland and making a lot of philanthropic contributions to Israeli institutions and activities like education, and he is a man called Mark [sic] Rich. He violated certain rules of the game in the United States and is living abroad. I just wanted to let you know that here he is highly appreciated for his support of so many philanthropic institutions and funds, and that if I can, I would like to make my recommendation to consider his case.

President Clinton: I am going to take all of them up at the same time. I know about that case because I know his ex-wife. She wants to help him, too. If your ex-wife wants to help you, that's good.

Prime Minister Barak: Oh. I know his new wife only, an Italian woman, very young. Okay. So, Mr. President, thank you very much. We will be in touch.

(redactions to end at page 5)

(2) January 8, 2001, 5:57 – 6:15 p.m. (in the Oval Office):

(notetakers: Joel Ehrendreich, Clark Lystra, Brad Mynatt, Michael Manning, Bob Schubert)

(begins with 4 pages of redactions)

Prime Minister Barak: Let me tell you last but not least two names I want to mention. [Redacted] The second is Mark [sic], the Jewish American.

President Clinton: I know quite a few things about that. I just got a long memo and am working on it. It's best that we not say much about that.

Prime Minister Barak: Okay. I understand. I'm not mentioning it in any place.

President Clinton: I understand.

Prime Minister Barak: I believe it could be important [gap] not just financially, but he helped Mossad on more than one case.

President Clinton: It is a bizarre case, and I am working on it.

Prime Minister Barak: Okay. I really appreciate it.

(1 paragraph redacted at the end)



(3) January 19, 2001, 2:47 – 3:09 p.m. (in the Oval Office):

(interpreter: Gamal Helal; notetakers: Don Gentile, Bob Schubert, Rob Willans, Rob Hargis, John Sherman)

(begins with 1 1/2 pages redacted)

President Clinton: [Redacted] I'm trying to do something on clemency for Rich, but it is very difficult.

Prime Minister Barak: Might it move forward?

President Clinton: I'm working on that but I'm not sure. I'm glad you asked me about that. When I finish these calls, I will go back into the meeting on that but I'm glad you raised it. Here's the only problem with Rich; there's almost no precedent in American history. There's nothing illegal about it but there's no precedent. He was overseas when he was indicted and never came home. The question is not whether he should get it or not but whether he should get it without coming back here. That's the dilemma I'm working through. I'm working on it.

Prime Minister Barak: Okay.

(1 1/2 pages redacted to the end)

Federal Register
Vol. 58, No. 13
Friday, January 22, 1993

Presidential Documents

Title 3—

The President

Executive Order 12834 of January 20, 1993

Ethics Commitments by Executive Branch Appointees

By the authority vested in me as President of the United States by the Constitution and laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. *Ethics Pledges.* (a) Every senior appointee in every executive agency appointed on or after January 20, 1993, shall sign, and upon signing shall be contractually committed to, the following pledge ("senior appointee pledge") upon becoming a senior appointee:

"As a condition, and in consideration, of my employment in the United States Government in a senior appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. I will not, within five years after the termination of my employment as a senior appointee in any executive agency in which I am appointed to serve, lobby any officer or employee of that agency.

"2. In the event that I serve as a senior appointee in the Executive Office of the President ('EOP'), I also will not, within five years after I cease to be a senior appointee in the EOP, lobby any officer or employee of any other executive agency with respect to which I had personal and substantial responsibility as a senior appointee in the EOP.

"3. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, if undertaken on January 20, 1993, would require me to register under the Foreign Agents Registration Act of 1938, as amended.

"4. I will not, within five years after termination of my personal and substantial participation in a trade negotiation, represent, aid or advise any foreign government, foreign political party or foreign business entity with the intent to influence a decision of any officer or employee of any executive agency, in carrying out his or her official duties.

"5. I acknowledge that the Executive order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 20, 1993, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service."

(b) Every trade negotiator who is not a senior appointee and is appointed to a position in an executive agency on or after January 20, 1993, shall (prior to personally and substantially participating in a trade negotiation) sign, and upon signing be contractually committed to, the following pledge ("trade negotiator pledge"):

"As a condition, and in consideration, of my employment in the United States Government as a trade negotiator, which is a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:



"1. I will not, within five years after termination of my personal and substantial participation in a trade negotiation, represent, aid or advise any foreign government, foreign political party or foreign business entity with the intent to influence a decision of any officer or employee of any executive agency, in carrying out his or her official duties.

"2. I acknowledge that the Executive order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 20, 1993, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service."

Sec. 2. *Definitions.* As used herein and in the pledges:

(a) "Senior appointee" means every full-time, non-career Presidential, Vice-presidential or agency head appointee in an executive agency whose rate of basic pay is not less than the rate for level V of the Executive Schedule (5 U.S.C. 5316) but does not include any person appointed as a member of the senior foreign service or solely as a uniformed service commissioned officer.

(b) "Trade negotiator" means a full-time, non-career Presidential, Vice-presidential or agency head appointee (whether or not a senior appointee) who personally and substantially participates in a trade negotiation as an employee of an executive agency.

(c) "Lobby" means to knowingly communicate to or appear before any officer or employee of any executive agency on behalf of another (except the United States) with the intent to influence official action, except that the term "lobby" does not include:

(1) communicating or appearing on behalf of and as an officer or employee of a State or local government or the government of the District of Columbia, a Native American tribe or a United States territory or possession;

(2) communicating or appearing with regard to a judicial proceeding, or a criminal or civil law enforcement inquiry, investigation or proceeding (but not with regard to an administrative proceeding) or with regard to an administrative proceeding to the extent that such communications or appearances are made after the commencement of and in connection with the conduct or disposition of a judicial proceeding;

(3) communicating or appearing with regard to any government grant, contract or similar benefit on behalf of and as an officer or employee of:

(A) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of title 20, United States Code; or

(B) a hospital; a medical, scientific or environmental research institution; or a charitable or educational institution; provided that such entity is a not-for-profit organization exempted from Federal income taxes under sections 501(a) and 501(c)(3) of title 26, United States Code;

(4) communicating or appearing on behalf of an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interest of the United States;

(5) communicating or appearing solely for the purpose of furnishing scientific or technological information, subject to the procedures and conditions applicable under section 207(j)(5) of title 18, United States Code; or

(6) giving testimony under oath, subject to the conditions applicable under section 207(j)(6) of title 18, United States Code.

(d) "On behalf of another" means on behalf of a person or entity other than the individual signing the pledge or his or her spouse, child or parent.

(e) "Administrative proceeding" means any agency process for rulemaking, adjudication or licensing, as defined in and governed by the Administrative Procedure Act, as amended (5 U.S.C. 551, *et seq.*).

(f) "Executive agency" and "agency" mean "Executive agency" as defined in section 105 of title 5, United States Code, except that the term includes the Executive Office of the President, the United States Postal Service and the Postal Rate Commission and excludes the General Accounting Office. As used in paragraph 1 of the senior appointee pledge, "executive agency" means the entire agency in which the senior appointee is appointed to serve, except that:

(1) with respect to those senior appointees to whom such designations are applicable under section 207(h) of title 18, United States Code, the term means an agency or bureau designated by the Director of the Office of Government Ethics under section 207(h) as a separate department or agency at the time the senior appointee ceased to serve in that department or agency; and

(2) a senior appointee who is detailed from one executive agency to another for more than sixty days in any calendar year shall be deemed to be an officer or employee of both agencies during the period such person is detailed.

(g) "Personal and substantial responsibility" "with respect to" an executive agency, as used in paragraph 2 of the senior appointee pledge, means ongoing oversight of, or significant ongoing decision-making involvement in, the agency's budget, major programs or personnel actions, when acting both "personally" and "substantially" (as those terms are defined for purposes of sections 207(a) and (b) of title 18, United States Code).

(h) "Personal and substantial participation" and "personally and substantially participates" mean acting both "personally" and "substantially" (as those terms are defined for purposes of sections 207(a) and (b) of title 18, United States Code) as an employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or other such action.

(i) "Trade negotiation" means a negotiation that the President determines to undertake to enter into a trade agreement with one or more foreign governments, and does not include any action taken before that determination.

(j) "Foreign Agents Registration Act of 1938, as amended" means sections 611–621 of title 22, United States Code.

(k) "Foreign government" means "the government of a foreign country," as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(e)).

(l) "Foreign political party" has the same meaning as that term in section 1(f) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611(f)).

(m) "Foreign business entity" means a partnership, association, corporation, organization or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

(n) Terms that are used herein and in the pledges, and also used in section 207 of title 18, United States Code, shall be given the same meaning as they have in section 207 and any implementing regulations issued or to be issued by the Office of Government Ethics, except to the extent those terms are otherwise defined in this order.

Sec. 3. *Waiver.* (a) The President may grant to any person a waiver of any restrictions contained in the pledge signed by such person if, and to the extent that, the President certifies in writing that it is in the public interest to grant the waiver.

(b) A waiver shall take effect when the certification is signed by the President.

(c) The waiver certification shall be published in the **Federal Register**, identifying the name and executive agency position of the person covered by the waiver and the reasons for granting it.

(d) A copy of the waiver certification shall be furnished to the person covered by the waiver and filed with the head of the agency in which that person is or was appointed to serve.

Sec. 4. *Administration.* (a) The head of every executive agency shall establish for that agency such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate:

(1) to ensure that every senior appointee in the agency signs the senior appointee pledge upon assuming the appointed office or otherwise becoming a senior appointee;

(2) to ensure that every trade negotiator in the agency who is not a senior appointee signs the trade negotiator pledge prior to personally and substantially participating in a trade negotiation;

(3) to ensure that no senior appointee or trade negotiator in the agency personally and substantially participates in a trade negotiation prior to signing the pledge; and

(4) generally to ensure compliance with this order within the agency.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a), above, shall be the responsibility of the White House Counsel or such other official or officials to whom the President delegates those duties.

(c) The Director of the Office of Government Ethics shall:

(1) subject to the prior approval of the White House Counsel, develop a form of the pledges to be completed by senior appointees and trade negotiators and see that the pledges and a copy of this Executive order are made available for use by agencies in fulfilling their duties under section 4(a) above;

(2) in consultation with the Attorney General or White House Counsel, when appropriate, assist designated agency ethics officers in providing advice to current or former senior appointees and trade negotiators regarding the application of the pledges; and

(3) subject to the prior approval of the White House Counsel, adopt such rules or procedures (conforming as nearly as practicable to its generally applicable rules and procedures) as are necessary or appropriate to carry out the foregoing responsibilities.

(d) In order to promote clarity and fairness in the application of paragraph 3 of the senior appointee pledge:

(1) the Attorney General shall, within six months after the issuance of this order, publish in the **Federal Register** a "Statement of Covered Activities," based on the statute, applicable regulations and published guidelines, and any other material reflecting the Attorney General's current interpretation of the law, describing in sufficient detail to provide adequate guidance the activities on behalf of a foreign government or foreign political party which, if undertaken as of January 20, 1993, would require a person to register as an agent for such foreign government or political party under the Foreign Agents Registration Act of 1938, as amended; and

(2) the Attorney General's "Statement of Covered Activities" shall be presumed to be the definitive statement of the activities in which the senior appointee agrees not to engage under paragraph 3 of the pledge.

(e) A senior appointee who has signed the senior appointee pledge is not required to sign the pledge again upon appointment to a different office, except that a person who has ceased to be a senior appointee, due to termination of employment in the executive branch or otherwise, shall sign the senior appointee pledge prior to thereafter assuming office as a senior appointee.

(f) A trade negotiator who is not also a senior appointee and who has once signed the trade negotiator pledge is not required to sign the pledge

again prior to personally and substantially participating in a subsequent trade negotiation, except that a person who has ceased employment in the executive branch shall, after returning to such employment, be obligated to sign a pledge as provided herein notwithstanding the signing of any previous pledge.

(g) All pledges signed by senior appointees and trade negotiators, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. *Enforcement.* (a) The contractual, fiduciary and ethical commitments in the pledges provided for herein are enforceable by any legally available means, including any or all of the following: debarment proceedings within any affected executive agency or judicial civil proceedings for declaratory, injunctive or monetary relief.

(b) Any former senior appointee or trade negotiator who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge not to lobby any officer or employee of that agency, or not to represent, aid or advise a foreign entity specified in the pledge with the intent to influence the official decision of that agency, may be barred from lobbying any officer or employee of that agency for up to five years in addition to the five-year time period covered by the pledge.

(1) The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement the foregoing subsection, which shall conform as nearly as practicable to the procedures for debarment of former employees found to have violated section 207 of title 18, United States Code (1988 ed.), set forth in section 2637.212 of title 5, Code of Federal Regulations (revised as of January 1, 1992).

(2) Any person who is debarred from lobbying following an agency proceeding pursuant to the foregoing subsection may seek judicial review of the administrative determination, which shall be subject to established standards for judicial review of comparable agency actions.

(c) The Attorney General is authorized:

(1) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate federal investigative authority to conduct such investigations as may be appropriate; and

(2) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action against the former employee in any United States District Court with jurisdiction to consider the matter.

(d) In such civil action, the Attorney General is authorized to request any and all relief authorized by law, including but not limited to:

(1) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring or continuing conduct by the former employee in breach of the commitments in the pledge he or she signed; and

(2) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former employee arising out of any breach or attempted breach of the pledge signed by the former employee.

Sec. 6. *General Provisions.* (a) No prior Executive orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive order, this order shall control.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(c) Except as expressly provided in section 5(b)(2) of this order, nothing in the pledges or in this order is intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

William J. Clinton

THE WHITE HOUSE,
January 20, 1993.

[FR citation 58 FR 5911]

April Moore

From: Jack Quinn
Sent: Thursday, December 07, 2000 4:40 PM
To: April Moore
Subject: Fw: Re: exec order 12834

File marc rich

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)

-----Original Message-----
From: Kathleen_Behan@[redacted] <Kathleen_Behan@[redacted]>
To: JQuinn@[redacted] <JQuinn@[redacted]>
Sent: Thu Dec 07 13:48:02 2000
Subject: Re: exec order 12834

Certainly the plain language you have cited would not preclude your participation. I'd be happy to look at the whole order.

This communication may contain information that is legally privileged, confidential or exempt from disclosure. If you are not the intended recipient, please note that any dissemination, distribution, or copying of this communication is strictly prohibited. Anyone who receives this message in error should notify the sender immediately by telephone or by return e-mail and delete it from his or her computer.

Kathleen Behan Kathleen_Behan@[redacted]
Arnold & Porter Telephone: (202)[redacted]
555 Twelfth Street, NW Fax: (202)[redacted]
Washington, DC 20004-1202 http://www.arnoldporter.com



Quinn Gillespie
& Associates PLC

December 19, 2000

Mr. Bruce Lindsey
The White House
2nd Floor, West Wing
Washington, DC 20502

Dear Bruce:

I want to follow up on an issue you raised in our conversation while in Belfast on the subject of a pardon for Marc Rich and Pinky Green. You expressed a concern that they are fugitives; and I told you they are not. Here is why: Rich and Green were in fact residing in Switzerland when they were indicted in September 1983. They (understandably in my mind) chose not to return to the US for a trial in light of all that had happened to them; particularly the enormous and overwhelmingly adverse and prejudicial publicity generated, I am sure, by then U.S. Attorney Giuliani. Their failure to return to New York was not a crime and no one has ever accused them of a crime for failing to come to the US for a trial. Indeed, even though they already lived outside the US at the time of the original indictment and even though the US Attorney's office issued a superceding indictment, in neither case did the office even suggest that their continued absence was an offense. Our review of the law in the area (18 USC 1073) similarly confirms to us that their conduct is not proscribed by federal law.

Still, much has been made of their absence and it is one of the principal excuses given by the U.S. Attorney's Office for its refusal even to hear highly respected independent legal scholars who view the central tax portion of the indictment as defective.

I look forward to speaking with you further.

Best personal regards.

Sincerely,

Jack Quinn

3 Commercial Avenue NW • Fifth Floor • Washington, DC 20036 • (202) 457-1110 • (202) 457-1130 fax
www.quinngillespie.com

EXHIBIT
151

Jack Quinn

From: Jeff Connaughton
Sent: Saturday, January 27, 2001 4:40 PM
To: Jack Quinn
Subject: Talking Points

Jack,

As complicated as it first appears to be, I think you have to make a convincing case tomorrow about why President Clinton was right to pardon Rich despite the fact that he's a fugitive. The fugitivity issue is what everyone feels strongest about, and is the rebuttal to your op-ed. The prosecutor under Giuliani was on Jim Lehrer last night (the same guy who was on with me on Burden), and he responded to your arguments about civil vs. criminal by saying, essentially, if all that is true, then Mr. Rich should have come to the U.S. and let the courts resolve the merits.

This forces you, in my mind, to accurately describe the "Kafka-esque" situation this case had become, justifying the president's action. After re-reading the pardon application, this would be my attempt at it.

TALKING POINTS ON FUGITIVITY

1. One has to understand the history of the criminal RICO statute to understand this case. It was passed by Congress in the 1970s to deal with Mafia-infiltration of legitimate businesses. It is a sledge-hammer of a prosecutorial weapon, designed to give prosecutors the tools to battle organized crime.

2. US Attorney Rudy Giuliani was the first to use RICO in a tax case involving a dispute about revenue/tax allocation in a series of transactions structured by major u.s. oil companies. This was NOT what Congress intended.

3. Because the Marc Rich companies had offices and assets in the US, Giuliani was able to use RICO -- despite the merits that everyone else had been pursued only civilly -- to bring those companies to their knees and plead guilty.

4. Giuliani also added counts about trading oil with Iran, which inflamed the public opinion against Marc Rich, even though those charges were later quietly dropped against the companies.

5. Since that time, the Justice Department has acknowledged that RICO is not appropriate for tax cases. Congress did not intend this sledgehammer for tax cases.

So not only was Rich singled out for selective prosecution by Giuliani, Giuliani used an inappropriate sledgehammer to go after him.

6. And because RICO had been used to extract guilty pleas from the Marc Rich companies, Marc Rich was left with little hope of defending himself.

7. This situation is compounded by the repeated and adamant refusal of the Southern District for the past 10 years to even discuss the indictment.

8. It has created a Kafka-esque situation for Mr. Rich, with no resolution possible.

9. As this week's press has made clear, he's convicted in the press of these allegations. Yet, the two leading U.S. tax authorities support Mr. Rich's position that he accounted for his taxes properly under the law.

10. Only a pardon provides the mechanism for deciding whether Mr. Rich is more appropriately pursued civilly rather than criminally.

Jeffrey J. Connaughton
Quinn Gillespie & Associates LLC
1133 Connecticut Avenue, N.W.
Washington, DC 20036
Direct Dial 202-[redacted]
Main Office 202-457-1110
Fax 202-457-1130

EXHIBIT 152

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street NW • Washington, DC 20037-1526
[redacted]
Writer's Direct Dial: [redacted]
E-Mail Address: [redacted]

December 15, 2000

BY HAND DELIVERY

Honorable John D. Podesta
Chief of Staff to the President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Re: Applications for Presidential Pardons

Dear John:

As a follow-up to our discussion on Monday, enclosed are materials concerning Applications for Presidential Pardons submitted on behalf of (a) Marc Rich and Pincus Green, and (b) James B. Coppinger. With respect to the application of Messrs. Rich and Green, enclosed are Jack Quinn's cover letter to the President and an executive summary of the application. As to Mr. Coppinger, enclosed are his personal statement of reasons for seeking a pardon and a cover letter from my partner, Barry Levine, to the Office of the Pardon Attorney, which sets forth, in the penultimate paragraph, a description of Mr. Coppinger's activities since his conviction.

We have represented Marc Rich and Pincus Green for more than fifteen years and I have been intermittently involved in the representation. Should you have any questions concerning the application, either Jack Quinn or I would be pleased to meet with you to address such issues.

As to James B. Coppinger, my partner, Barry Levine, and others have been primarily involved in the representation. Once again, if you have any questions concerning the application, Barry would be pleased to meet with you to address such issues.

I believe both petitions present compelling arguments for the issuance of Presidential Pardons. Thank you for your consideration of these matters.

Sincerely,

Peter J. Kadzik

PJK/lgd
Enclosures

EXHIBIT 153

DSM0005

Green, G. Michael

From: Fink, Robert - NY [robert.fink@[redacted]
Sent: Tuesday, January 02, 2001 6:07 PM
To: 'Jack Quinn'
Cc: 'Mike Green'

Mike spoke with his partner today who spoke to Podesta who said, in effect, that we are still in the running but we are fourth and long. It seems that there are many requests and only the ones being pushed by Beth or Bruce are being followed, so we have to get one of them strongly behind this. They have to become advocates. It is likely that all but the final decisions will be made at the end of this week, at least that is when the next decisions on pardons is to be made. It may pay to focus on HRC but the most important calls or visits may be to the people in the counsel's office. If you want more details Mike is at 202-[redacted] (office) or 703[redacted] (home). And you are always welcome to call me at 212-[redacted] or 914-[redacted] If we miss each other today, let's definitely talk tomorrow morning.
Bob

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Thank you.

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EXHIBIT
154

DSM0370

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, January 03, 2001 9:31 AM
To: 'Avner'
Cc: 'Marc Rich'; 'Jack Quinn'; 'Kitty Behan'
Subject: RE: Status of application.

Yes, by rabbi I meant someone inside who is in favor of the pardon and working for it to be granted. Sorry about the lack of clarity, it is just common usage here. Bob

-----Original Message-----
From: Avner [SMTP:azulrich@[redacted]
Sent: Wednesday, January 03, 2001 2:28 AM
To: Fink, Robert - NY; quinn jack; behan kathleen
Cc: Rich, Marc
Subject: Re: Status of application.

FRom your report I understand that the WH counsels are going to present recommendations this wknd to potus.I'd like to be sure about this becuase after Mr's mtgs this wknd - we expect repeat calls from here aand from EW.

I don't understand the comment about the rabbi. Our book is full of rabbis .Could you get more specific?

----- Original Message -----
From: Fink, Robert - NY <robert.fink@[redacted]
To: 'Avner Azulay' <azulrich@[redacted]; 'Marc Rich' <marc.rich@[redacted]
Sent: Wednesday, January 03, 2001 01:21
Subject: Status of application.

> I learned from Mike Green today that our case is still pending and is part
> of a large group that may be considered at the end of the week. But his
> friend told him that we need a rabbi among the people in the counsel's
> office (it seems that Mike's friend believes we do not have one yet), so I
> have written Jack to ask him to follow up with the two people there (Beth
> and Bruce), both of whom received our papers, both of whom he knows well
and
> both of whom he has already discussed this matter.
> Jack is traveling now, so I sent him an email and hope to speak with him
in
> the morning.
> Naturally, I will keep you posted.
> Best regards, Bob
>

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> Thank you.
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>
>

EXHIBIT 155

Fink, Robert - NY

From:	Fink, Robert - NY
Sent:	Wednesday, January 03, 2001 9:29 AM
To:	'Avner'
Cc:	'Marc Rich'; 'Jack Quinn'; 'Kitty Behan'
Subject:	RE: Status of application.

I don't think any thing is too late until the term expires, but I do think (and I mean it is just me thinking, not anyone telling me) that after a while it becomes less likely. It is good to hear from Mike's friend, who is the friend of the chief of staff, that we are still in the mix and that there are still more pardons to come, but there is only a little over two weeks left to this administration, so we do not have a lot of time. What Mike was clearly telling me was that no effort should be spared this week to make sure we get consideration at the staff level as well as at the POTUS level. Meanwhile I missed Michael, who left town and is now in the King David. I was going to ask him if there is anyone he knows who he trusts and who might be able to speak to Rudy, but every time I think about it I feel that contacting Rudy is a bad idea. At this point it is unlikely that anything good can come from an overture to Rudy, and I could easily see how something bad can happen. If any of you feel differently, let me know.
Separately, in the WSJ today there is a favorable article on Pat Fitzgerald as he starts the "terrorist" trial hear on the embassy bombings. He is described as a hard driving relentless prosecutor after the bad guys. Even Jim Comey is quoted commenting on Pat. I will fax it to you and the ccs.
Best regards, Bob

-----Original Message-----
From: Avner [SMTP:azulrich@[redacted]
Sent: Wednesday, January 03, 2001 7:27 AM
To: Fink, Robert - NY
Cc: quinn jack; behan kathleen; Rich, Marc
Subject: Re: Status of application.

After rereading your email, I wonder what Mike exactly meant or was this a humorous comment? As I have updated - after this wknd - and MR's mtgs - we expect additional and repeat calls to potus. Is this going to be too late?

----- Original Message -----
From: Fink, Robert - NY <robert.fink@[redacted]
To: 'Avner Azulay' <azulrich@[redacted]>, 'Marc Rich' <marc.rich@[redacted]
Sent: Wednesday, January 03, 2001 01:21
Subject: Status of application.

> I learned from Mike Green today that our case is still pending and is part
> of a large group that may be considered at the end of the week. But his
> friend told him that we need a rabbi among the people in the counsel's
> office (it seems that Mike's friend believes we do not have one yet), so I
> have written Jack to ask him to follow up with the two people there (Beth
> and Bruce), both of whom received our papers, both of whom he knows well
and
> both of whom he has already discussed this matter.
> Jack is traveling now, so I sent him an email and hope to speak with him
in
> the morning.
> Naturally, I will keep you posted.

1

EXHIBIT
156

PMR&W 00106

> Best regards, Bob
>

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> Thank you.
>
> For more information about Piper Marbury Rudnick & Wolfe, please visit us at http://www.piperrudnick.com/
>

>
>

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, January 03, 2001 9:34 AM
To: 'Jack Quinn'
Cc: 'Avner Azulay'; 'Kitty Behan'; 'Marc Rich'
Subject: FW:

I do not know these people. I think we have to leave this to your best judgement.
Bob

-----Original Message-----
From: Avner [SMTP:azulrich@[redacted]
Sent: Wednesday, January 03, 2001 2:39 AM
To: Jack Quinn; Fink, Robert - NY; behan kathleen
Cc: Rich, Marc
Subject: Re:

Looking from the sideline and hearing all this - I would like to forward the idea that perhaps we should just leave HRC alone. By initiating a call to her we are "saying in a way that there is a problem here..." ,and in the process we might create a problem out of speculations on her reaction .I don't think we have any positive knowledge that she is for or against,only assumptions .Potus should deal with this himself - and if it does then intervene with all the arguments etc.

----- Original Message -----
From: Jack Quinn <JQuinn@[redacted]
To: <robert.fink@[redacted]
Cc: <azulrich@[redacted]>; <Kathleen_Behan@[redacted]
Sent: Wednesday, January 03, 2001 00:21
Subject: RE:

> I'll be glad to do it. Perhaps I shd have a chat with beth to better
> understand her point of view and so as not to surprise her when and if she
> learns of my call.
> ----------
> Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)
>
>

EXHIBIT
157



JQuinn@[redacted] on 01/03/2001 04:44:42 PM

To: azulrich@[redacted], robert.fink@[redacted]
cc: JQuinn@[redacted], Kathleen Behan/Atty/DC/ArnoldAndPorter@[redacted]
marc.rich@[redacted]

Subject: RE: Status of application.

I just got off the phone with Beth Nolan, the White House Counsel. She told me that her office will do the next "reasssessment" of our and other applications on Friday. I impressed upon her that our case is "sui generis" only in that MR was indicted but did not stand trial and then elaborated at some length on the circumstances of MR's decision not to return -- the facts that Rudy was new, was trying to make a reputation, overcharged in the most gross way (and in ways that would not stand today -- RICO, mail/wire fraud, etc.) and that MR, seeing the mountain of adverse publicity generated by the US Atty's ofc and the disproportionate charges, made the choice anyone would make, i.e., not to return. She responded that this is still a tough case -- that the perception will nevertheless be that MR is in some "sense" a fugitive. I explained why he is not. I told her that I want an opportunity to know, before a final decision, if there are things we have not said or done that should be said or done. She promised me that opportunity. I asked if she would see us to review the matter in person and she said she would if there was reason to think, after her reassessment, that that would be fruitful. I told her, finallt, that I intend to have one more conversation with POTUS before this is finalized in order to make the case to him, focusing in particular on his appreciation of what an overly-zealous prosecutor can do to make a fair trial, in court or in the court of public opinion, impossible. Lastly, I told her that, if they pardon JP, then pardoning MR is easy, but that, if they do not pardon JP, then they should pardon MR. In the last connection, she affirmed that they have heard from people in or connected to the GOI. >
>



January 5, 2001

The Honorable William Jefferson Clinton
President of the United States
The White House
Washington, DC 20502

Dear Mr. President:

Just in case I do not get another chance to speak to you in the next few days, I want to make several points about the lengthy pardon petition I filed on behalf of Marc Rich and Pinky Green.

On a personal note, I believe in this cause with all my heart. When first approached about getting involved, I was highly skeptical. But, I studied the facts and the law carefully and became convinced of both Marc's innocence and the outrageously prejudicial and unfair treatment of him by the then-new U.S. Attorney in New York, Mr. Guiliani.

Marc was indicted on charges (e.g., RICO and mail fraud) that, under Department of Justice policy and case law, could not be brought today. The core of the charges against him, however, was a tax case which two of the most prominent tax professors in America (Marty Ginsburg at Georgetown and Bernard Wolfman at Harvard) conclude was no case at all. Perhaps, more importantly, the United States Department of Energy, which was changed with enforcing the energy regulations underlying his dispute with the Government, concluded that Marc's tax accounting of the transactions was proper.

More specifically, the indictment arose out of "linked" domestic and foreign transactions in 1980 and early 1981 undertaken by corporations in which Marc and Pinky were principals, with major oil companies on the other side, including ARCO. During the period of oil price controls (which came to be universally regarded, even by the regulators charged with their enforcement, as confusing and of questionable soundness), such "linked" transactions were common.

The nature of the transactions were not originated by the Marc's corporations; indeed, Marc was told about them and implored to enter them by others (who were not



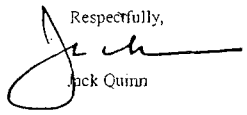
indicted). At the time, many, and perhaps most, of the entities in the oil trading business were engaged in similar efforts to avoid the impact of the price control regulations. Yet there were no indictments for any of the transactions even remotely resembling the linked transactions that are the subject of Marc's case. All other cases -- and there literally were several thousand of them -- were handled as civil administrative matters. This included the enforcement claim against ARCO. Significantly, much of the ARCO case was based on the very linked transactions which formed the basis of the bulk of the indictment against Marc. However -- and this is important -- in the civil case against ARCO, the Department of Energy took the position that Marc's corporations had properly accounted for the transactions and that ARCO had not. Based on that position, which is contrary to the position taken by the Southern District in Marc's case, the government obtained a consent judgment for many, many millions of dollars from ARCO.

Marc, though, was not only singled out for prosecution. He was tried in the press. An avalanche of leaks to the New York press made a fair trial, in his eyes, impossible. Together with the grossly exaggerated nature of the charges against him, this led him to remain out of the country and not return to face the charges. Whether this was wise on his part or not is beside the point. But, it is worth mentioning that no one has ever suggested that Marc was in any respect legally culpable for remaining outside the United States.

Our pardon petition is meritorious. No one other than you can and will resolve this matter. His may not be the only injustice out there, but that cannot be a reason not to correct this one. I hope you will.

Best regards.

Respectfully,



Jack Quinn

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Friday, January 05, 2001 6:05 PM
To: 'Mike Green'; 'Avner Azulay'
Subject: FW: Final POTUS

Here is the letter Jack just sent to the White House. As you may notice, his secretary said that Jack sent copies to Beth Nolan, Bruce Lindsey and Cheryl Mills. April said they have clearance to deliver it to the WH, so it will get there this evening, presumably before POTUS leaves for Camp David.
To Avner (with whom I am not be speaking this afternoon and evening), if you call me at home tomorrow I can give you an update.
Bob

-----Original Message-----
From: April Moore [SMTP:AMoore@[redacted]
Sent: Friday, January 05, 2001 6:02 PM
To: 'Fink, Robert - NY'
Cc: 'Kathleen_Behan (E-mail)
Subject: Final POTUS

We also cced Beth Nolan, Bruce Lindsey, and Cheryl Mills.

POTUS ltr. 1.5.00.doc

PMR&W 00153

EXHIBIT
160

U.S. Department of Justice

Pardon Attorney

500 First Street, N.W.
Suite 400
Washington, D.C. 20530

Lonnie Anne Pera, Esq.
Zuckert Scoutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, D.C. 20006-3309

Dear Ms. Pera:

This is in reference to your letter of October 4, 2000, forwarding to this office at the request of your client, Ms. Vivian Mannerud, the application for presidential pardon submitted by Ms. Mannerud's father, Mr. Fernando Fuentes Coba. Mr. Coba's petition recounts that he was convicted of conspiring to transport goods and equipment to Cuba and was sentenced to a one-year prison term and a $10,000 fine, that following the exhaustion of his appeals, he failed to surrender to serve his sentence, and that in 1985, he fled the United States for Mexico, where he has lived ever since.

I must inform you that under the regulations governing petitions for executive clemency and the well-established policies under which this office processes clemency requests, Mr. Coba is ineligible to apply for a presidential pardon. Pursuant to 28 C.F.R. § 1.2 (copy enclosed), "[n]o petition for pardon should be filed until the expiration of a waiting period of at least five years after the date of the release of the petitioner from confinement . . . ." Because Mr. Coba has served none of his prison sentence, he fails to meet this most basic eligibility requirement for pardon consideration. Moreover, the Department of Justice has consistently declined to accept pardon petitions from individuals, such as Mr. Coba, who are fugitives, since the pardon process assumes the Government's ability to implement either of the President's possible decisions regarding a petition – that is, a denial of clemency as well as a grant of clemency. Put another way, it is not reasonable to allow a person to ask that the President grant him a pardon which, if granted, would have the effect of eliminating the term of imprisonment to which he has been sentenced, while at the same time insulating himself from having to serve the sentence if the pardon is denied. Finally, even if Mr. Coba were not a fugitive, his lengthy domicile outside the United States would preclude consideration of his pardon request. As a matter of well-established policy, the Department of Justice generally does not process pardon applications from non-residents of the United States because foreign residence presents significant difficulties to the conduct of the necessary background investigation into an applicant's post-conviction life.



Given the circumstances presented by Mr. Coba's case, this office is unable to process his pardon petition. We therefore will take no action upon it.

Sincerely,

Roger C. Adams

Roger C. Adams
Pardon Attorney

Enclosure

RULES GOVERNING PETITIONS FOR EXECUTIVE CLEMENCY:

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C.

PART I - EXECUTIVE CLEMENCY

Sec.

1.1 Submission of petition; form to be used; contents of petition.

1.2 Eligibility for filing petition for pardon.

1.3 Eligibility for filing petition for commutation of sentence.

1.4 Offenses against the laws of possessions or territories of the United States.

1.5 Disclosure of files.

1.6 Consideration of petitions; notification of victims; recommendations to the President.

1.7 Notification of grant of clemency.

1.8 Notification of denial of clemency.

1.9 Delegation of authority.

1.10 Procedures applicable to prisoners under a sentence of death imposed by a United States Court.

1.11 Advisory nature of regulations.

Authority: U.S. Const., Art. II, sec. 2; authority of the President as Chief Executive; and 28 U.S.C. §§ 509, 510.

§ 1.1 Submission of petition; form to be used; contents of petition.

A person seeking executive clemency by pardon, reprieve, commutation of sentence, or remission of fine shall execute a formal petition. The petition shall be addressed to the President of the United States and shall be submitted to the Pardon Attorney, Department of Justice, Washington, D.C. 20530, except for petitions relating to military offenses. Petitions and other required forms may be obtained from the Pardon Attorney. Petition forms for commutation of sentence also may be obtained from the wardens of federal penal institutions. A petitioner applying for executive clemency with respect to military offenses should submit his or her petition directly to the Secretary of the military department that had original jurisdiction over the court-martial trial and conviction of the petitioner. In such a case, a form furnished by the Pardon Attorney may be used but should be modified to meet the needs of the particular case. Each petition for executive clemency should include the information required in the form prescribed by the Attorney General.

§ 1.2 Eligibility for filing petition for pardon.

No petition for pardon should be filed until the expiration of a waiting period of at least five years after the date of the release of the petitioner from confinement or, in case no prison sentence was imposed, until the expiration of a period of at least five years after the date of the conviction of the petitioner. Generally, no petition should be submitted by a person who is on probation, parole, or supervised release.

§ 1.3 Eligibility for filing petition for commutation of sentence.

No petition for commutation of sentence, including remission of fine, should be filed if other forms of judicial or administrative relief are available, except upon a showing of exceptional circumstances.

§ 1.4 Offenses against the laws of possessions or territories of the United States.

Petitions for executive clemency shall relate only to violations of laws of the United States. Petitions relating to violations of laws of the possessions of the United States or territories subject to the jurisdiction of the United States should be submitted to the appropriate official or agency of the possession or territory concerned.

§ 1.5 Disclosure of files.

Petitions, reports, memoranda, and communications submitted or furnished in connection with the consideration of a petition for executive clemency generally shall be available only to the officials concerned with the consideration of the petition. However, they may be made available for inspection, in whole or in part, when in the judgment of the Attorney General their disclosure is required by law or the ends of justice.

§ 1.6 Consideration of petitions; notification of victims; recommendations to the President.

(a) Upon receipt of a petition for executive clemency, the Attorney General shall cause such investigation to be made of the matter as he or she may deem necessary and appropriate, using the services of, or obtaining reports from, appropriate officials and agencies of the Government, including the Federal Bureau of Investigation.

(b)(1) When a person requests clemency (in the form of either a commutation of a sentence or a pardon after serving a sentence) for a conviction of a felony offense for which there was a victim, and the Attorney General concludes from the information developed in the clemency case that investigation of the clemency case warrants contacting the victim, the Attorney General shall cause reasonable effort to be made to notify the victim or victims of the crime for which clemency is sought:

(i) That a clemency petition has been filed;

(ii) That the victim may submit comments regarding clemency; and

(iii) Whether the clemency request ultimately is granted or denied by the President.

(2) In determining whether contacting the victim is warranted, the Attorney General shall consider the seriousness and recency of the offense, the nature and extent of the harm to the victim, the defendant's overall criminal history and history of violent behavior, and the likelihood that clemency could be recommended in the case.

(3) For the purposes of this paragraph (b), "victim" means an individual who:

(i) Has suffered direct or threatened physical, emotional, or pecuniary harm as a result of the

commission of the crime for which clemency is sought (or, in the case of an individual who dies or was rendered incompetent as a direct and proximate result of the commission of the crime for which clemency is sought, one of the following relatives of the victim (in order of preference): the spouse; an adult offspring; or a parent); and

(ii) Has on file with the Federal Bureau of Prisons a request to be notified pursuant to 28 CFR 551.152 of the offender's release from custody.

(4) For the purposes of this paragraph (b), "reasonable effort" is satisfied by mailing to the last-known address reported by the victim to the Federal Bureau of Prisons under 28 CFR 551.152.

(5) The provisions of this paragraph (b) apply to clemency cases filed on or after September 28, 2000.

(c) The Attorney General shall review each petition and all pertinent information developed by the investigation and shall determine whether the request for clemency is of sufficient merit to warrant favorable action by the President. The Attorney General shall report in writing his or her recommendation to the President, stating whether in his or her judgment, the President should grant or deny the petition.

§ 1.7 Notification of grant of clemency.

When a petition for pardon is granted, the petitioner or his or her attorney shall be notified of such action and the warrant of pardon shall be mailed to the petitioner. When commutation of sentence is granted, the petitioner shall be notified of such action and the warrant of commutation shall be sent to the petitioner through the officer in charge of his or her place of confinement, or directly to the petitioner if he/she is on parole, probation, or supervised release.

§ 1.8 Notification of denial of clemency.

(a) Whenever the President notifies the Attorney General that he has denied a request for clemency, the Attorney General shall so advise the petitioner and close the case.

(b) Except in cases in which a sentence of death has been imposed, whenever the Attorney General recommends that the President deny a request for clemency and the President does not disapprove or take other action with respect to that adverse recommendation within 30 days after the date of its submission to him, it shall be presumed that the President concurs in that adverse recommendation of the Attorney General, and the Attorney General shall so advise the petitioner and close the case.

§ 1.9 Delegation of authority.

The Attorney General may delegate to any officer of the Department of Justice any of his or her duties or responsibilities under §§ 1.1 through 1.8.

§ 1.10 Procedures applicable to prisoners under a sentence of death imposed by a United States District Court.

The following procedures shall apply with respect to any request for clemency by a person under a sentence of death imposed by a United States District Court for an offense against the United States. Other provisions set forth in this part shall also apply to the extent they are not inconsistent with this section.

(a) Clemency in the form of reprieve or commutation of a death sentence imposed by a United States District Court shall be requested by the person under the sentence of death or by the person's attorney acting with the person's written and signed authorization.

(b) No petition for reprieve or commutation of a death sentence should be filed before proceedings on the petitioner's direct appeal of the judgment of conviction and first petition under 28 U.S.C. 2255 have terminated. A petition for commutation of sentence should be filed no later than 30 days after the petitioner has received notification from the Bureau of Prisons of the scheduled date of execution. All papers in support of a petition for commutation of sentence should be filed no later than 15 days after the filing of the petition itself. Papers filed by the petitioner more than 15 days after the commutation petition has been filed may be excluded from consideration.

(c) The petitioner's clemency counsel may request to make an oral presentation of reasonable duration to the Office of the Pardon Attorney in support of the clemency petition. The presentation should be requested at the time the clemency petition is filed. The family or families of any victim of an offense for which the petitioner was sentenced to death may, with the assistance of the prosecuting office, request to make an oral presentation of reasonable duration to the Office of the Pardon Attorney.

(d) Clemency proceedings may be suspended if a court orders a stay of execution for any reason other than to allow completion of the clemency proceeding.

(e) Only one request for commutation of a death sentence will be processed to completion, absent a clear showing of exceptional circumstances.

(f) The provisions of this § 1.10 apply to any person under a sentence of death imposed by a United States District Court for whom an execution date is set on or after August 1, 2000.

§ 1.11 Advisory nature of regulations.

The regulations contained in this part are advisory only and for the internal guidance of Department of Justice personnel. They create no enforceable rights in persons applying for executive clemency, nor do they restrict the authority granted to the President under Article II, Section 2 of the Constitution.

Published in the FEDERAL REGISTER of the National Archives of the United States, October 18, 1993, Vol. 58, No. 199, at pages 53658 and 53659; as amended by a publication in the FEDERAL REGISTER of the National Archives of the United States, August 8, 2000, Vol. 65, No. 153, at page 48381; and as amended by a publication in the FEDERAL REGISTER of the National Archives and Records Administration of the United States, September 28, 2000, Vol. 65, No. 189, at pages 58223 and 58224, 28 CFR 1.1 *et seq.* See also 28 CFR

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Friday, January 12, 2001 5:15 PM
To: 'Jack Quinn'
Cc: 'Avner Azulay'; 'Marc Rich'; 'Kitty Behan'
Subject: RE: telecons to potus

Once again, I am impressed. Now we just need some help with his friends in the counsel's office.
Jack, have a good weekend, and if I can be helpful in any way call me in Vermont, [redacted] I will be back in Chappaqua on Monday, [redacted]. I will be thinking about this in both places.
Best regards, Bob
PS to Avner, please call me at home on Monday. Have a good flight.

-----Original Message-----
From: Avner Azulay [SMTP:azulrich@[redacted]
Sent: Friday, January 12, 2001 5:15 PM
To: jquinn@[redacted] marc.rich@[redacted] obert.fink@[redacted] kathleen_behan@[redacted]
Subject: telecons to potus

Following mr's mtg with the pm - the latter called potus this week.Potus said he is very much aware of the case , "that he is looking into it and that he saw 2 fat books which were prepared by these people".Potus sounded positive but maede no concrete promise.

Rabin has a telecon date with potus on Monday.
Regards-Avner

EXHIBIT
162

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, December 26, 2000 11:12 AM
To: 'Jack Quinn'
Cc: 'Kitty Behan'; 'Marc Rich'; 'Avner Azulay'
Subject: More follow up on MR

Kitty and I think the best person to call Hilary (if it makes sense to make to call her at all) may well be Denise. She is in Aspen; let me know if you need the number. (I am sure I can get it for you.)
Is there some way to find out if the lawyers will speak (or have spoken) to Eric and if they are going to call the SDNY? Is there some way we can have an opportunity to respond to whatever they say (assuming it in anyway is in disagreement with what we said)?



Fink, Robert - NY

F. om: Fink, Robert - NY
Sent: Tuesday, December 26, 2000 5:25 PM
To: 'Jack Quinn'
Cc: 'Marc Rich'; 'Avner Azulay'; 'Gershon Kekst'; 'Kitty Behan'; 'Mike Green'

Of all the options we discussed, the only one that seems to have real potential for making a difference is the HRC option and even that has peril if not handled correctly. I assume, and am emphasizing that this is an assumption, that we want Avner to speak to Abe about the support this will get in NY to see if Abe could make the necessary representation to HRC.
As for contacting Rudy, that seems to be too fraught with peril, and I am against it unless someone has some inside information which would strongly suggest he is willing to stay on the side lines and we only want confirmation. I doubt there is anyone who can do that.
Frankly, I think we benefit from not having the existence of the petition known, and do not want to contact people who are unlikely to really make a difference but who could create press or other exposure. By this analysis, I would probably pass on having Michael contact Morganthau, but, in any event, I have not had any success in reaching Michael. I will keep trying and have asked his secretary to pass on to him that I am trying to reach him.
Moreover, based on your reaction to the possibility of raising this with Scooter, and based on my conversations with Mike Green on how Scooter is likely to feel compelled to react, and the fact that Scooter already knows what we are doing and could easily volunteer if he saw a way to be helpful, I would pass on that as well.
Thus, I think we (but mostly you and Avner) should discuss the possibility of a call from Denise and Abe (maybe together?), otherwise I would have you do what you are already doing, and volunteer our help if there are any questions raised by the WH lawyers or by the SDNY if it is contacted.
To all, please feel free to comment. I am only giving my view with the goal of reaching a decision.
Bob



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, December 27, 2000 11:04 AM
To: 'Gershon Kekst'
Cc: 'Avner Azulay'; 'Jack Quinn'; 'Kitty Behan'
Subject: FW: Chuck Shumer

Here is another message from Avner which you did not receive. Avner is looking for suggestions on who could contact the senior Senator and ask for support so that the only request for help from the Jewish community is not to HRC. It may be that DR can play this role as well. What do you think? And what do you think of Pinky's suggestion?
Best regards,
Bob

—Original Message—
From: Avner [SMTP:azulrich@[redacted]
Sent: Wednesday, December 27, 2000 8:26 AM
To: quinn jack; Fink, Robert - NY
Cc: Rich, Marc; behan kathleen
Subject: Chuck Shumer

I have been advised that HRC shall feel more at ease if she is joined by her elder senator of NY who also represents the jewish population.The private request from DR shall not be sufficient.It seems that this shall be a pre requisite from her formal position.

All senators are meeting on Jan 3rd. and then shall take off.

Bob, can you check with Gershon which is the best way to get him involved.I shall check with Abe.
rgds-AA

EXHIBIT
165

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Thursday, December 28, 2000 10:49 AM
To: 'Jack Quinn'

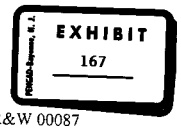
I tried to call but I got a fax line. If you get a minute, please call. I promise not to hold you on the phone.
I understand I am to call DR and ask her to call HRC, but I wanted to talk to you first to make sure that makes sense and to determine what you thought DR should be saying, not just what she should be asking.
Other than that, it looks like we are waiting for you to reach the lawyers or POTUS and have a follow up conversation.
Hope all is well there. Bob



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Thursday, December 28, 2000 2:12 PM
To: 'Avner Azulay'
Cc: 'Marc Rich'

I spoke to DR who was adamantly against the proposal. She is convinced it would be viewed badly by the recipient. Nothing good will come of the overture even with a good word from anyone in NY.
She said she is convinced of this and so is her friend who has advised DR not to discuss it in front of HRC.
I spoke to MR both before the call and in the middle of this email and he now agrees we should do nothing on this topic.
I am going to Vermont tonight and hope to stay until Monday.
If I do not speak to you have a happy, healthy new year.
Bob



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Saturday, December 30, 2000 3:37 PM
To: 'Jack Quinn '
Subject: RE: Mrs. Rabin

I will call Avner to see what he thinks. I am at [redacted] and just sitting around during a snow storm so I may call later. If we do not speak, and even if we do, have a healthy happy new year. DR was very sure speaking to HRC was a mistake and told me that Beth worned her not to raise the issue while HRC was in ear shot. Still want to contact HRC? Bob

-----Original Message-----
From: Jack Quinn
To: 'Fink, Robert - NY '
Sent: 12/30/00 12:41 PM
Subject: RE: Mrs. Rabin

Hope you're checking email; i don't have access here to avner's email address, or marc's, and wonder if you can inquire whether there is a possibility of persuading Mrs Rabin to make a call to POTUS. He had a deep
affection for her husband. P.S. I continue to think it most likely HRC would be at least informed before anything positive happens, given the possibility of a Giuliani/NY press reaction. Wish we had a way of solving
the Rudy problem. I wasn't able to connect with Eric yesterday. Will try
again on Tuesday. Best. And happy New Year.

EXHIBIT
168

PMR&W 00089

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, January 02, 2001 11:58 AM
To: 'Jack Quinn'
Cc: 'Avner Azulay'; 'Kitty Behan'
Subject: RE:

Frankly, I think you are the best person at this point. You signed the petition and the letter and know the case better than anyone else who could call. DR is out and probably could only make a personal appeal. You know of Abe Foxman and of the Israeli connection and of all the giving and of the Brooklyn connection (Pinky). So my vote is that you call her. Do you need to talk with Abe or anyone first?
Bob

-----Original Message-----
From: Jack Quinn [SMTP:JQuinn@[redacted]
Sent: Sunday, December 31, 2000 1:02 AM
To: 'Fink, Robert - NY '
Subject: RE:

it's a tough call, no doubt. i just think that HE will know the calculation you mention and therefore she will become aware it is pending. if this is right, do we want her to hear about it first in that way or from someone (assuming we have someone) who can put it to her in the context we need?

-----Original Message-----
From: Fink, Robert - NY
To: 'Jack Quinn '
Sent: 12/30/00 3:40 PM
Subject: RE:

I just scrolled down to this email so I guess I know the answer to my last question, but I cannot help but think they are right. She has something to lose and little to gain and may not want anything which will affect her new position. I will try to call later if you do not mind.
Bob

-----Original Message-----
From: Jack Quinn
To: 'Fink, Robert - NY '
Sent: 12/28/00 6:46 PM
Subject: RE:

i think the friend is naive to think this will not be discussed in front of her.

-----Original Message-----
From: Fink, Robert - NY
To: 'Jack Quinn'
Sent: 12/28/00 3:24 PM
Subject: FW:

I am forwarding this to you in case we do not speak. Have a good vacation.
bob

> -----Original Message-----
> From: Fink, Robert - NY

EXHIBIT 169

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, January 16, 2001 11:44 AM
To: 'Jack Quinn'
Cc: 'Mike Green'; 'Marc Rich'; 'Avner Azulay'

Mike Green called after speaking with Peter who spoke with Podesta: it seems that while the staff are not supportive they are not in a veto mode, and that your efforts with POTUS are being felt. It sounds like you are making headway and should keep at it as long as you can. We are definitely still in the game. (Oh, I hate sports analogies.)
My best regards, and an offer to do anything you think can be helpful. Bob



JACK QUINN

MULTI-ADDRESS FACSIMILE TRANSMITTAL SHEET

RECIPIENTS	RECIPIENTS' FAX #'S	RECIPIENTS' PHONE #'S
Beth Nolan Bruce Lindsey Betty Currie	[redacted]	

SENDER	SENDER'S TELEPHONE #
Jack Quinn	

NUMBER OF PAGES (INCLUDING COVER)	DATE
3	January 18, 2001

RE:	YOUR REFERENCE NUMBER:

Confidential

Information intended only for the use of the addressee named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, please note that any dissemination, distribution or copying of this communication is strictly prohibited. Anyone who receives this communication in error should notify us immediately by telephone and return the original message to us at the above address via U.S. mail.

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS

1133 CONNECTICUT AVENUE, NW • SUITE 500 • WASHINGTON, DC 20036
PHONE: [redacted] • FAX: [redacted]

EXHIBIT
171

Jack Quinn

January 18, 2001

By Telecopy and Hand Delivery

The Honorable William Jefferson Clinton
President of the United States
The White House
Washington, DC 20502

Dear Mr. President:

I am writing to clarify several points with regard to the petition to pardon Marc Rich (and his partner Pincus Green), and to propose a solution to any concerns you might have regarding the setting of an unwise precedent involving individuals living outside the jurisdiction of our American country.

First, I think it is important to note that much of Mr. Rich and Mr. Green's professional lives have been spent abroad. For example, Mr. Rich was the head of Phillip Brothers' Office in Spain, and Mr. Green was stationed in Switzerland and other parts of Europe for much of his professional life. Thus, while they did not return to the United States following the issuance of the indictment, there is no question that this did not constitute a significant change in their international living circumstances.

Second, Mr. Rich and Mr. Green violated no laws in not returning to the United States, and no violation of law with regard to their purported "fugitivity" ever has been alleged. The United States did pursue whether Mr. Rich and Mr. Green could be *required* to return under international law and was unsuccessful in those efforts.

Thus, Mr. Rich and Mr. Green have lived not as fugitives, but their residences and places of business always have been available to and known to the United States. As a result, a pardon of Mr. Rich and Mr. Green would create no precedent with regard to fugitives who seek to evade justice by fleeing the United States and residing surreptitiously abroad.

However, I also want to make it clear that Mr. Rich and Mr. Green do not seek a pardon to avoid the legal consequences of their conduct. Rather, given the manifest unfairness of a criminal proceeding against them (as I have outlined previously), they seek relief from criminal sanctions only. My clients have authorized me to make it clear that they have always sought to negotiate a civil resolution with the government, and

would willingly accept a disposition that would subject them to civil proceedings with the Department of Energy (or other appropriate agencies). This is how other violations of the DOE pricing regulations were handled, including against ARCO. Moreover, such a resolution involving individuals is specifically contemplated by 15 U.S.C. 754, which concerns civil penalties for DOE regulatory violations. The language to effectuate such a conditional pardon could include the following:

> Marc Rich and Pincus Green are pardoned from all crimes against the United States of America arising out of the actions, transactions and matters alleged in the criminal indictment pending in the Southern District of New York, S 83 Cr. 579 (SWK), provided that each of Marc Rich and Pincus Green agree in writing, by notice delivered within 30 days to the General Counsel of the Department of Energy, to be subject to the civil jurisdiction of the United States Department of Energy in connection with any civil fine or penalty which lawfully may be imposed in connection with the same actions and transactions which are the subject of this pardon.

I look forward to speaking with you further about this.

Sincerely,

Jack

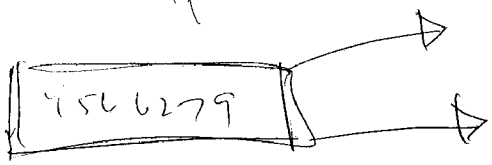
Jack Quinn

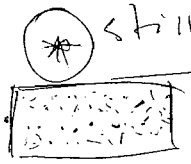
Quinn Gillespie
& Associates LLC

Bertha - should have returned

Bruce - must be guilty

Adam - find culprit - make pres
suffer





still inputing guilt

Hubbell - no pressure put
heard from SD
pressured family - not
strongly agst.

1133 Connecticut Avenue NW • Fifth Floor • Washington, DC 20036 • (202) 457-1110 • (202) 457-
www.quinngillespie.com

EXHIBIT
172

02/08/01 THU 10:51 FAX

(Revised 1/22/1, 11:24AM)

COMPLETED	IN	OUT	NAME/OFFICE	PHONE #	MESSAGE
	1/19 3:15		Ronald Mason, President Jackson State	601 [redacted]	
x		1/19 6:20	Beth Nolan	[redacted]	
	1/19 6:20		Roger Adams	[redacted]	
	1/19 6:30		ET Angela	[redacted]	
x		1/19 6:30	Roger Adams	[redacted]	
		1/19 7:10	Beth Nolan		
x	1/19 6:30		Jack Quinn		
x	1/19 6:38		Beth Nolan	[redacted]	

DOJ/ODAG-MR-00040

EXHIBIT 173

Detail of Local Usage (continued) SUPER SAVER
JOHN QUINN

Line	Date	Time	Calls To	Number Called	ESN	Feature	Period	Min	Airtime Charge	Toll Charge	Add'l Charge	A
35	1/19	12:29PM	WASHINGTON DC	202-456-1414	6510		PK	2.00	0.00			

PK = Peak, OP = Off Peak

2291 006 0204 0038798 0910824665 RRRYNNNNRY 04961040 00006 00003

EXHIBIT
174

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Friday, January 19, 2001 6:08 PM
To: 'Jack Quinn'

I would say, Do it for me. I know it is deserved.



JACK QUINN

- unusual
- but not unworthy
- never was a case
  - the - Rice - found
- stayed away - notoriety
- will submit to some civil processes in State, others somebody else.
- controversial / defensible
- limitation caused since that time
- Ken Starr
- integrity
- boss - told Jim
- Exxon

CONNECTED



Jack Quinn

January 19, 2001

President William Jefferson Clinton
Washington, D.C.

Dear President Clinton:

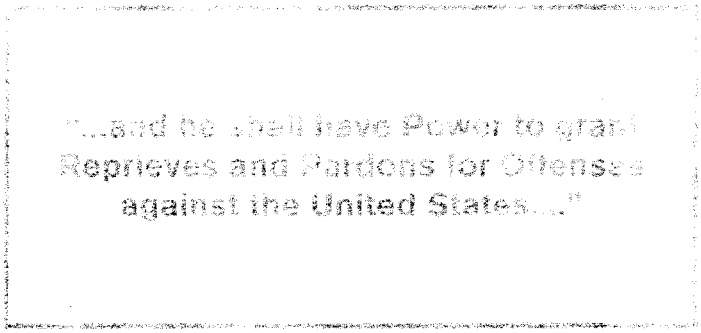
I am writing to confirm that my clients, Marc Rich and Pincus Green, waive any and all defenses which could be raised to the lawful imposition of civil fines or penalties in connection with the actions and transactions alleged in the indictment against them pending in the Southern District of New York. Specifically they will not raise the statute of limitations or any other defenses which arose as a result of their absense.

Respectfully yours,

Jack

Jack Quinn





Wolfgang Ronnebeck

My Reasons for the Pardons

By William Jefferson Clinton

CHAPPAQUA, N.Y.

Because of the intense scrutiny and criticism of the pardons of Marc Rich and his partner Pincus Green and because legitimate concerns have been raised, I want to explain what I did and why.

First, I want to make some general comments about pardons and commutations of sentences. Article II of the Constitution gives the president broad and unreviewable power to grant "Reprieves and Pardons" for all offenses against the United States. The Supreme Court has ruled that the pardon power is granted "[t]o the [president] ..., and it is granted without limit" (United States v. Klein). Justice Oliver Wendell Holmes declared that "[a] pardon ... is ... the determination of the ultimate authority that the public welfare will be better served by [the pardon] ..." (Biddle v. Perovich). A president may conclude a pardon or commutation is warranted for several reasons: the desire to restore full citizenship rights, including voting, to people who have served their sentences and lived within the law since; a belief that a sentence was excessive or unjust; personal circumstances that warrant compassion; or other unique circumstances.

The exercise of executive clemency is inherently controversial. The reason the framers of our Constitution vested this broad power in the Executive Branch was to assure that the president would have the freedom to do what he deemed to be the right thing, regardless of how unpopular a decision might be. Some of the uses of the power have been extremely controversial, such as President Washington's pardons of leaders of the Whiskey Rebellion, President Harding's commutation of the sentence of Eugene Debs, President Nixon's commutation of the sentence of James Hoffa, President Ford's pardon of former President Nixon, President Carter's pardon of Vietnam War draft resisters, and President Bush's 1992 pardon of six Iran-contra defendants, including former Defense Secretary Weinberger, which assured the end of that investigation.

On Jan. 20, 2001, I granted 140 pardons and issued 36 commutations. During my presidency, I issued a total of approximately 450 pardons and commutations, compared to 406 issued by President Reagan during his two terms. During his four years, President Carter issued 566 pardons and commutations, while in the same length of time President Bush granted 77. President Ford issued 409 during the slightly more than two years he was president.

The vast majority of my Jan. 20 pardons and reprieves went to people who are not well known. Some had been sentenced pursuant to mandatory-sentencing drug laws, and I felt that they had served long enough, given the particular circumstances of the individual cases. Many of these were first-time nonviolent offenders with no previous criminal records; in some cases, codefendants had received significantly shorter sentences. At the attorney general's request, I commuted one death sentence because the defendant's principal accuser later changed his testimony, casting doubt on the defendant's guilt. In some cases, I granted pardons because I felt the individuals had been unfairly treated and punished pursuant to the Independent Counsel statute then in existence. The remainder of the pardons and commutations were granted for a wide variety of fact-based reasons, but the common denominator was that the cases, like that of Patricia Hearst, seemed to me deserving of executive clemency. Overwhelmingly, the pardons went to people who had been convicted and served their time, so the impact of the pardon was principally to restore the person's civil rights. Many of these, including some of the more controversial, had vigorous bipartisan support.

The pardons that have attracted the most criticism have been the pardons of Marc Rich and Pincus Green, who were indicted in 1983 on charges of racketeering and mail and wire fraud, arising out of their oil business.

Ordinarily, I would have denied pardons in this case simply because these men did not return to the United States to face the charges against them. However, I decided to grant the pardons in this unusual case for the following legal and foreign policy rea-



sons: (1) I understood that the other oil companies that had structured transactions like those on which Mr. Rich and Mr. Green were indicted were instead sued civilly by the government; (2) I was informed that, in 1985, in a related case against a trading partner of Mr. Rich and Mr. Green, the Energy Department, which was responsible for enforcing the governing law, found that the manner in which the Rich/Green companies had accounted for these transactions was proper; (3) two highly regarded tax experts, Bernard Wolfman of Harvard Law School and Martin Ginsburg of Georgetown University Law Center, reviewed the transactions in question and concluded that the companies

'There was absolutely no quid pro quo.'

"were correct in their U.S. income tax treatment of all the items in question, and [that] there was no unreported federal income or additional tax liability attributable to any of the [challenged] transactions"; (4) in order to settle the government's case against them, the two men's companies had paid approximately $200 million in fines, penalties and taxes, most of which might not even have been warranted under the Wolfman/Ginsburg analysis that the companies had followed the law and correctly reported their income; (5) the Justice Department in 1989 rejected the use of racketeering statutes in tax cases like this one, a position that The Wall Street Journal editorial page, among others, agreed with at the time; (6) it was my understanding that Deputy Attorney General Eric Holder's position on the pardon application was "neutral, leaning for"; (7) the case for the pardons was reviewed and advocated not only by my former White House counsel Jack Quinn but also by three distinguished Republican attorneys: Leonard Garment, a former Nixon White House official; William Bradford Reynolds, a former high-ranking official in the Reagan Justice Department; and Lewis Libby, now Vice President Cheney's chief of staff; (8) finally, and importantly, many present and former high-ranking Israeli officials of both major political parties and leaders of Jewish communities in America and Europe urged the pardon of Mr. Rich because of his contributions and services to Israeli charitable causes, to the Mossad's efforts to rescue and evacuate Jews from hostile countries, and to the peace process through sponsorship of education and health programs in Gaza and the West Bank.

While I was troubled by the criminalization of the charges against Mr. Rich and Mr. Green, I also wanted to assure the government's ability to pursue any Energy Department, civil tax or other charges that might be available and warranted. I knew the men's companies had settled their disputes with the government, but I did not know what personal liability the individuals might still have for Energy Department or other violations.

Therefore, I required them to waive any and all defenses, including their statute of limitations defenses, to any civil charge the government might bring against them. Before I granted the pardons, I received from their lawyer a letter confirming that they "waive any and all defenses which could be raised to the lawful imposition of civil fines or penalties in connection with the actions and transactions alleged in the indictment against them pending in the Southern District of New York."

I believe my pardon decision was in the best interests of justice. If the two men were wrongly indicted in the first place, justice has been done. On the other hand, if they do personally owe money for Energy Department penalties, unpaid taxes or civil fines, they can now be sued civilly, as others in their position apparently were, a result that might not have been possible without the waiver, because civil statutes of limitations may have run while they were out of the United States.

While I was aware of and took into account the fact that the United States attorney for the Southern District of New York did not support these pardons, in retrospect, the process would have been better served had I sought her views directly. Further, I regret that Mr. Holder did not have more time to review the case. However, I believed the essential facts were before me, and I felt the foreign policy considerations and the legal arguments justified moving forward.

The suggestion that I granted the pardons because Mr. Rich's former wife, Denise, made political contributions and contributed to the Clinton library foundation is utterly false. There was absolutely no quid pro quo. Indeed, other friends and financial supporters sought pardons in cases which, after careful consideration based on the information available to me, I determined I could not grant.

In the last few months of my term, many, many people called, wrote or came up to me asking that I grant or at least consider granting clemency in various cases. These people included friends, family members, former spouses of applicants, supporters, acquaintances, Republican and Democratic members of Congress, journalists and total strangers. I believe that the president can and should listen to such requests, although they cannot determine his decision on the merits. There is only one prohibition: there can be no quid pro quo. And there certainly was not in this or any of the other pardons and commutations I granted.

I am accustomed to the rough and tumble of politics, but the accusations made against me in this case have been particularly painful because for eight years I worked hard to make good decisions for the American people. I want every American to know that, while you may disagree with this decision, I made it on the merits as I saw them, and I take full responsibility for it. □

William Jefferson Clinton was the 42nd president of the United States.

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1777 12:27:24 03/03/92
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0040 12:27:32 03/03/92
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NIC/W318619755
IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

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NIC/W369018253
IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

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EXHIBIT
179

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5 10:50:24 03/18/94
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U/ PI-182540351
C/W369016859
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VAUSM0202

MKE/WANTED PERSON
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  NORTON DICK JOSEPH BUCKLEY 212-264-0794 EXT 77 202-566-2120
ORI IS IRS CRIMINAL INVESTIGATION DIV HQ WASHINGTON DC
NIC/W360010859
IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

[illegible] WANTED PERSON
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Jack Quinn

From: Jack Quinn
Sent: Monday, January 22, 2001 5:04 PM
To: 'Fink, Robert - NY'; 'Avner Azulay'; 'Kitty Behan'; Jack Quinn; 'Mike Green'; 'Gershon Kekst'
Cc: 'Marc Rich'
Subject: RE:

I would say that a vast range of people spoke up for marc, including people familiar with his case, his personal life and his good works. I would refer them hen to the formal filings. I continue to believe it important that we let people see that we made a great case on the merits. And, they should know marc was represented by prominent republicans over the years. P.S. just spoke to holder. said i did a very good job and that he thinks we shd be better about getting the legal merits of the case out publicly. i assured him we were and that we were letting the press see the petition and attachments. he was unsure about how to get indictment dismissed and travel restrictions lifted -- said after a few days and after we have individual warrant in hand we shd contact SDNY to discuss -- if they say they wil do nothing, we move in ct to both dismiss and have ins, interpol, etc notified. he also thinks we shd make public our commitment to waive defenses to civil penalties at doe and tthe support of barak.

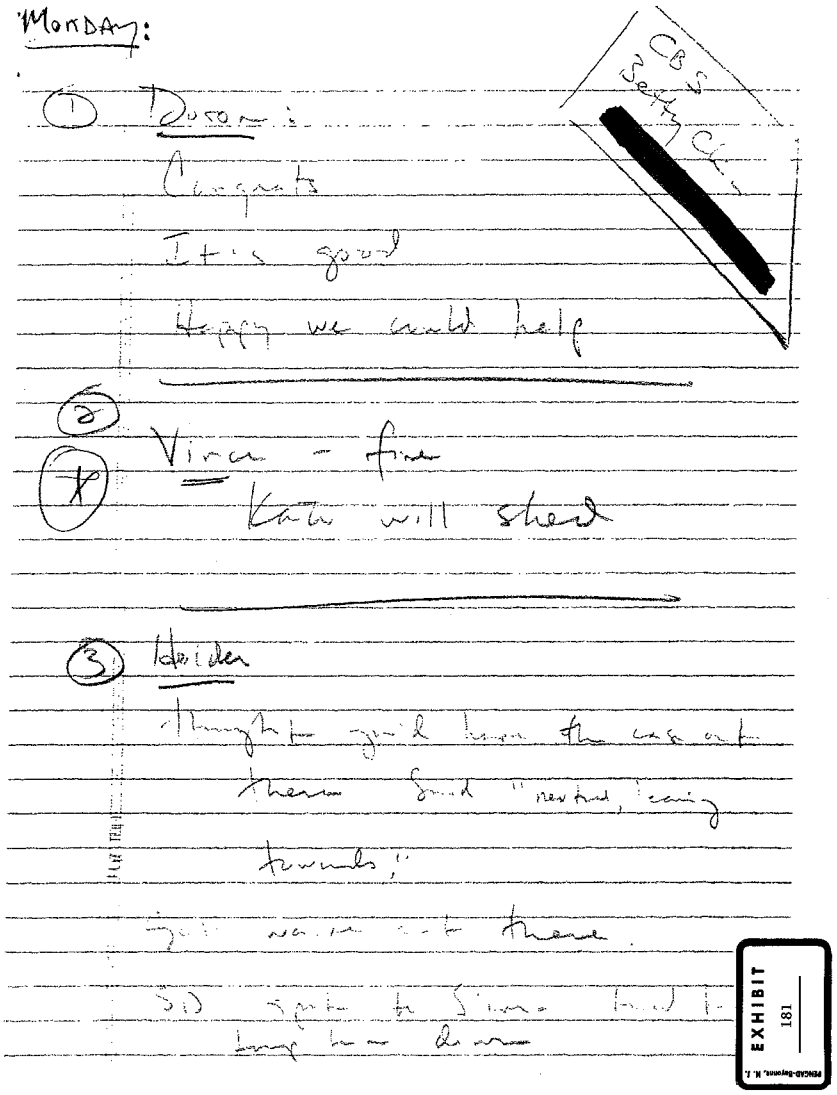
-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@[redacted]
Sent: Monday, January 22, 2001 4:12 PM
To: 'Avner Azulay'; 'Kitty Behan'; 'Jack Quinn'; 'Mike Green'; 'Gershon Kekst'
Cc: 'Marc Rich'
Subject:

I have beer asked who lobbied the President in behalf of Marc (and Pinky)
and said it may be private and therefore did not immediately respond.. May
I? Who should I say? I have told everyone that Denise was in favor of the
resolution of this case and was in favor of the pardon. I am trying to reach
her to let her know what I have said. Otherwise, I will keep calling people
back. So far it has been a full time job today.
Marc, I was asked who handled the divorce for you in Switzerland. I think
Andre. OK to give his name if pursued?
Bob

The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender and delete the original message and any copy of it from your computer system.
Thank you.

For more information about Piper Marbury Rudnick & Wolfe, please visit us at http://www.piperrudnick.com/





Monday:

CBS Sexiest Ch...

(1) Dotson:

Congrats

It is good

Happy we could help

(2)

(X) Vivian - fine

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(3) Haider

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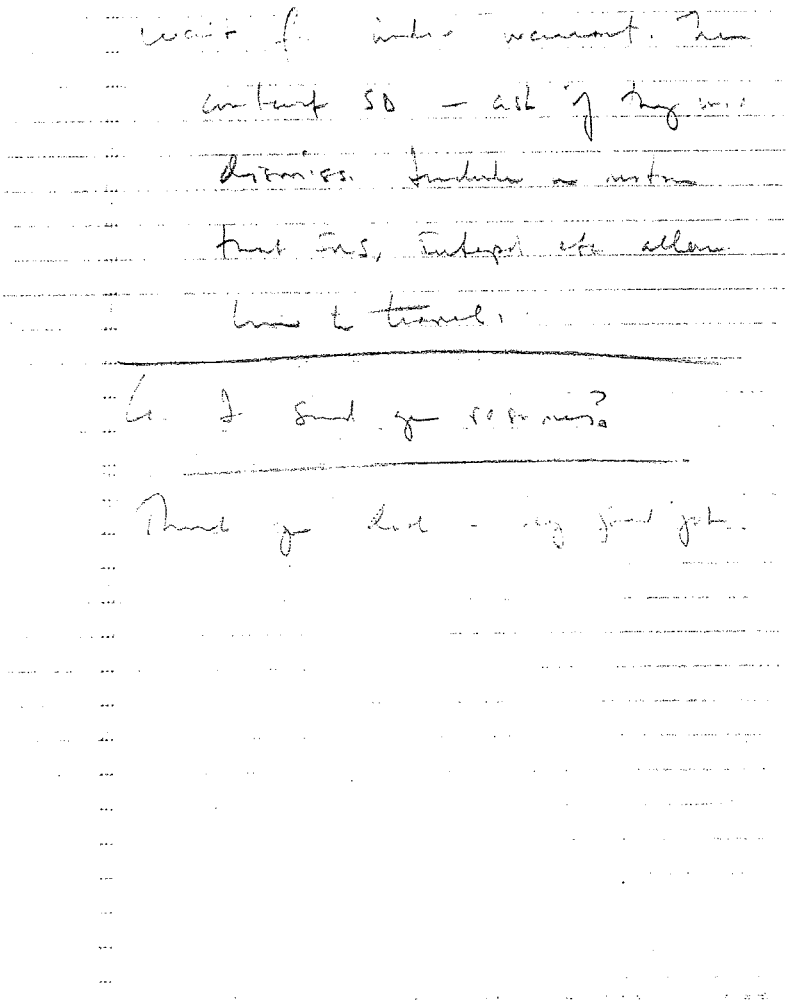
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EXHIBIT 181



D
J

Office of the Deputy Attorney General
U. S. Department of Justice

The Deputy Attorney General — *Washington, D.C. 20530*

FACSIMILE TRANSMISSION COVER SHEET

DATE: December 1, 2000

TO: Jack Quinn
[redacted] (phone)
(fax)

FROM: Eric H. Holder, Jr.
Deputy Attorney General

OFFICE PHONE #: [redacted]

FACSIMILE PHONE #: [redacted]

COVER PLUS 6 PAGE(s)

REMARKS:

These are the resumes I spoke with you about.

Eric

EXHIBIT
182

01/22/01 MON 17:58 FAX 001

Bernard J. Delia
[redacted]
Washington, D.C. [redacted]
[redacted] (Home) [redacted] (Office)
[redacted]

PROFILE

Senior manager with a diverse professional background in successfully resolving complex personnel and administrative issues. Possess strong written and oral communication skills with an ability to analyze complicated problems and synthesize them into an easily understandable format. Proven ability to foster positive working relationships within an organization to achieve desired goals.

PROFESSIONAL EXPERIENCE

U.S. DEPARTMENT OF JUSTICE
Washington, DC

Associate Deputy Attorney General and White House Liaison November 1997 to present

Advise the Deputy Attorney General and Attorney General on policy and administrative issues, including highly sensitive personnel matters, ethics, Congressional relations, and employment concerns. Supervise the selection and placement of over 300 Presidential and political appointees in the Department including all United States Attorneys and, United States Marshals. Manage the placement of all Justice Department employees sent on detail to the White House and the United States Congress.

Senior Counsel, Executive Office for United States Attorneys October 1994 to November 1997

Advised the Director of the office on issues critical to the United States Attorneys, including domestic violence, juvenile crime, Southwest border drug prosecutions, child pornography, legal ethics, implementation of the 1994 Crime Bill, and Congressional relations. Planned the 1995 Professional Responsibility Conference. Coordinated U.S. Attorney participation in the 1996 White House Conference on Youth Gangs and Drugs and the 1997 White House Conference on Juvenile Violence. Served as primary liaison between the Director and select subcommittees of the Attorney General's Advisory Committee of United States Attorneys. Managed the selection process for United States Attorneys.

Senior Counsel, Office of Policy Development June 1993 to September 1994

Served on the team responsible for the selection and Senate confirmation of federal district judge and United States Attorney candidates. Advised the Assistant Attorney General on policy matters involving Congressional budget oversight, civil rights matters, and HIV and AIDS issues. Oversaw the Department's compliance with the President's mandate regarding HIV/AIDS training for all federal government employees. Organized and coordinated the Justice Department's first World AIDS Day activities in 1993. Assisted with the Department's efforts to secure passage of the 1994 Crime Bill.

01/22/01 MON 17:55 FAX 002

THE WHITE HOUSE
Washington, DC

Deputy Associate Director, Office of Presidential Personnel April 1993 to June 1993

Placed qualified individuals in positions at the U.S. Department of Justice and other agencies. Wrote original memoranda for handling appointments of Inspectors General. Managed a staff of three lawyers and two interns. Drafted and edited memoranda for the President and the Director of Presidential Personnel regarding recommended candidates.

Deputy Director, Non-Career SES and Schedule C Appointments January 1993 to April 1993

Maintained a new computer database and documentation for tracking Presidential appointments to non-career Senior Executive Service and Schedule C positions. Developed standards and requirements for enhancement of the computer systems; provided support to the Associate Directors of Presidential Personnel; interacted with the Office of Priority Placement and the Office of Personnel Management.

Staffing Coordinator, Personnel Office, Presidential Transition November 1992 to January 1993

Supervised a staff of 60 full- and part-time employees and volunteers in the processing and handling of a large volume of resumes into the Resumix computer system. Managed searches of information on the computer database to identify pools of potential candidates for positions within the new Administration.

THE BUREAU OF NATIONAL AFFAIRS, INC.
Washington, D.C.

Attorney, Legal Editor
The ABA/BNA Lawyer's Manual on Professional Conduct 1984 to 1993
Occupational Safety and Health Reporter 1983 to 1984

Co-wrote and edited a highly-regarded bi-weekly publication dealing with legal ethics. Drafted detailed analyses of federal and state court decisions on numerous matters relating to professional responsibility. Researched and wrote chapters in the textual manual on Legal Ethics, including those dealing with Conflicts of Interest, Government Ethics, Lawyers' Ethical Obligations to Non-Clients, and other matters affecting the legal profession. Wrote numerous news articles on matters of interest to the legal profession that required in-depth interviews with news sources and original research to obtain background material.

TERRITORIAL COURT OF THE U.S. VIRGIN ISLANDS
Christiansted, St. Croix

Law Clerk to Judge Irwin J. Silverlight, 1980 to 1982

Drafted and prepared judicial opinions, decisions, and orders. Participated in all phases of the court's motion and trial practice and procedure. Prepared all jury instructions and

supervised probate proceedings. Completely updated the Territorial Court Law Library. Assisted the judge when he sat as District Judge for the District of the Virgin Islands.

BEXAR COUNTY LEGAL AID
San Antonio, TX

Staff 1979 to 1980

Managed a case load involving debt-collection defense work and insurance claims. Drafted trial pleadings and appellate briefs. Performed legal research and represented clients denied medical benefits.

ADMITTED TO PRACTICE LAW

New York (1980); Texas (1980) (inactive status); District of Columbia (1981); Maryland (1986)

EDUCATION

St. Mary's University School of Law, San Antonio, Texas
J.D. 1979 Class Standing: Top 20%
Honors and Activities
Senior Associate Editor, Law Journal
Instructor, Legal Research and Writing
Intern, U. S. Attorney's Office
Phi Delta Phi Legal Fraternity
Law School Distinguished Service Award
Moot Court Board
Who's Who Among Students in American Colleges and Universities

Mount Saint Mary's College, Emmitsburg, Maryland
B.A. 1976, Political Science and History, Magna cum laude
Honors and Activities
National Catholic Honor Society
Phi Alpha Theta, National History Honor Society
Dean's List (All Semesters)
President of the Student Body
Who's Who Among Students in American Colleges and Universities
College Outstanding Service Award

December 13, 2000

TO: Eric Holder

FROM: Nick Gess

SUBJECT: Telephone Call to Jack Quinn

I appreciate your willingness to call Jack Quinn on my behalf. Attached is a copy of my resume.

I am particularly interested in working at Quinn Gillespie because the firm takes a strategic approach to issues. In my experience, Quinn Gillespie tends to develop and implement comprehensive strategies which look to Congress, the appropriate agencies, the media and whatever constituencies may exist, to achieve a given goal. This is where I can likely assist their clients and build new business.

I have a background which combines rigorous legal experience as a litigator with strategic policy development and communications experience which includes working with Congress, governors and mayors, media, advocacy groups, businesses and non-profits. In this regard, assisting you in successfully obtaining $100 million in funding for a nationwide community prosecution effort, is a good example of the merger of public policy and communications.

At the same time, my background in E-Commerce (working with the U.S. Marshals Service to develop an Internet auction capability so as to assure that forfeited property is sold for as close to fair market value as possible) is a skill which can readily translate into the private sector. Lastly, I have a keen interest in the privacy area. I have dealt with this in the context of telecommunications (electronic surveillance) and health care (medical records) since 1995, and understand the needs of the private sectors and the pitfalls of the issues.

I could be a very good fit at Quinn Gillespie and could help its clients almost immediately.

Once again, many thanks for making the call.

Nick Gess

01/22/01 MON 17:56 FAX

confirm

NICHOLAS MICHAEL GESS
[redacted]
WASHINGTON, DC 20004
(202)[redacted]

Experience:

Associate Deputy Attorney General, United States Department of Justice, Washington, DC (February 1999-Present).

Advise the Attorney General, the Deputy Attorney General and senior White House staff on matters of legal and criminal justice policy; prepare materials for submission to the President. Issues include **E-Commerce**, such as developing an Internet auction capability for the sale of over $300 million per year in assets forfeited to the United States and held by the U.S. Marshals Service; **privacy policy**, including law enforcement access to medical records and public access to records maintained by the Justice Department; and technology, including electronic surveillance for law enforcement.

Coordinate Congressional, media, intergovernmental and public strategies to implement Administration and Justice Department initiatives; write speeches and prepare briefing materials for the Attorney General and Deputy Attorney General, senior White House staff and the President. This includes both on-the-record and background experience with the national media.

Negotiation of sensitive Justice Department and Administration initiatives within components of the Justice Department, with the White House, with Congress and with advocacy groups representing many different interests.

Oversight responsibility for the Office of Policy Development, the U.S. Marshals Service and the U.S. Bureau of Prisons.

Member, President's Task Force on Insular Affairs (Puerto Rico, U.S. Virgin Islands, Guam, Northern Mariana Islands and American Samoa).

Director, Office of Intergovernmental Affairs, United States Department of Justice, Washington, DC (August 1995-February 1999).

Served as the Attorney General's primary representative to governors, mayors, state and local law enforcement officials and national advocacy groups.

Counsel to the Assistant Attorney General, Office of Legislative Affairs, United States Department of Justice, Washington, DC (May 1995-July 1995).

01/22/01 MON 17:57 FAX 000

Counsel to the Attorney General's Advisory Committee of United States Attorneys (AGAC), United States Department of Justice, Washington, DC (February 1994-April 1995).

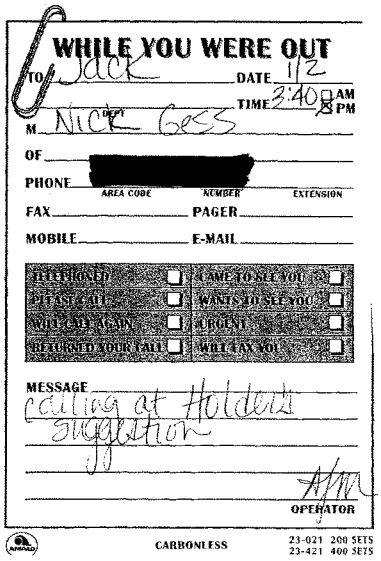
Assistant United States Attorney, District of Maine, Portland, Maine (February 1987-January 1994).

Assistant Attorney General, Criminal Division, State of Maine (February 1984-January 1987).

Assistant District Attorney, Second Prosecutorial District, Portland, Maine (October 1981-January 1984).

Education:
J.D. 1981, University of Maine School of Law, Portland, Maine. Admitted to the Bars of the Supreme Judicial Court of Maine (1981); the United States District Court for the District of Maine (1981); United States Court of Appeals for the First Circuit (1986); United States Supreme Court (1996).

A.B. 1977, cum laude in Government, Bowdoin College, Brunswick, Maine
H.S. 1973, Middlesex School, Concord, Massachusetts



WHILE YOU WERE OUT

TO Jack DATE 1/2

TIME 3:40 AM PM

M Nick Goss

OF [redacted]

PHONE AREA CODE NUMBER EXTENSION

FAX PAGER

MOBILE E-MAIL

TELEPHONED	CAME TO SEE YOU
PLEASE CALL	WANTS TO SEE YOU
WILL CALL AGAIN	URGENT
RETURNED YOUR CALL	WILL FAX YOU

MESSAGE calling at Holden's suggestion

OPERATOR

CARBONLESS 23-021 200 SETS 23-421 400 SETS

EXHIBIT 183

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Monday, January 22, 2001 7:13 PM
To: 'Avner Azulay'
Subject: RE:

I am about to show the New York Times the petition.

-----Original Message-----
From: Avner Azulay [SMTP:azulrich@[redacted]
Sent: Monday, January 22, 2001 7:10 PM
To: Jack Quinn; 'Fink, Robert - NY'; 'Kitty Behan'; 'Mike Green'; 'Gershon Kekst'
Cc: 'Marc Rich'
Subject: Re:

You are right. .Why do we have to worry so much about the professors.They did a job and there is nothing wrong in giving expert onions.A lot know about it , including the doj and sdny.It is part of the petition.Why hide it?
----- Original Message -----
From: Jack Quinn <JQuinn@[redacted]
To: 'Fink, Robert - NY' <robert.fink@[redacted]; 'Avner Azulay' <azulrich@[redacted]; 'Kitty Behan' <Kathleen_Behan@[redacted]
Jack Quinn <JQuinn@[redacted]; 'Mike Green' <GreenM@[redacted]
'Gershon Kekst' <gershon-kekst@[redacted]
Cc: 'Marc Rich' <marc.rich@[redacted]
Sent: Tuesday, January 23, 2001 12:37 AM
Subject: RE:

>
> I have this very great concern: we are withholding our very good and
> compelling petition from the press only to protect the tax professors who
> don't want to be too far out front. The tail is wagging the dog. I think
it
> is critical that one of us sit down with some journalist and share the
> petition. I hope I'm not over-reacting, but thins is my best judgment.
I'd
> do it with the NY Times. In the next hour or so. Is that possible?
>

EXHIBIT
184

PMR&W 00195

Jack Quinn

From: Anne McGuire
Sent: Tuesday, January 23, 2001 2:30 PM
To: Jack Quinn
Subject: Call Anne when you get a chance

Just got a weird call from Peter O'Keefe -- was up in Chappaqua for the last few days-- he asked me to check with you on whether or not you were going to go out and start defending vigorously -- said "we wanted to find out". I am assuming he meant Terry -- but I did not go into it on the cell phone.



Jack Quinn

From: Anne McGuire
Sent: Tuesday, January 23, 2001 2:52 PM
To: Jack Quinn
Subject: Just talked to Terry McAuliffe

Call me as soon as you can.



Jack Quinn

From: Jack Quinn
Sent: Tuesday, January 23, 2001 6:42 PM
To: 'azulrich@[redacted]'; 'robert.fink@[redacted]'; 'Kathleen_Behan@[redacted]'; 'gershon-kekst@[redacted]'
Cc: 'marc.rich@[redacted]'
Subject: Re: media

Avner, potus himself is saying in his frustration about the press coverage that good people like the PM supported this.

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)



Jack Quinn

From: Jack Quinn
Sent: Wednesday, January 24, 2001 7:09 PM
To: 'Fink, Robert - NY'; 'rkulakoff'; Kekst, Gershon
Cc: Jack Quinn; 'Kitty Behan'; 'Mike Green'
Subject: RE: WHY MARC RICH DESERVED A PARDON

spoke to BC. thinks we shd offer op-ed to daily news. can anyone help?

-----Original Message-----
From: Fink, Robert - NY [redacted]
Sent: Wednesday, January 24, 2001 6:57 PM
To: 'rkulakoff'
Cc: 'Jack Quinn'; 'Kitty Behan'; 'Mike Green'
Subject: RE: WHY MARC RICH DESERVED A PARDON

Kitty is friendly with Ben Wittes, I think. She is from DC as you may know.
Call her at [redacted]
When I spoke with him on Monday, he sounded ok, but the editorial was not--
go figure. Good luck. Bob

> -----Original Message-----
> From: rkulakoff [redacted]
> Sent: Wednesday, January 24, 2001 6:44 PM
> To: 'robert.fink@[redacted]
> Subject: WHY MARC RICH DESERVED A PARDON
>
>
> This draft reflects the comments of Bob Fink and Mike Green. It is
> Gershon's view that The New York Times is the first choice for placement.
> He suggests that Jack resubmit this version for the Time's consideration.
> If they pass, do any of you have an editorial contact at the Washington
> Post
> as choice two? If not, let us know and we will submit to Paul Steiger at
> The Wall Street Journal.
> <<richoped.doc>> << File: richoped.doc >>

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Jack Quinn

From: Peter Mirijanian
Sent: Friday, February 09, 2001 10:40 AM
To: Scott Hynes; April Moore; Jack Quinn; Jana Carter; Jeff Connaughton; Maria Zometsky; Nick Maduros; Bruce Andrews; Marti Thomas
Subject: The Day After

As expected, the coverage this morning exposes an issue that, going forward, will become "the" topic for the TV chatter shows, tabloids, etc. -- namely, the Rich political contributions and the Fink, et al emails.

Conversely, the case presented by Weinberg and Auerbach resulted in a one paragraph mention at the end of the Post story and two lines at the end of the Times story. I also believe the Holder saga is dead -- for now -- if and until Lindsay and or Nolan testify.

Where Jack remains exposed is in defending the optics of the emails, contributions and the DNC piece (Beth Dzoretz). We need to anticipate the worst in this regard -- i.e. Fink refuses to testify, Denise is granted immunity and Beth is brought before the committee. Since Jack has been out front and center on this the impression will stick that, yes, he knew of these activities and gave them his tacit approval.

Just like with Holder, if these other parties don't come forward and instead duck their responsibility on these matters, we'll have to do it for them. (Does that sound too "Sopranos-like"?)

Also, today's NYT editorial means another call to Howell Raines DEMANDING an op-ed for Jack. Either Jack or I should call him.

Thoughts? Reactions?



Jack Quinn

From: Peter Mirijanian
Sent: Saturday, February 10, 2001 1:05 PM
To: Jack Quinn
Subject: Re: What're You Guys Doing?

My concern jack is that russert is going to get into a series of questions involving denise's political activities and you will be the de facto defender of what she did. That will only result in more press inquiries about your "coordinating" role -- something we want to avoid.



CHAPTER TWO

ROGER CLINTON'S INVOLVEMENT IN LOBBYING FOR EXECUTIVE CLEMENCY

FINDINGS OF THE COMMITTEE

Roger Clinton engaged in a systematic effort to trade on his brother's name during the Clinton Administration.

- *President Clinton encouraged Roger Clinton to capitalize on their relationship.* At the beginning of his second term, President Clinton instructed Roger Clinton to use his connections to the Administration to gain financial advantage. According to the lawyer for former Arkansas State Senator George Locke: "Roger related that Bill Clinton had instructed him that since this was his last term in office, Roger should find a way to make a living and use his relationship with the President to his advantage." By suggesting that Roger Clinton exploit his name, Bill Clinton encouraged the conduct described in this chapter. Roger Clinton apparently took this advice to heart, telling one person from whom he solicited money that he and the President "had only four years to get things done" and that they did not care "about ethics or what appearances were."

- *Roger Clinton received substantial sums of money from foreign governments solely because he was the President's brother.* When the FBI interviewed him, Roger Clinton admitted that since the beginning of the Clinton Administration, he had received substantial sums of money from foreign governments. Clinton told the FBI that "he knows he receives these invitations [to make paid appearances in foreign countries] strictly because he is the First Brother of the President of the United States." Clinton also informed the FBI that in addition to receiving hundreds of thousands of dollars for musical performances from foreign governments, he also received money for President Clinton from foreign governments. Roger Clinton told the FBI that he had to be instructed repeatedly by the President or White House staff that the President was not permitted to receive cash from foreign governments.

- *Roger Clinton received at least $335,000 in unexplained travelers checks, many of which were purchased overseas and likely imported illegally.* The Committee uncovered at least $335,000 in travelers checks deposited in Roger Clinton's bank account. Most of these travelers checks originated overseas, largely from Taiwan, South Korea, and Venezuela. The travelers checks were

not restrictively endorsed by the purchaser but were instead given to Roger Clinton blank. This method of transferring large sums of money to Roger Clinton appears designed to conceal the fact that the funds originated overseas and probably violated criminal statutes requiring reports of the importation of monetary instruments. Roger Clinton has refused to provide the Committee with any explanation of why he received these funds. These suspicious transactions require a complete and thorough investigation by law enforcement authorities, especially in light of his admissions to the FBI about receiving money from foreign governments.

- *Roger Clinton likely violated federal law by failing to register as required under the Lobbying Disclosure Act.* One company paid Roger Clinton $30,000 to lobby President Clinton and others to loosen government restrictions on travel to Cuba. Although his activity appears to meet the criteria outlined in the statute for those required to disclose their contacts with covered executive branch officials, Roger Clinton did not register as a lobbyist and did not disclose his paid lobbying contacts with his brother. His failure to register, therefore, needs to be investigated carefully and completely by the Department of Justice.

- *Roger Clinton participated in a plot to obtain a $35,000 per month contract in exchange for delivering a cabinet secretary to a speaking event.* The FBI briefly investigated Roger Clinton's involvement in a scheme with Arkansas lawyer Larry Wallace to pressure John Katopodis, promoter of an Alabama airport project. Clinton and Wallace attempted to obtain a $35,000 per month contract in exchange for Clinton's promise to ensure that Secretary of Transportation Rodney Slater would speak at a conference sponsored by Katopodis' organization of local governments. When Katopodis refused to pay and Slater subsequently refused to acknowledge the invitation, Katopodis suspected that Clinton and Wallace were to blame. Wallace had told him that his project would remain at a standstill until Katopodis "showed him the money."

Roger Clinton lobbied for the release from prison of Rosario Gambino, a notorious heroin dealer and organized crime figure.

- *Rosario Gambino was a major drug trafficker.* Rosario Gambino has been convicted in the United States and Italy of heroin trafficking. Before being sentenced to 45 years in federal prison, Gambino associated with known members of organized crime both in Italy and the United States. His associates have described him as a member of the Sicilian Mafia. When his brothers were convicted of racketeering, murder, illegal gambling, loan sharking, and heroin trafficking in 1994, witnesses described them as "the main link between Mafia heroin traffickers in Sicily and the American Mafia."

- *Roger Clinton received at least $50,000 from the Gambino family, and he expected to receive more if he succeeded in getting*

Rosario Gambino out of prison. Tommaso "Tommy" Gambino, the son of Rosario Gambino, approached Roger Clinton to help win the release of Rosario Gambino from prison. Tommy Gambino promised Roger Clinton a substantial financial reward if he was successful. Even though he never was successful, Tommy Gambino provided Roger Clinton with $50,000, a gold Rolex watch, and an undisclosed amount of "expense money."

- *Roger Clinton attempted to use his relationship to the President to influence the decisionmaking of the United States Parole Commission ("USPC").* Roger Clinton lobbied the Parole Commission to grant parole to Gambino. While lobbying Parole Commission staff, Roger Clinton informed them that President Clinton was aware of his efforts on behalf of Rosario Gambino and that the President had suggested that he contact the Parole Commission members directly. Although the Commission staff tried to insulate the Commissioners from undue influence, Roger Clinton clearly attempted to use his relationship to the President to influence the Commission improperly and win Gambino's release.

- *The Chief of Staff of the Parole Commission hindered the FBI's investigation.* In 1998, the FBI began investigating Roger Clinton's contacts with the Parole Commission. However, it met resistance from Marie Ragghianti, the Chief of Staff of the Parole Commission. Ragghianti, who had participated in meetings with Roger Clinton on the Gambino case, objected to the FBI investigation and successfully halted an FBI plan to have an undercover agent meet with Clinton posing as a Parole Commission staffer. She also attempted to keep the FBI from recording a meeting between Roger Clinton and a Parole Commission staffer. Ragghianti's efforts may have kept the FBI from reaching a full understanding of Roger Clinton's involvement in the Gambino case.

- *Roger Clinton lied to FBI agents investigating his contacts with the Parole Commission and his relationship with the Gambino family.* When interviewed by the FBI in 1999, Roger Clinton said that he had never represented to anyone at the Parole Commission that the President was aware of his contacts with the Commission on behalf of Rosario Gambino. This self-serving claim is contradicted by contemporaneous, written memoranda detailing Clinton's contacts as well as by the vivid and credible recollections of Parole Commission staff. Clinton also lied about the purpose of a $50,000 check from the Gambinos, which he deposited on the day of the FBI's interview. While it is unclear whether he deposited the check before or after the interview, Clinton told the agents that Tommy Gambino had offered to loan him money for a down payment on his house. He repeated this explanation to the media when news of the money became public in 2001. However, after reviewing both Clinton's and Gambino's bank records, the Committee has found no evidence that Clinton used the $50,000 for a down payment or that he ever repaid any of the money. Accordingly, his claim to the FBI that the money was merely a loan is false. During his interview, Clinton also told the FBI agents three separate and contradic-

tory stories in response to questions about his receipt of a Rolex watch from Tommy Gambino before finally producing a Rolex to the agents and claiming he had bought it in Tijuana, Mexico.

- *Roger Clinton apparently lobbied the White House to grant a commutation to Rosario Gambino.* In the last days of the Clinton Administration—after Roger Clinton had failed to win parole for Rosario Gambino and after he had received a Rolex watch and $50,000 from the Gambino family—the White House received a petition for commutation for Rosario Gambino. Documents indicate that the White House lawyer responsible for clemency matters requested a criminal background check on Gambino, which is normally done when some serious consideration is being given to a grant of clemency. The obvious and logical inference that explains how the Gambino petition garnered that level of attention at the White House is that Roger Clinton was pushing for it. Because key Clinton White House staff have refused to answer questions about this matter, it is unknown whether Roger Clinton hand-delivered the Gambino petition as he did with others or whether he brought it to the attention of the White House some other way. Although the President did not ultimately grant clemency to Gambino, the circumstances surrounding the consideration of his petition are nevertheless suspect. The fact that granting clemency to a mobster and confirmed criminal like Gambino was considered at all is disturbing enough, but the reason it was considered is even more offensive. The Gambino family was apparently able to purchase access to the both the parole and clemency processes with cash payments and expensive gifts to the brother of the President of the United States. Moreover, despite an FBI investigation of the matter, the Justice Department has, to date, been unwilling or unable to prosecute Clinton for any of his activities.

Roger Clinton received a substantial portion of $225,000 that was swindled from the Lincecum family in Clinton's name with the promise of pardon that never came.

- *The Lincecum family paid $225,000 to obtain a pardon for Garland Lincecum.* In 1998, Garland Lincecum, a convicted felon, was informed that he could purchase a presidential pardon for $300,000. Lincecum was told that Arkansas businessmen Dickey Morton and George Locke, who had a close relationship with Roger Clinton, could obtain the pardon. Lincecum borrowed $225,000 from his mother and brother and claims that a business associate paid another $70,000 to Morton and Locke for his pardon. The money he borrowed from his family constituted their life savings and means of support in retirement.

- *Roger Clinton received at least $43,500 in proceeds from the Lincecums' payments to Morton and Locke.* Dickey Morton, George Locke, and Roger Clinton divided the funds among themselves with Roger Clinton receiving a total of $25,500 in checks and $18,000 in cash. The Lincecums paid the checks to a company called CLM, which they were told stands for Clinton, Locke, and Morton. Dickey Morton then disbursed the funds

from the company's bank account to Clinton, Locke, and himself. Roger Clinton has falsely denied any relationship with CLM while offering no explanation of why he received this substantial share of an elderly woman's retirement savings through CLM.

- *Roger Clinton may have been involved in a scheme to defraud the Lincecums.* Garland Lincecum never received a pardon, and there is no evidence that Dickey Morton, George Locke, or Roger Clinton ever submitted Lincecum's name to the Justice Department or White House for consideration for a pardon. Therefore, it appears that the Lincecums were the victims of a scam perpetrated by Morton, Locke, and perhaps Roger Clinton as well.

Roger Clinton may have been involved in lobbying for as many as 13 other pardons and commutations.

- *Roger Clinton publicly admitted involvement in six clemency efforts, but the evidence connects him to many more.* Roger Clinton told the media that he had asked for pardons for approximately six close friends and that he did so because of concern for them and not for any personal gain. For example, Roger Clinton lobbied for pardons for George Locke and Dan Lasater, two associates from Arkansas who were convicted of drug offenses together with Clinton himself in the 1980s. However, the Committee has obtained evidence connecting Clinton to many more pardon seekers. Some of the cases involve people who were not his personal friends and some involve solicitations or offers of money and lucrative business opportunities in exchange for his ability to place a clemency petition in front of the President.

- *Roger Clinton was asked to lobby for a pardon for horse breeder J.T. Lundy in exchange for secretly sharing profits in a lucrative business venture.* Lundy promised Clinton a share of the profits from a Venezuelan coal deal in exchange for Clinton's help in obtaining a pardon for him. Lundy suggested a scheme whereby the payments to Clinton could be concealed by placing his share of the profits in Dan Lasater's name. Lasater, who owned a 20 percent interest in the venture, discussed the possibility of a pardon for Lundy with Roger Clinton.

- *Roger Clinton delivered the pardon petition of former Reagan EPA official Rita Lavelle to the White House.* According to Lavelle, an intermediary for Roger Clinton asked her for a $30,000 fee for him to hand-carry her petition to the President. Lavelle responded that she could not afford to pay any money, but she said Clinton agreed to deliver the petition anyway. On the last night of the Clinton presidency, Roger Clinton asked Lavelle "do you have $100,000 to get this through?" Being bankrupt, however, Lavelle laughed at the question. She did not pay Clinton any money and did not receive a pardon.

- *Roger Clinton was asked to lobby for a pardon for Houston real estate developer John Ballis, and Ballis' petition was seriously considered at the White House.* After being convicted of S&L fraud, Ballis married a former employee of Dan Lasater and

friend of Roger Clinton. Through his wife's connection, Ballis sought Roger Clinton's help. Clinton first lobbied for Ballis before the U.S. Parole Commission, sometimes during the same meetings in which he lobbied for mobster Rosario Gambino. Ballis credited Clinton with helping him obtain early release and sought his help in obtaining a presidential pardon to eliminate his parole supervision and restitution payments. While he was not granted any form of clemency, the President reviewed his petition, and a White House lawyer called Ballis' lawyer two nights before inauguration day to ask if Ballis would accept a grant of clemency that left intact his obligation to pay restitution.

- *Roger Clinton lobbied his brother to grant clemency to Steven Griggs, the son of the chief of an unrecognized American Indian tribe, who was in prison on drug charges.* Like Ballis, Steven Griggs was not a close friend of Roger Clinton's but merely someone who knew someone who knew him. Griggs also did not receive clemency, but Roger Clinton helped ensure that Griggs' petition was brought to the attention of the President even though Griggs had been a fugitive for a year before being sentenced. Griggs argued in his petition that he had received an unusually harsh sentence but failed to mention that he had fled after his conviction. It is not clear what motivated Roger Clinton to assist Griggs, but some evidence suggests that the tribe may have planned to open a casino when and if it were to become recognized by the federal government.

- *According to his former lawyer, Arkansas restaurant operator Phillip Young was approached with an offer to obtain a pardon through Roger Clinton for $30,000.* While Young denied to Committee staff that he was actually approached by anyone with such a proposal, his denial is not as credible as his former attorney's version of events.

Both the White House and the Justice Department hindered the Committee's investigation of Roger Clinton by improperly refusing to produce key documents.

- *For months, the Bush White House prevented the National Archives from producing even non-deliberative, clemency-related records from the Clinton administration.* The Committee did not learn that President Clinton had been considering a clemency petition from notorious mobster Rosario Gambino until after Archives personnel "inadvertently" produced documents that President Bush's Counsel had sought to withhold. The accidental production also included documents relating to three other previously unknown individuals who had sought clemency through Roger Clinton. The Bush Administration did manage to retain four additional deliberative Gambino documents from the files of the Clinton White House, refusing to produce the records even though they were not subject to any executive privilege claim.

- *The Ashcroft Justice Department produced certain Gambino-related records, but inexplicably withheld others.* After producing

sensitive documents such as U.S. Parole Commission files related to Rosario Gambino and a summary of an FBI interview with Roger Clinton, the Justice Department ceased producing additional documents, claiming they were related to an ongoing criminal investigation, even though the Clinton-Gambino matter had reportedly been closed in 2000.

INTRODUCTION

Unlike other presidential relatives discussed in this report, Roger Clinton was fairly unsuccessful in actually obtaining clemency for anyone but himself. Nevertheless, the Committee investigated his activities because the substantial number of credible allegations of influence peddling demanded further scrutiny. Even though Roger Clinton was unable to deliver actual grants of clemency, he was able to deliver the time and attention of the President and his senior staff. Roger Clinton's ability to circumvent the normal process was worth a great deal of money to those hoping for clemency, and he exploited it for his personal gain. The damage done by this exploitation is even worse in light of evidence suggesting that President Clinton was aware of and even encouraged it. While investigating these matters, the Committee also discovered several potential violations of law and suspicious transactions, some of which are not directly related to clemency requests. However, these non-clemency matters are detailed briefly in this chapter because they provide evidence of a pattern of behavior by Roger Clinton that is instructive when considering the evidence in the clemency-related matters.

For a variety of reasons, including his 1985 conviction for cocaine distribution, Roger Clinton was generally mocked and regarded with derision during President Clinton's two terms in office. When Roger Clinton's involvement in lobbying for presidential pardons came to light, it was often treated with humor in the press and was fodder for late-night talk show monologues. However, as the Committee investigated these allegations, it became clear that Clinton was involved in serious and reckless misconduct constituting a systematic effort to cash in on his fame as the President's brother. Roger Clinton's efforts to use his status as the President's brother to try to win clemency for an organized crime figure represents one of the darkest examples of influence peddling ever reviewed by the Committee. His other seamy business dealings, along with his frequent acceptance of large cash payments from foreign governments, only compounds the disturbing appearance that access to the President was up for sale. That the President could have been completely unaware of these sordid dealings is implausible at best. Yet, too often, public disclosure of this type of behavior has prompted laughter rather than stern rebukes. To dismiss Roger Clinton's activities as merely the comical bumbling of Bill Clinton's less-gifted half-brother, however, runs the risk of seriously undermining public confidence in the integrity of government.

At the end of 2000 and the beginning of 2001, Clinton attempted to obtain grants of clemency for a number of individuals, many of whom he barely knew. While he appears to have been motivated by friendship in some instances, many of the others appear to be motivated by the promise of financial reward. The Committee has

collected evidence indicating that Roger Clinton was connected to pardon or commutation requests for at least 15 different individuals, excluding himself: John Ballis, Rosario Gambino, Steven Griggs, Dan Lasater, Rita Lavelle, Garland Lincecum, George Locke, Blume Loe, J.T. Lundy, Joseph "Jay" McKernan, Jim McClain, William McCord, Mark St. Pé, Mitchell Wood, and Phillip Young. For his part, Roger Clinton has admitted only to leaving a list of six pardon requests at the White House for his brother's consideration.[1] The Committee has been unable to obtain a copy of the list[2] or confirm which names were on the list.[3] Whether Roger Clinton provided President Clinton with a list of six names is largely irrelevant, however, as the Committee has compiled evidence clearly demonstrating that of the 15 cases with some connection to Roger Clinton, he actually pressed for grants of clemency for at least eight individuals.[4]

Although Roger Clinton failed to obtain the grants of clemency for which lobbied, he did receive clemency for his own cocaine conviction. While the Committee did not investigate it directly, President Clinton's grant of clemency to his brother now appears to be one of his most egregious last-minute pardons. Roger Clinton was involved in potentially illegal conduct and was under active investigation by the FBI at the time that he received his pardon. The fact that he was involved in the type of conduct described in this report should have disqualified him from receiving clemency. Moreover, the media widely reported in August 2001 that Roger Clinton had entered rehabilitation for chronic cocaine abuse.[5] Obviously, if Roger Clinton was engaged in illegal cocaine use in January 2001, it would indicate that he was neither rehabilitated nor remorseful for his cocaine distribution crimes, making him an unsuitable candidate for a presidential pardon under President Clinton's own guidelines.

The focus of this chapter, though, is Roger Clinton's involvement in lobbying for others in their attempts to obtain executive clemency. The sheer number of people who attempted to purchase or were solicited to purchase a pardon through Roger Clinton gives credence to allegations that he was engaged in a systematic effort to capitalize on his relationship to the President of the United

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[1] Richard Serrano and Stephen Braun, *Roger Clinton Says He Promised Pardons*, L.A. TIMES, Feb. 24, 2001, at A1.

[2] In attempting to obtain a copy of the list from the files of the former Administration, the Committee requested from the National Archives, "All records relating to any requests for clemency made by Hugh Rodham or Roger Clinton on behalf of any individual." Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to John W. Carlin, Archivist of the United States, National Archives and Records Administration (Mar. 8, 2001) (within Appendix I). On March 14, 2001, the Committee also issued a subpoena to Roger Clinton seeking, *inter alia*, "all records relating to any efforts made by you, or on your behalf, to assist in the obtaining of any grant of executive clemency" (within Appendix II).

[3] The Committee sent Roger Clinton a letter requesting answers to a number of questions, including, "Please list all individuals on whose behalf you ever requested executive clemency." Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Roger C. Clinton (June 25, 2001) (within Appendix I). The reply from his lawyer refused to answer any of the questions, stating, "Like anyone who values his own privacy and who respects the privacy of those close to him, Mr. Clinton will not submit willingly to a general warrant." Letter from Bart H. Williams, Munger, Tolles & Olson, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (June 27, 2001) (within Appendix I).

[4] The eight individuals are Rosario Gambino, Steven Griggs, Dan Lasater, Rita Lavelle, George Locke, Joseph McKernan, William McCord, and Mark St. Pé. Their cases are discussed in more detail below.

[5] *See, e.g.,* Lloyd Grove, *The Reliable Source: First Paula Poundstone, then Ben Affleck, now Roger Clinton*, WASH. POST, Aug. 10, 2001.

States. Moreover, the Committee's investigation has revealed that his attempts to sell his access to the President were not confined to clemency-related matters. Indeed, Roger Clinton repeatedly treated his relationship to President Clinton as a commodity to be sold to the highest bidder. This disturbing pattern of behavior began shortly after Bill Clinton became President and apparently continued until Bill Clinton's last day in office. Roger Clinton's behavior was unseemly at best, but it is even more troubling is that the President himself appears to have instigated and encouraged this behavior.

I. ROGER CLINTON'S PATTERN OF TRADING ON HIS BROTHER'S NAME

When the FBI interviewed Roger Clinton in conjunction with its investigation of his relationship with the Gambino family, Clinton made a number of startling admissions. He admitted that since early in President Clinton's term, foreign governments had paid him hundreds of thousands of dollars. Clinton claimed that these payments were for musical performances but acknowledged that he knew he was receiving the money only because he was the President's brother. Roger Clinton also admitted that foreign governments had given him gifts for President Clinton and that he had kept some of those gifts for his own use. He informed the FBI that early in President Clinton's term, he received cash payments from foreign governments, which he was to give to the President. White House staff had to instruct him that the President could not accept cash payments from foreign countries. Some of Clinton's conduct is explained in his interview with FBI investigators:

> [Roger Clinton] has made a number of business trips to foreign countries over the last few years. Clinton stated that he is a musician and plays with a six piece band. He has received invitations from Presidents and other foreign government leaders from between 10–12 different countries. Clinton advised he knows he receives these invitations strictly because he is the First Brother of the President of the United States. Clinton advised that the President is aware of the invitations, in general, but may not know each time he takes a trip. Clinton stated that when he received an invitation to visit a country he is offered money by the country to make the trip. He stated that he would not accept the invitation unless he could earn the money. He insists on performing with his band while visiting the country. He is a musician and wants to be recognized for his music. Clinton stated he receives a minimum of $25,000 per performance when he travels. He may play a few nights during a given trip. He likes to perform for children during these trips and attempts to make those arrangements.
>
> Clinton stated he has traveled to South Korea approximately six times. He has gone as the personal guest of President Kim Dae Jong (phonetic). He has been paid as much as $200,000 for performing on a trip. He has also traveled to Japan, Argentina, and 8 to 10 other countries.

Clinton stated that the country extending the invitation usually pays for him and his six piece band to fly to the country and perform. The host country usually pays all their expenses and provides a Presidential security detail while they are there.

Clinton stated he has received payment for these performances in a number of ways. He has received payment by check in United States dollars, cash in United States dollars and also in the currency of the host country. Clinton stated in some instances the foreign government even provides extra funds to cover the costs of taxes that would be assessed against the money. Clinton advised he did not want to provide specific details on what exactly he is paid for his performances because that is "personal."

Clinton stated that when he receives an invitation to a country he always calls the National Security Council to get the clearance to make the trip. He stated that they usually say no at the very beginning, then he talks them into agreeing to let him make the trip. Clinton stated that he always provides the Security Council with an itinerary whenever he makes one of these trips.

* * *

Clinton advised that while he visits foreign countries as their guest he is often presented with all kinds of gifts. Examples he gave were vases, sheep skin rugs and many more he could not remember. He also received gifts for the President which he has sometimes kept. Clinton advised that in his earliest trips, at the beginning of the Presidents [sic] term, he would be offered money for the President from some of the foreign government officials he was visiting. He stated years ago he did not know he could not accept money for the President. Clinton stated he was told by either the President or his staff that he could not bring money back from a foreign country for the President. He advised he was told on a couple of occasions to send the money back because the President was not allowed to accept money from a foreign country.

Clinton was asked if he reported the money he earned on his foreign country visits as income on his United States tax returns. He stated that yes he reported the income. He was asked if he claimed the expenses on his tax returns as well. Clinton stated that he only claimed the expenses that he actually paid for on his tax returns. Clinton further advised that years ago he had some tax problems. At one point he owed between $40,000 to $60,000 dollars [sic] in taxes. He made arrangements with the Internal Revenue Service (IRS) to pay of [sic] the tax debt, and does not want to have any more problems.[6]

[6] DOJ Document Production FBI–RC–0000007–8 (Summary of Interview with Roger Clinton, Oct. 1, 1999) (Exhibit 1).

Roger Clinton's statements to the FBI make it clear that from the earliest days of his brother's presidency, he used his fame and proximity to power to make as much money as possible. Over the next eight years, Roger Clinton accepted hundreds of thousands of dollars from foreign governments in exchange for "musical performances." Clearly, the payments made to Clinton far exceeded the actual value of his performances. Presumably, the foreign governments paying Roger Clinton were attempting to curry favor with the Clinton Administration by paying large sums of money to the President's brother. Whether these governments found increased favor or access with the Clinton Administration is unknown. However, this pattern of conduct clearly establishes that Roger Clinton was attempting to use his position and access to cash in, without regard to whether his actions were legally or ethically questionable.

Although Roger Clinton used his name to make money early in the Clinton Administration, he apparently believed the potential to exploit his relationship to the President was greater than he had previously realized. Roger Clinton's longtime friend and fellow convicted cocaine felon George Locke told the Committee through his lawyer about a conversation in which Roger Clinton described his determination to profit more effectively from his status as brother of the President:

> On the night of the reelection of Bill Clinton as president, a special party was held at the Excelsior Hotel for VIP guests. Roger Clinton invited George Locke to the party. During the course of the evening, Roger had a conversation with George Locke. Roger Clinton advised that during his brother's first term in office, (although he had been invited to numerous social gatherings as a result of being the president's brother) Roger Clinton had never "capitalized" on his relationship to the president. Further, Roger related that Bill Clinton had instructed him that since this was his last term in office, Roger should find a way to make a living and use his relationship with the President to his advantage. Bill Clinton had stressed to Roger that whatever business endeavors Roger was involved in, they must be legitimate concerns and not to find himself involved in any illegal activity.[7]

It appears that Roger Clinton took at least part of Bill Clinton's advice to heart. During the last term of the Clinton presidency, Roger Clinton was involved in a number of efforts to use his brother's name to make large amounts of money. However, despite his brother's advice to engage only in legitimate and legal business, Roger Clinton's activities may have violated the law and clearly raise substantial ethical questions.

A. Roger Clinton's Foreign Travelers Checks and Other Questionable Sources of Income

A review of Roger Clinton's bank records shows that he received money from a wide variety of sources, ranging from small amounts

[7] Letter from Mark F. Hampton, Counsel for Dickey Morton and George Locke, Hampton and Larkowski, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 18, 2001) (within Appendix I).

for television and film appearances to large amounts for lobbying his brother. However, one of the greatest influxes of money to Roger Clinton during the Clinton Administration came in the form of at least $335,000 in overseas travelers checks. These transactions present a number of troubling issues. Nevertheless, Roger Clinton has provided no explanation of why he received these travelers checks.

- First, almost all of these travelers checks were purchased by third parties overseas, largely in Taiwan, South Korea, and Venezuela. Why Roger Clinton received these substantial sums of money from overseas is unknown.
- Second, the travelers checks were provided to Roger Clinton blank. Clinton signed and countersigned all of the checks, despite the fact that he did not purchase the checks. Usually, the individual who purchases travelers checks signs them when they are purchased, so that they cannot be stolen or used by an unauthorized individual. The fact that the buyer did not sign them and gave them to Clinton blank suggests that the funds were intentionally provided to Clinton in a manner calculated to conceal their origin.
- Third, the travelers checks were purchased overseas and then imported into the United States. If a total of $10,000 or more was imported at any one time, then the importation should have been declared on customs forms. However, Roger Clinton did not file any such forms with the Customs Service.[8] If Roger Clinton imported these travelers checks into the United States from overseas without filing the required forms with the Customs Service, then he committed a serious crime.[9]

The following is an accounting of the travelers checks received by Roger Clinton, indicating the country of origin of the checks and the name of the purchaser. Although the Committee has been able to obtain the name of the individual purchasing the travelers checks, it has been unable to obtain further information regarding the purpose of the checks.

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[8] The Committee sought any records indicating, *inter alia*, that Roger Clinton filed forms declaring the importation of more than $10,000 into the United States. Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to James F. Sloan, Financial Crimes Enforcement Network Director, Department of Treasury (June 1, 2001) (within Appendix I). The one document produced in response to this request appears to be unrelated to the travelers checks deposited into Roger Clinton's bank account. Letter from Albert R. Zarate, Senior Counsel, Financial Crimes Enforcement Network, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform (June 8, 2001) (within Appendix I).

[9] 31 U.S.C. § 5316 imposes an obligation on anyone who "transports . . . monetary instruments of more than $10,000" into the United States or who "receives monetary instruments of more than $10,000 at one time transported into the United States" to file a report of the importation. Failure to file such a report can result in both civil penalties under 31 U.S.C. § 5321 and criminal penalties under § 5322. Monetary instruments subject to the reporting requirement include travelers checks in any form, whether restrictively endorsed or not. *U.S. v. Larson*, 110 F.3d 620 (8th Cir. 1997).

Date Deposited	Type of Check	Origin	Purchaser Name	Amount
November 30, 1998	American Express	Unknown	Chen Jianxing	$1,000
December 1, 1998	American Express	Taiwan	Huang Xian Wen	$15,000
December 8, 1998	American Express	Taiwan	Huang Xian Wen	$23,000
December 15, 1998	Citicorp	Taiwan	Unknown	$90,000
December 15, 1998	Unknown	Unknown	Unknown	$29,000
December 15, 1998	Visa-Sumitomo	Taiwan	Lin Mei Guang	$4,000
December 15, 1998	American Express	Taiwan	Huang Xian Wen	$2,000
July 12, 1999	American Express	Unknown	Unknown	$20,000
July 12, 1999	Citicorp	South Korea	Sook-Eun Jang [10]	$5,000
November 30, 1999	Citicorp	Taiwan	Unknown	$3,000
November 30, 1999	Citicorp	Taiwan	Unknown	$10,000
November 30, 1999	Citicorp	Taiwan	Unknown	$5,000
November 30, 1999	Visa	Taiwan	Unknown	$1,000
November 30, 1999	Visa	Taiwan	Xu Jingsheng	$3,000
November 30, 1999	Citicorp	Venezuela	Pedro Jose Garboza Matos	$38,000
November 30, 1999	Unknown	Unknown	Unknown	$40,000
February 22, 2000	American Express	Taiwan	Qu Guang Yin	$7,000
March 24, 2000	Citicorp	Venezuela	Pedro Jose Garboza Matos	$3,000
April 5, 2000	American Express	Taiwan	Mou Chuanxue	$4,000
April 17,2000	American Express	Taiwan	Qu Guang Yin	$13,000
April 17, 2000	American Express	Unknown	Suk Eun Chang	$5,000
May 15, 2000	American Express	Unknown	Unknown	$5,000
July 13, 2000	Citicorp	South Korea	Seung-Chul Ham	$1,000
July 27, 2000	Citicorp	South Korea	Seung-Chul Ham	$2,000
July 31, 2000	Citicorp	South Korea	Seung-Chul Ham	$4,000
August 2, 2000	American Express	Unknown	Unknown	$1,000
August 11, 2000	American Express	Unknown	Unknown	$1,000
			Total:	**$335,000**

Roger Clinton therefore deposited in his bank accounts at least $335,000 in travelers checks, most or all of which originated overseas. It is possible that Clinton was provided with even more funds in travelers checks, which were not deposited in his bank accounts but were spent instead. Roger Clinton has refused to answer any questions about the travelers checks, including why they were paid to him, who paid them to him, or whether he paid appropriate taxes on them.[11] Given the large amount of money involved and the attempt to conceal its source, these circumstances give rise to a reasonable suspicion that multiple laws may have been violated, including those relating to declaring monetary instruments imported into the United States and reporting the income for tax purposes. Accordingly, the Committee believes this matter should be investigated further by the Department of Justice, which would have the ability to review Roger Clinton's tax records and could potentially obtain sworn testimony from him.

In addition to the $335,000 in travelers checks, Roger Clinton has also received funds from a number of other suspicious sources, raising questions about the legality of his activities:

[10] This individual is likely the same person identified as "Suk Eun Chang" who purchased $5,000 in travelers checks deposited by Roger Clinton on April 17, 2000. *See also* n.19 and accompanying text.

[11] *See* Letter from Dan Burton, Chairman, Comm. on Govt. Reform, to Roger Clinton (June 25, 2001) (within Appendix I); Letter from Bart H. Williams, Munger, Tolles & Olson, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (June 27, 2001) (within Appendix I).

- *Cash:* Roger Clinton deposited into his bank accounts $85,000 in cash between February 1998 and February 2001. Clinton claimed to the FBI that he received this cash while traveling to foreign countries ostensibly for the purpose of performing with his six-piece band. Like the transactions involving blank travelers checks, these large cash transactions give rise to reasonable suspicions that the purpose of the payments was not legitimate. In addition, the $85,000 figure represents only the money that Clinton deposited into his account. It seems likely that Clinton received more money and spent it, rather than depositing it. However, as Clinton has refused to answer any questions from the Committee, it is impossible to know exactly how much cash he received, from whom, and for what purpose.
- *Seaway II Florida and Tony Rodham:* Seaway II Florida is a company controlled by Florida businessman Gene Prescott.[12] Prescott owns the Biltmore Hotel in Coral Gables, Florida, as well as a number of other properties. Prescott also has a close relationship with Hillary Clinton's brother Tony Rodham and has an interest in Rodham's consulting business, Tony Rodham and Associates. Between January and November 1998, Seaway II Florida issued three checks to Roger Clinton totaling $20,000. According to the lawyer for Seaway II Florida, Roger Clinton was paid this money for referring business to Tony Rodham, although neither the attorney nor Prescott could recall the specific referral.[13] In addition, it appears that Tony Rodham attempted to pay Roger Clinton $25,000 personally, in April 1998, but that the check was returned for insufficient funds.[14] Due to the refusal of Rodham and Clinton to cooperate with the Committee, the purpose of the attempted $25,000 payment is not clear.
- *Edvard Akopyan:* Edvard Akopyan is a Glendale, California, resident who paid $61,100 to Roger Clinton between August and December 1999. Akopyan claims that he paid the money to Clinton because he was acting as a middleman in scheduling Clinton's appearance at a musical concert in Kazakhstan.[15] Akopyan stated that Clinton made one appearance in Kazakhstan in the summer of 1999 and a second in January 2000.[16] Akopyan stated that the individual in Kazakhstan who provided the funds to him for Clinton's payment was named Darkhan Berdaleav.[17] Akopyan also stated that Roger Clinton informed him that he checked with the State Department before he traveled to Kazakhstan to perform.[18]
- *Suk Eun Chang:* In December 1999, Suk Eun Chang provided Roger Clinton with a cashier's check for $70,000.[19] The source of the cashier's check was apparently $193,000 deposited by Chang into a bank in Los Angeles.[20] Chang also provided

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[12] *See* Telephone Interview with Gene Prescott, Owner, Biltmore Hotel (June 5, 2001).
[13] Telephone Interview with Daniel Ponce, Counsel for Gene Prescott (June 29, 2001).
[14] Bank of America Document Production (Exhibit 2).
[15] Telephone Interview with Edvard Akopyan (June 5, 2001).
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] Bank of America Document Production (Exhibit 3).
[20] Bank of America Document Production (Exhibit 4).

> $10,000 in travelers checks to Clinton. However, the Committee has been unable to locate Chang to ask him about the source of this cash or the purpose of the payment to Clinton.

These questionable sources of income, together with the travelers checks received by Roger Clinton, should be the subject of further investigation by the Department of Justice. At a minimum, the government should satisfy itself that the requisite taxes have been paid.

B. Roger Clinton's Lobbying Regarding Cuban Travel Restrictions

In the course of reviewing Roger Clinton's bank records, the Committee learned that during 2000, Roger Clinton was paid to lobby President Clinton regarding the restrictions on travel to Cuba. Roger Clinton's receipt of substantial sums of money to lobby his brother raises serious ethical and legal questions given Clinton's failure to register as a lobbyist as required by federal law. This arrangement also served as a precedent for Roger Clinton's acceptance of money to lobby his brother for grants of clemency at the end of President Clinton's term.

In June 2000, a Los Angeles-based company called Cuba Travel Services ("CTS") hired Roger Clinton. Michael Zuccato, President of CTS, is a personal friend of Roger Clinton's.[21] According to Zuccato, Roger Clinton was hired to help CTS lift restrictions on travel to Cuba.[22] CTS specialized in arranging charter flights from Los Angeles to Cuba and would substantially benefit from a loosening of legal restrictions on such travel. A CTS affiliate, J. Perez Associates, and Roger Clinton's company, Odgie Music, signed a consulting agreement in which CTS retained Roger Clinton to "provide counsel, advice and to promote [CTS] to entities necessary to conduct its import and export business."[23] CTS agreed to pay Clinton $5,000 per month for these services.[24] Over the next four months, CTS and J. Perez Associates paid Roger Clinton a total of $30,000.[25] According to Zuccato, Roger Clinton was paid during this period to present information to "his brother and other people."[26] Indeed, one invoice from Odgie Music to J. Perez and Associates charges $5,000 for a trip made by Roger Clinton to Washington, D.C.[27] Although Zuccato denied that Roger Clinton's contacts with "his brother and other people" constituted "lobbying,"[28] there is no other accurate description for what Roger Clinton did. The Lobbying Disclosure Act of 1995 ("the Act") defines the term "lobbying contact" as:

> [A]ny oral or written communication . . . to a covered executive branch official . . . that is made on behalf of a client with regard to—(i) the formulation, modification, or adoption of Federal legislation (including legislative pro-

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[21] Telephone Interview with Michael Zuccato, President, Cuba Travel Services (June 5, 2001).
[22] *Id.*
[23] Cuba Travel Services Document Production (Consulting Agreement) (Exhibit 5).
[24] *Id.*
[25] Bank of America Document Production (Checks from CTS and J. Perez Associates) (Exhibit 6).
[26] Telephone Interview with Michael Zuccato (June 5, 2001).
[27] Cuba Travel Services Document Production (Invoice from Odgie Music) (Exhibit 7).
[28] Telephone Interview with Michael Zuccato, President, Cuba Travel Services (June 5, 2001).

> posals) [or] (ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government[.][29]

Any contact Roger Clinton had with the President about easing restrictions on travel to Cuba would certainly constitute a communication with regard to a modification of a policy or position of the United States. If Roger Clinton's lobbying activities[30] for Cuba Travel Services constituted more than 20 percent of the total work he did for the company, then he would be "a lobbyist" under the provisions of the Act.[31] As a lobbyist who earned more than $5,500 in a six-month period from a single client, Roger Clinton would have an obligation to register with the Secretary of the Senate and the Clerk of the House of Representatives.[32] A search of those filings indicates that he did not do so.[33]

Because Roger Clinton declined to be interviewed by the Committee, the precise content of his discussions with President Clinton is unknown.[34] However, it is clear that he was paid $30,000 to lobby the President to loosen travel restrictions to Cuba and that he told his clients that he had, in fact, contacted his brother on their behalf. These circumstances warrant further investigation by law enforcement authorities to determine whether Roger Clinton violated federal law by failing to register as a lobbyist.[35] Apart from his failure to register, Roger Clinton's activity in this case was likely legal. However, whether such activities should be legal is another question. Even when properly disclosed, which these contacts were not, paid lobbying of the President by close relatives is likely to decrease public confidence in the integrity of government. As a matter of prudence, the President should not have agreed to be lobbied by family members who received payment. President Clinton implicitly admitted this principle when he asked his brother-in-law Hugh Rodham to return money paid to lobby for the pardons of Carlos Vignali and Glenn Braswell. The day after learning of the payments, President Clinton issued a statement: "Neither Hillary nor I had any knowledge of such payments. We are deeply disturbed by these reports and have insisted that Hugh return any

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[29] 2 U.S.C. § 1602(8)(a). A "covered executive branch official" includes the President. 2 U.S.C. § 1602(3)(a).

[30] The term "lobbying activity" is broadly defined as "lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others." 2 U.S.C. § 1602(7).

[31] 2 U.S.C. § 1602(10).

[32] 2 U.S.C. § 1603(a)(1); 2 U.S.C. § 1602(a)(3)(A)(1); 2 U.S.C. § 1603(a)(3)(b).

[33] *See* Office of Public Records, United States Senate, "Lobby Filing Disclosure Program," <http://sopr.senate.gov/> (U.S. Lobby Report Images for 2000).

[34] A statement in the summary of the FBI's interview with Roger Clinton suggests that at some point, Roger discussed the Cuban trade embargo with President Clinton:

> [Roger] Clinton recalled a conversation, the date or approximate time of which he could not recall, he had with his brother, Bill Clinton, who told him the [Cuban] cigar embargo would not be lifted while he was still President. President Clinton allegedly said "The embargo will be eased for food and medicine because that is the direction the world is going, but not for cigars, not during your life time [sic]."

DOJ Document Production FBI–RC–0000004 (Summary of Interview with Roger Clinton, Oct. 1, 1999) (Exhibit 1).

[35] The penalty for such a violation is a fine of up to $50,000. 2 U.S.C. § 1606.

moneys received."[36] The payments to Roger Clinton to lobby his brother on travel restrictions to Cuba should be equally disturbing for exactly the same reasons.

C. The Shakedown of John Katopodis

The Committee investigated another episode in which Roger Clinton tried to exploit his Administration contacts to enrich himself. Roger Clinton and a business associate, Larry Wallace, pressured the president of an association of local governments in Alabama, John Katopodis, to hire Clinton for his ability to contact Transportation Secretary Rodney Slater and others in the Clinton Administration. As described below, Wallace and Clinton apparently engaged in strong-arm tactics to try to force Clinton's hiring.

In early 1996, John Katopodis, a Harvard-educated Fulbright Scholar,[37] was advocating the construction of a new international airport for Alabama.[38] Katopodis served as Executive Director of the Council of Cooperating Governments, an association of city and county governments dedicated to improving transportation in the Southeast.[39] As part of its efforts to publicize the airport project, the Council was seeking a prominent guest speaker for its 1996 symposium.[40] Local and state political figures, as well as federal agency representatives, were planning to attend the symposium,[41] and Katopodis sought the Secretary of Transportation as the ideal guest speaker.[42] Yet, attracting the Secretary of Transportation proved to be no easy task. While discussing the airport project with his colleague Dr. Frank Stuart, Katopodis was advised that Arkansas attorney Larry Wallace could be instrumental in arranging for the Secretary's visit.[43] Katopodis eventually received an unsolicited telephone call from Wallace.[44] Mr. Wallace, a self-proclaimed power broker from Little Rock, Arkansas, was well connected to the Clinton Administration.[45] One of these connections included the White House Chief of Staff at the time, Mack McLarty, Wallace's former law partner.[46]

Katopodis explained that he wanted Secretary of Transportation Federico Peña to speak at a symposium on Alabama's aviation future.[47] Wallace agreed to use his influence to help Katopodis draw

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[36] John Solomon, *Clinton Kin Returns Pardon Fee*, ASSOCIATED PRESS, Feb. 21, 2001. *See generally* Chapter Three, "Hugh Rodham's Role in Lobbying for Grants of Executive Clemency," Section I.D.1., "The Response from Hugh Rodham."

[37] Telephone Interview with John Katopodis, Executive Director, Council of Cooperating Governments (Sept. 5, 2001).

[38] DOJ Document Production FBI–RC–0000011 (Summary of Interview with John Katopodis, May 21, 1997) (Exhibit 8).

[39] DOJ Document Production FBI–RC–0000166 (Council of Cooperating Governments Brochure) (Exhibit 9)

[40] DOJ Document Production FBI–RC–0000020 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[41] DOJ Document Production FBI–RC–0000091 (Symposium Schedule, June 27, 1997) (Exhibit 11).

[42] *See* DOJ Document Production FBI–RC–0000011 (Summary of Interview with John Katopodis, May 21, 1997) (Exhibit 8).

[43] DOJ Document Production FBI–RC–0000020 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[44] *Id.*

[45] *See* DOJ Document Production FBI–RC–0000011 (Summary of Interview with John Katopodis, May 21, 1997) (Exhibit 8).

[46] *See* DOJ Document Production FBI–RC–0000024 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[47] Telephone Interview with John Katopodis (Sept. 5, 2001).

the Secretary to the conference.[48] Wallace informed Katopodis that Rodney Slater would replace Peña once President Clinton was re-elected.[49] Wallace contacted Katopodis at least eight times in late September and early October of 1996.[50] He advised Katopodis to talk to Wallace's "friend at the White House," [51] Bob Nash, the Director of Presidential Personnel.[52] All White House liaisons reported directly to Nash, and Wallace promised that the transportation liaison would have an answer for Katopodis soon.[53]

On November 5, 1996, Katopodis attended an election night party hosted by Wallace in Little Rock. At the election night party—the same party where Roger Clinton informed George Locke that President Clinton had advised him to make the most of his last four years in office [54]—Wallace introduced Katopodis to individuals Wallace described as "financial heavy hitters" and "friends of Bill." [55] Among these individuals was a former state senator whom Wallace introduced as "Roger Clinton's mentor and closest associate," [56] likely George Locke.[57] Roger Clinton had apparently enlisted Locke's assistance because Locke lobbied for Roger's employment during the election night party.[58] Locke was not the only one trying to find Roger Clinton gainful employment. After the party, Wallace and Katopodis continued to discuss the airport issue.[59] During one of these conversations, Wallace told Katopodis that his close personal friend, President Clinton, was concerned about his "baby brother's" lack of employment and income.[60] According to Wallace, the President tasked him with finding some type of job for Roger.[61] Wallace wanted to follow the President's directive and asked Katopodis if they could meet in Washington to discuss a possible contract for Roger.[62] To lure him to the nation's capital, Wallace even offered Katopodis the opportunity to spend a

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[48] *See* DOJ Document Production FBI–RC–0000147 (Fax from Larry Wallace, to John Katopodis (Sept. 24, 1996)) (Exhibit 12).

[49] Telephone Interview with John Katopodis (Sept. 5, 2001).

[50] *See* DOJ Document Production FBI–RC–0000147 (Fax from Larry Wallace, to John Katopodis (Sept. 24, 1996)) (Exhibit 12); DOJ Document Production FBI–RC–0000200–01 (Fax from Larry Wallace, to John Katopodis (Oct. 1, 1996)) (Exhibit 13); DOJ Document Production FBI–RC–0000191 (Fax from Larry Wallace, to John Katopodis (Oct. 2, 1996)) (Exhibit 14); DOJ Document Production FBI–RC–0000162 (Fax from Larry Wallace, to John Katopodis (Oct. 9, 1996)) (Exhibit 15); DOJ Document Production FBI–RC–0000146 (Fax from Larry Wallace, to John Katopodis (Oct. 11, 1996)) (Exhibit 16); DOJ Document Production FBI–RC–0000169 (Fax from Larry Wallace, to John Katopodis (Oct. 12, 1996)) (Exhibit 17); DOJ Document Production FBI–RC–0000159 (Telephone message from Larry Wallace, to John Katopodis (Oct. 14, 1996)) (Exhibit 18); DOJ Document Production FBI–RC–0000168 (Fax from Larry Wallace, to John Katopodis (Oct. 15, 1996)) (Exhibit 19).

[51] DOJ Document Production FBI–RC–0000146 (Fax from Larry Wallace, to John Katopodis (Oct. 11, 1996)) (Exhibit 16).

[52] DOJ Document Production FBI–RC–0000200–01 (Fax from Larry Wallace, to John Katopodis (Oct. 1, 1996)) (Exhibit 13).

[53] *See* DOJ Document Production FBI–RC–0000162 (Fax from Larry Wallace, to John Katopodis (Oct. 9, 1996)) (Exhibit 15).

[54] *See* n.7 and accompanying text.

[55] *See* DOJ Document Production FBI–RC–0000020 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[56] Telephone Interview with John Katopodis (Sept. 5, 2001).

[57] *See* Letter from Mark F. Hampton, Partner, Hampton and Larkowski, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 18, 2001) (within Appendix I).

[58] *See* Telephone Interview with Larry Wallace (Aug. 27, 2001).

[59] DOJ Document Production FBI–RC–0000021 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[60] *See id.*; DOJ Document Production FBI–RC–0000012 (Summary of Interview with John Katopodis, May 21, 1997) (Exhibit 8).

[61] *Id.*

[62] *See* DOJ Document Production FBI–RC–0000021 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

night in the Lincoln Bedroom of the White House.[63] Katopodis declined the invitation.[64]

Katopodis wanted to define and formalize Clinton's responsibilities before signing a contract for his services.[65] Katopodis also wanted to ensure that Clinton's responsibilities passed ethical and legal standards of conduct and could not be construed as influence peddling.[66] In fact, Katopodis offered to hire Wallace, instead of Clinton, to avoid these concerns.[67] Wallace stated that he could not guarantee the Secretary's appearance and would not be acting as an attorney, but he did offer Clinton's access "thrown in as a bonus."[68] Katopodis rejected this proposal because he wanted to hire Wallace only in his capacity as an attorney.[69] In future conversations, Wallace returned the focus of contract discussions to finding Roger employment as the President directed.[70]

When Katopodis asked Wallace to place a figure on Roger Clinton's services, Wallace suggested that $30,000–$35,000 per month would be sufficient.[71] Katopodis asserted that the Council of Cooperating Governments could not possibly afford to pay Clinton such an inordinate amount.[72] Moreover, Katopodis was understandably suspicious of this proposal because he had never spoken with Roger Clinton[73] and was beginning to doubt whether Wallace was actually as "connected" to the Clinton Administration as he claimed.[74] These doubts were dispelled, however, when Roger Clinton personally telephoned Katopodis.[75] During the call, Clinton and Katopodis discussed the $35,000 per month contract.[76] In return for such a large fee, Clinton offered to "open a lot of doors" for the Council.[77] The President's brother gave Katopodis his pager number and his telephone and fax numbers in Farmer's Branch, Texas.[78] Clinton was aware of contract details that Wallace and Katopodis had discussed, which convinced Katopodis of Wallace's close relationship with Clinton.[79]

Following their introductory conversation, Katopodis and Clinton discussed a possible business relationship on several occasions.[80]

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[63] *See id.* Wallace extended this invitation before the Lincoln Bedroom scandal became public.
[64] *Id.*
[65] *See id.* at FBI–RC–0000022.
[66] *See* Telephone Interview with John Katopodis (Sept. 5, 2001).
[67] *See id.*
[68] *Id.*
[69] *Id.*
[70] *See* DOJ Document Production FBI–RC–0000022 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).
[71] *See id.*; Telephone Interview with John Katopodis (Sept. 5, 2001). In this interview, Katopodis stated that Wallace proposed a contract for Roger at $30,000 per month. *See id.* When the FBI interviewed Katopodis in May 1997, soon after these events occurred, he stated that Wallace proposed a contract for Roger at $35,000 per month. *See* DOJ Document Production FBI–RC–0000022 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).
[72] *See id.*
[73] *See* Telephone Interview with John Katopodis (Sept. 5, 2001).
[74] DOJ Document Production FBI–RC–0000022 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).
[75] *See id.*; Telephone Interview with John Katopodis (Sept. 5, 2001).
[76] DOJ Document Production FBI–RC–0000022 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).
[77] *See* Bob Johnson, *Former Birmingham Official Says FBI Probed Clinton's Half-Brother Over Job Query*, ASSOCIATED PRESS, Feb. 22, 2001.
[78] *See* DOJ Document Production FBI–RC–0000035 (Roger Clinton Contact Information) (Exhibit 20). Roger Clinton was likely visiting his wife's family who live in Farmer's Branch, Texas.
[79] *See* DOJ Document Production FBI–RC–0000022 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).
[80] *See id.* at FBI–RC–0000023.

Katopodis maintained that having the Secretary of Transportation as a guest speaker was not worth hiring Clinton for $35,000 per month.[81] As Katopodis later told *Newsweek*, the $35,000-per-month contract was "a pretty big consulting fee for someone who plays in a rock band."[82] Katopodis asked Clinton to create a list of tasks with a reasonable amount of money assigned to each task before the Council could make a financial commitment.[83] The potential conflict of interest between having the President's brother lobby the Secretary of Transportation for the Council concerned Katopodis.[84]

Another concern disturbing Katopodis was the relationship between Wallace and Clinton.[85] Clinton clarified Wallace's role by declaring that Wallace had no influence that did not "drive directly through me."[86] Clinton continued that he was tired of doing favors without being recognized or compensated.[87] Clinton then asked Katopodis to meet him in Redondo Beach, California, because Clinton wanted to avoid further discussions over the telephone.[88] The conversation concluded with Clinton saying that he and his brother had "only four years to get things done" and did not care about "ethics or what appearances were."[89]

A few minutes after this telephone call, Wallace contacted Katopodis and expressed frustration over the difficulty in formalizing a contract between Clinton and the Council.[90] Wallace reiterated his demand for a one-month's payment to Clinton and informed Katopodis that the airport project would remain at a standstill until Katopodis "showed him the money."[91] After Wallace's not-so-veiled threat to block Katopodis' efforts with Secretary of Transportation Rodney Slater, Katopodis made no progress on attracting the Secretary to the aviation seminar as Wallace promised.

While negotiating with Wallace and Clinton, Katopodis concurrently continued his individual efforts to have Secretary Slater speak at the seminar.[92] In a December 19, 1996, letter, Katopodis congratulated Slater on his selection as Secretary, explained the purpose of the symposium, and invited him to give the keynote ad-

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[81] *See id.*

[82] Michael Isikoff and Daniel Klaidman, *His Brother's Keeper*, NEWSWEEK, Feb. 26, 2001, at 33.

[83] DOJ Document Production FBI–RC–0000012 (Summary of Interview with John Katopodis, May 21, 1997) (Exhibit 8).

[84] *See* Telephone Interview with John Katopodis (Dec. 17, 2001).

[85] *See* DOJ Document Production FBI–RC–0000021 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[86] *See* DOJ Document Production FBI–RC–0000012 (Summary of Interview with John Katopodis, May 21, 1997) (Exhibit 8).

[87] DOJ Document Production FBI–RC–0000023 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[88] *See id.*

[89] *Id.* Katopodis recorded some of his telephone conversations with Roger Clinton once the situation became "stickier." Telephone Interview with John Katopodis (Sept. 5, 2001). Due to the passage of several years, Katopodis cannot locate these tapes and believes that they may have been turned over to the FBI. If the FBI has possession of these tapes, they should have been provided to the Committee based on the Committee's request to the FBI for "[a]ll records relating to any criminal investigation relating to the relationship between Roger Clinton, Arkansas lawyer Larry Wallace, and Birmingham, Alabama, businessman John Katopodis." Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to the Honorable John Ashcroft, Attorney General, Department of Justice (Mar. 14, 2001) (within Appendix I).

[90] *See* DOJ Document Production FBI–RC–0000012 (Summary of Interview with John Katopodis, May 21, 1997) (Exhibit 8).

[91] *See id.*

[92] *See id.* at FBI–RC–0000013.

dress.[93] The Secretary responded one month later to Katopodis' congratulatory wishes without mentioning the conference.[94] On February 24, 1997, Katopodis sent a fax to the Secretary's office reminding them of the invitation and requesting an answer.[95] Katopodis then called the Secretary's office several times to determine whether an answer was forthcoming.[96] The Secretary refused to give Katopodis an answer—not even a "no"—for nearly four months,[97] so he tried a different strategy by establishing a deadline for the Secretary's response in a letter dated April 11, 1997.[98] The deadline passed without a word from the Secretary.

Upon hearing that the Secretary was considering a separate speaking engagement in Birmingham, Katopodis faxed another letter on April 28, 1997, requesting to be included on the Secretary's schedule.[99] The Council again received no response. On May 7, 1997, Katopodis called Slater's scheduler, Vonnie Robinson, and expressed his suspicion that Clinton and Wallace had urged the Secretary's office not to respond while contract discussions were ongoing.[100] Robinson told Katopodis that this was not the case but did acknowledge knowing who Roger Clinton and Wallace were.[101] After speaking with Robinson, Katopodis received a brusque telephone call later that day from Catherine Grunden, Secretary Slater's Director of Scheduling and Advance.[102] Grunden immediately launched into a monologue stating that the Secretary's office disclaimed any connection with Roger Clinton or Larry Wallace.[103] If Katopodis still was not satisfied, Grunden advised him to turn over any allegations of wrongdoing to the proper authorities.[104] Katopodis indicated his understanding and hung up.[105] Following this unsolicited telephone call, Katopodis faxed Robinson a letter on May 8, 1997, in which he wrote:

> I can't begin to tell you how disgusted I am with this whole matter. If it is the normal policy of your office to not respond to written requests from established organizations, then perhaps I am wrong in my assumptions about

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[93] DOJ Document Production FBI–RC–0000076 (Letter from John Katopodis, to Rodney Slater, Federal Highway Administrator, Department of Transportation (Dec. 19, 1996)) (Exhibit 21).

[94] *See* DOJ Document Production FBI–RC–0000041 (Letter from Rodney Slater, Federal Highway Administrator, Department of Transportation, to John Katopodis (Jan. 22, 1997)) (Exhibit 22).

[95] DOJ Document Production FBI–RC–0000104 (Fax from John Katopodis, to Peg Weathers, Deputy Scheduler for Rodney Slater, Department of Transportation (Feb. 24, 1997)) (Exhibit 23).

[96] DOJ Document Production FBI–RC–0000089 (Letter from John Katopodis, to Eddie Carazo, Scheduling Assistant for Rodney Slater, Department of Transportation (Apr. 11, 1997)) (Exhibit 24).

[97] *See* DOJ Document Production FBI–RC–0000023 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[98] *See* DOJ Document Production FBI–RC–0000089 (Letter from John Katopodis, to Eddie Carazo, Scheduling Assistant for Rodney Slater, Department of Transportation (Apr. 11, 1997)) (Exhibit 24).

[99] *See* DOJ Document Production FBI–RC–0000090 (Letter from John Katopodis, to Vonnie Robinson, Scheduler for Rodney Slater, Department of Transportation (Apr. 28, 1997)) (Exhibit 25).

[100] *See* DOJ Document Production FBI–RC–0000023 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[101] *Id.*

[102] *See* DOJ Document Production FBI–RC–0000013 (Summary of Interview with John Katopodis, May 21, 1997) (Exhibit 8).

[103] *See* DOJ Document Production FBI–RC–0000023 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[104] *Id.* at FBI–RC–0000024.

[105] *Id.*

the lack of response being tied to an attempt at extortion.[106]

Grunden's was not the only odd telephone call Katopodis received while trying to schedule Secretary Slater's appearance. On April 16, 1997, Katopodis reached out to his local Congressman, Representative Earl Hilliard, to ask for his advice and assistance in solving this problem.[107] On May 14, 1997, less than one week after Katopodis' letter to Robinson, Congressman Hilliard's staff member cryptically told Katopodis that the Congressman had received a call "from the highest level" concerning this matter.[108] The staff member told Katopodis that he had "been bad again" and that he should stop incriminating Roger Clinton and Larry Wallace.[109] This conversation, in addition to Grunden's telephone call and the Secretary's absolute lack of response, reinforced Katopodis' conclusion that Clinton and Wallace were obstructing any progress on the airport project.

On May 16, 1997, the Federal Bureau of Investigation contacted Katopodis regarding this matter.[110] Agents from the FBI asked Katopodis to wear a wire in a meeting with Wallace or Clinton.[111] Katopodis declined to wear a wire because he had friends in both political parties and feared a political backlash if he fully pursued an investigation.[112] Nevertheless, Katopodis participated in one face-to-face meeting and two full telephone interviews with the FBI,[113] and provided FBI agents with all of his documents regarding Wallace and Clinton.[114]

Referring to the FBI's handling of this information as an "investigation" may be a misnomer. Notwithstanding the facts that Katopodis submitted to multiple interviews, possessed incriminating recordings of conversations with Roger Clinton, and provided hundreds of pages of documentation supporting his allegations, the Committee has been unable to obtain any evidence that the FBI ever interviewed Larry Wallace or Roger Clinton regarding this incident. Katopodis described the FBI as not "follow[ing] up with any sort of intensity." [115] Without aggressive pursuit by the FBI, the investigation effectively died.[116]

The airport project met a similar fate. Katopodis severed his ties with Clinton and Wallace in Spring 1997,[117] but he continued as

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[106] DOJ Document Production FBI–RC–0000088 (Letter from John Katopodis, to Vonnie Robinson, Scheduler for Secretary Rodney Slater, Department of Transportation (May 8, 1997)) (Exhibit 26).

[107] *See* DOJ Document Production FBI–RC–0000013 (Summary of Interview with John Katopodis, May 21, 1997) (Exhibit 8); DOJ Document Production FBI–RC–0000101 (Fax from John Katopodis, to Ken Mullinax, Staff Assistant, Office of the Honorable Earl Hilliard (Apr. 16, 1997)) (Exhibit 27).

[108] *See* DOJ Document Production FBI–RC–0000013 (Summary of Interview with John Katopodis, May 21, 1997) (Exhibit 8).

[109] *See id.*

[110] DOJ Document Production FBI–RC–0000020 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[111] Telephone Interview with John Katopodis (Dec. 17, 2001).

[112] DOJ Document Production FBI–RC–0000013 (Summary of Interview with John Katopodis, May 21, 1997) (Exhibit 8).

[113] *See id.* at FBI–RC–0000011–13; DOJ Document Production FBI–RC–0000020–24 (Summary of Interview with John Katopodis, May 16, 1997) (Exhibit 10).

[114] *See* Telephone Interview with John Katopodis (Dec. 17, 2001).

[115] *Id.*

[116] *See* Michael Isikoff and Daniel Klaidman, *His Brother's Keeper*, NEWSWEEK, Feb. 26, 2001, at 33.

[117] *See* Telephone Interview with John Katopodis (Dec. 17, 2001).

director for the Council of Cooperating Governments. Support for the airport and its promotional symposium lost all momentum because of the delay in receiving a response from the Secretary. In fact, the Secretary never responded to Katopodis' series of invitations or pleas for an answer. Larry Wallace and Roger Clinton apparently ensured that no answer would be forthcoming as long as Katopodis was unwilling to pay their price.

Roger Clinton's dealings with John Katopodis served as a harbinger of things to come in 1998–2001. Clinton would use his status as the President's brother to obtain even larger payments, lobbying for parole and pardons of convicted criminals, including a member of the Gambino crime family. Moreover, Roger Clinton's lobbying efforts in these other areas would show no more subtlety than did his crude dealings with Katopodis.

II. THE GAMBINO PAROLE AND PARDON EFFORTS

While Roger Clinton lobbied for executive clemency for a number of unsavory and undeserving individuals, none was as unsavory as Rosario Gambino. Gambino was a major organized crime figure serving a 45-year prison sentence for heroin trafficking. It is difficult to believe that anyone, much less the brother of the President, would lobby for parole or clemency for an individual like Gambino. Indeed, Roger Clinton's involvement in this matter can be explained only by the fact that he received $50,000 from the Gambinos and was promised even more money.

A. Rosario Gambino's Involvement with Organized Crime

At 20 years of age in 1962, Rosario "Sal" Gambino was arrested on immigration charges and deported to Italy.[118] At some point, however, this son of a Sicilian butcher[119] returned to the United States and, between the ages of 27 and 38, was arrested three times on charges ranging from possession of a dangerous weapon to assault and extortion.[120] Then in 1980, he was arrested for conspiracy to import heroin after police in Milan, Italy, confiscated 91 pounds of heroin valued at $60 million destined for the United States.[121] Although acquitted in the United States, Gambino was tried *in absentia* (with representation by counsel) in Italy, convicted, and sentenced to 20 years in prison.[122]

Without being extradited to serve any time in Italy, Gambino was arrested yet again in the United States in March 1984 and was convicted of conspiracy to distribute heroin, use of a communication facility to distribute heroin, and possession with intent to distribute heroin.[123] Following his conviction in October 1984, Gambino was sentenced to 45 years in prison, which he has been serving since December 6, 1984.[124] Throughout his incarceration, Gambino has failed to take responsibility for his crimes, has main-

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[118] USPC Document Production 00067 (Pre-sentence Report, *U.S. v. Gambino* (D.N.J. Nov. 20, 1984)) (Exhibit 28).
[119] Roger Clinton Document Production RCC0096 (Hearing Transcript, USPC) (Exhibit 29).
[120] USPC Document Production 00067 (Pre-sentence Report, *U.S. v. Gambino* (D.N.J. Nov. 20, 1984)) (Exhibit 28).
[121] *Id.*
[122] *Id.* at 00068.
[123] *Id.* at 00038.
[124] USPC Document Production 00075 (Progress Report, Federal Bureau of Prisons, Jan. 4, 2001) (Exhibit 30).

tained his innocence, and has vigorously pursued every possible avenue of appeal including arguments that he was entrapped, that he was denied his Sixth Amendment right to effective assistance of counsel, and that he was the victim of racial discrimination. Yet, his conviction, sentence, and denials of parole have withstood every legal challenge.

In January 1984, two of Gambino's relatives and co-conspirators, Anthony Spatola and Antonio Gambino, were seeking to sell heroin. Unknown to them, the prospective buyer was an undercover FBI agent. In intercepted phone conversations, Anthony Spatola and Antonio Gambino discussed Rosario Gambino and the heroin deal in code.[125] They referred to the heroin as a "car" and to Rosario as the "short guy."[126] The intercepts made it plain that Rosario Gambino was in a leadership role in the conspiracy. The first transaction was completed in a room at Caesar's Boardwalk Regency Hotel in Atlantic City.[127] A call was placed from the room to Rosario Gambino's residence and immediately after leaving the hotel, the co-conspirators drove to his residence to pay him his proceeds from the deal.[128] The undercover agent continued to communicate with Antonio Gambino in an attempt to negotiate a second transaction.[129] The FBI intercepted several additional phone calls related to a second sale of heroin to the undercover agent and involving Rosario Gambino or referring to him in code, such as "Saruzzo" and "the short one."[130] The undercover agent eventually completed a second purchase of a half-kilogram of heroin for $120,000.[131] When Rosario Gambino was arrested in March 1984, a search of his master bedroom uncovered two of the $100 bills the agent had used to purchase the heroin.[132]

Throughout his attempts to obtain parole, Rosario Gambino has claimed that authorities treated him unfairly merely because of his infamous name. In his initial parole hearing, Gambino denied his guilt and implied that he was a victim of either mistaken identity or prejudice:

> HEARING OFFICER. Now, what the government writes is that you were involved in a large-scale heroin distribution ring. You've told me that you didn't have anything to do with this whatsoever. What do you think caused the jury to believe that you were involved with the other guys. What do you think would cause the jury to convict you?
>
> GAMBINO. Because number one is my name. Because see, they [built] this name like [a] big building[.] I'm not, I'm not the name they're looking for.
>
> HEARING OFFICER. Who they [sic] looking for?
>
> GAMBINO. I don't know. They looking [sic] for some big name.[133]

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[125] *U.S. v. Gambino*, 788 F.2d 938, 942 (1986).
[126] *Id.*
[127] *Id.*
[128] *Id.*
[129] *Id.*
[130] *Id.*
[131] *Id.*
[132] *Id.*
[133] Roger Clinton Document Production RCC0057–58 (Hearing Transcript, USPC) (Exhibit 31).

Prosecutors have maintained that Rosario Gambino is a relative of the 1950s-era "boss of bosses," Carlo Gambino, the man for whom the Gambino crime family is named. Reports by special organized crime task forces in two states, Pennsylvania and New Jersey, linked Rosario Gambino to the Gambino crime family,[134] and regulators banned him from Atlantic City casinos.[135]

Rosario Gambino's representatives, however, have argued that he is not related to members of the Gambino crime family and that claims to the contrary were unsubstantiated. However, the transcript of one of Rosario Gambino's parole hearings seems to indicate that Rosario Gambino himself believes his grandfather may have been related to the 1950s mob boss:

> HEARING OFFICER. Is there any family connection between those people—between he and Carlo Gambino?
>
> LAWYER. There is none.
>
> HEARING OFFICER. I just want it for the record.
>
> LAWYER. The report tries to make an unsubstantiated allegation of some tie on Mr. Gambino's part to—
>
> GAMBINO. Excuse me, there was a my grandfather, grandfather relative—I don't know. Maybe, I don't know.[136]

Regardless of whether or how closely Gambino is related to the notorious family whose name he shares, members of his immediate family have admitted to being involved in organized criminal activity. Rosario's brothers, Giovanni "John" Gambino and Giuseppe "Joe" Gambino pled guilty in January 1994 to charges of racketeering, murder, illegal gambling, loan sharking, and heroin trafficking.[137] Witnesses had testified in court that John and Joe Gambino were the "main link between Mafia heroin traffickers in Sicily and the American Mafia."[138] The media also described John Gambino as a "capo" in John Gotti's organization, the Gambino crime family.[139]

Not only were Rosario Gambino's brothers known associates of Gambino crime family members, but Rosario himself was as well. He was a close friend with Philadelphia mob boss Angelo Bruno, and police surveillance revealed that Bruno often met New York underboss Paul Castellano at the Valentino's supper club,[140] which

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[134] PENNSYLVANIA CRIME COMMISSION, A DECADE OF ORGANIZED CRIME 70–72 (1980), NEW JERSEY STATE COMMISSION OF INVESTIGATION, TWELFTH ANNUAL REPORT 15 (1980).

[135] Division of Gaming Enforcement, New Jersey Department of Law and Public Safety, "Exclusion List," <http://www.state.nj.us/lps/ge/exclude2.htm> (exclusion ordered Oct. 30, 1987).

[136] Roger Clinton Document Production RCC0092 (Hearing Transcript, USPC) (Exhibit 29). At another hearing, Gambino made separate statement, which could be construed as a denial of a relationship to Carlo Gambino:

> HEARING OFFICER. Let's put the cards on the table.
> GAMBINO. Go ahead.
> HEARING OFFICER. Carlo Gambino. What relationship are you to Carlo Gambino?
> GAMBINO. No relationship. No because I refuse him to be my cousin or something like that.

Roger Clinton Document Production RCC0057–58 (Hearing Transcript, USPC) (Exhibit 31).

[137] Selwyn Raab, *Two Admit Importing Heroin for Mafia Crime Family*, N.Y. TIMES, Jan. 7, 1994.

[138] *Id.*

[139] *Id.*

[140] Jim Barry, *Roger and Me: Rosario Gambino, Beneficiary of Roger Clinton's Lobbying Largesse, has Local Roots*, PHILADELPHIA CITY PAPER, Sept. 6–13, 2001.

was owned by Rosario Gambino.[141] Castellano later became boss of the Gambino crime family, until John Gotti had him assassinated and became boss in December 1985.[142]

In addition to his ties to the U.S. Mafia, Rosario Gambino is also alleged to be an associate of well-known members of the Sicilian Mafia:

> When Tommaso Buscetta, a Sicilian Mafia boss from Palermo, needed to hide his ex-wife and daughter in America, Rosario Gambino took the women in. A few years later, Buscetta fled a violent mob war in Sicily and settled in Brooklyn, where he often hung out with the Gambino brothers as well as Carlo Gambino.[143]

A letter to the Parole Commission advocating Gambino's release also confirms Rosario Gambino's association with Buscetta. The letter refers to statements by Buscetta that he knew Gambino and his brothers but claimed that they were not a part of organized crime.[144] Parole Commission documents and news reports also refer to Rosario Gambino's role in the phony kidnapping of Michele Sindona, an international banker and money launderer for the Sicilian Mafia.[145] After being indicted in both the U.S. and Italy in 1979 for bank fraud involving more than $400 million,[146] Sindona disappeared and friends claimed he had been kidnapped.[147] During the sham kidnapping, Sindona flew to Sicily accompanied by Rosario Gambino's brother, Giovanni, and when he returned to the U.S., Rosario Gambino met him at JFK airport.[148] Giovanni Gambino and Michele Sindona were arrested in Italy for aggravated extortion in connection with this incident.[149]

Moreover, a 1995 report issued by the New Jersey State Commission of Investigation refers to evidence that Rosario Gambino was not merely a relative and associate of members of the Mafia. The report details the testimony of Philip Leonetti, whom it describes as "a former, high-ranking La Cosa Nostra member" and the "underboss and confidant to his uncle Nicodemo Scarfo, the boss of the Southeastern Pennsylvania-South Jersey Family of La Cosa Nostra, commonly referred to as the Scarfo Family."[150] The report also makes a distinction between being a member of La Cosa Nostra (the American Mafia) and being a member of the Sicilian Mafia:

> Leonetti learned from Scarfo that John Gambino was a La Cosa Nostra member in the Gambino Family. Gambino and Leonetti were later introduced to each other as "amico

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[141] USPC Document Production 00499 (Pre-hearing Assessment, Feb. 3, 1994) (Exhibit 32).

[142] Jim Barry, *Roger and Me: Rosario Gambino, Beneficiary of Roger Clinton's Lobbying Largesse, Has Local Roots*, PHILADELPHIA CITY PAPER, Sept. 6–13, 2001.

[143] *Id.*

[144] USPC Document Production 00758 (Letter from Edward S. Panzer, to Hearing Examiner (Sept. 25, 1995)) (Exhibit 33).

[145] Jim Barry, *Roger and Me: Rosario Gambino, Beneficiary of Roger Clinton's Lobbying Largesse, Has Local Roots*, PHILADELPHIA CITY PAPER, Sept. 6–13, 2001.

[146] USPC Document Production 00925 (Memorandum from Thomas C. Kowalski, Case Operations Manager, to Marie Ragghianti, Chief of Staff (Dec. 30. 1997)) (Exhibit 34).

[147] Jim Barry, *Roger and Me: Rosario Gambino, Beneficiary of Roger Clinton's Lobbying Largesse, Has Local Roots*, PHILADELPHIA CITY PAPER, Sept. 6–13, 2001.

[148] *Id.*

[149] *Spatola v. United States*, 741 F. Supp. 362, 377 (E.D.N.Y. 1990).

[150] NEW JERSEY STATE COMMISSION OF INVESTIGATION, ORGANIZED CRIME IN BARS, PART II 1 (1995).

> nostra" by Nicholas "Nick" Russo at a sit-down at an Atlantic City restaurant in approximately 1983. Russo was a member of the Gambino Family who lived in the Trenton, N.J., area. The words "amico nostra" mean "friend of ours." If a La Cosa Nostra member introduces two people as "amico nostra," it lets each know that the other is a La Cosa Nostra member. The words are only used when introducing La Cosa Nostra members to each other. [Rosario "Sal"] Gambino [however,] was a member of the Sicilian Mafia.
>
> Scarfo told Leonetti that sometime in the 1970s, he was introduced to Sal Gambino as "amico nostra" by [Philadelphia crime boss] Angelo Bruno. Because of the way that Bruno introduced Sal Gambino to Scarfo, Scarfo and Leonetti always thought that he was a member of La Cosa Nostra. It wasn't until January or February of 1986, when Scarfo and Leonetti first met John Gotti after he became the boss of the Gambino Family, that they found out that Sal Gambino wasn't a member of La Cosa Nostra. Gotti informed Scarfo and Leonetti that Gambino was a member of the Sicilian Mafia, not La Cosa Nostra.[151]

Italian authorities also allege that Rosario Gambino and his brothers were members of the Sicilian Mafia, so-called "men of honor," at the time he entered the United States.[152] Given all these circumstances, prosecutors' allegations against Gambino seem well founded. Rosario Gambino appears to be more than merely associated with mobsters; the evidence suggests that he is himself a "made man." As one New Jersey investigator put it, "[t]o call Rosario Gambino a mob associate is like saying John Gotti was just a street corner thug. Rosario and his brothers were some of the most important Sicilian Mafiosi to ever operate in this country." [153]

B. The U.S. Parole Commission's Handling of Rosario Gambino's Case

At Rosario Gambino's initial parole hearing in February 1995, the hearing officer recommended a release date of July 15, 1996.[154] As Hearing Examiner Harry Dwyer explained at the time, however, this was merely a recommendation subject to review by the U.S. Parole Commission:

> I'm going to take it to 148 months, recommend that you get a date of July 15[.] You've been in custody since March 16 of '84. Twelve years and four months, 148 months, that would be—July 15. I'm going to tell you, I do not believe

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[151] *Id.*

[152] Jim Barry, *Roger and Me: Rosario Gambino, Beneficiary of Roger Clinton's Lobbying Largesse, Has Local Roots*, PHILADELPHIA CITY PAPER, Sept. 6–13, 2001. Moreover, the body of an execution-style murder victim was found in the trunk of a car belonging to Erasmo Gambino, a cousin, co-conspirator, and fellow leader with Rosario Gambino in the heroin distribution ring that led to his incarceration. The body was that of Pietro Inzerillo, Gambino's cousin and partner in his pizzeria business. While Erasmo Gambino was never implicated in the murder and a court found that it could not be considered as a factor in denying Erasmo's parole request, it is nevertheless worth noting as an example of the kind of activity surrounding Rosario Gambino and his associates. *See Gambino v. Morris*, 134 F.3d 156, 162 (1998).

[153] Jim Barry, *Roger and Me: Rosario Gambino, Beneficiary of Roger Clinton's Lobbying Largesse, Has Local Roots*, PHILADELPHIA CITY PAPER, Sept. 6–13, 2001.

[154] USPC Document Production 00486 (Initial Hearing Summary, Feb. 16, 1995) (Exhibit 35).

> it's going to come back any less than that. It could come back more. They could disagree with me and push you way down the road. So don't pack your bags.[155]

Although Dwyer set a presumptive parole date, he noted that Gambino had not taken full responsibility for his crimes:

> After careful consideration of subject's statements and information contained in the pre-sentence report this examiner believes that there is more credible evidence that subject did in fact engage in the activities as described in the pre-sentence report and that subject's statements [of denial] are self-serving. Thus, this examiner has concluded by the preponderance of evidence that subject did in fact engage in a Category eight offense behavior regarding the extremely large scale heroin distribution.[156]

No other examiner or commissioner ever concurred with Dwyer's initial recommendation of a July 1996 release date, and even Dwyer himself later repudiated it.[157]

After Acting Regional Commissioner Jasper Clay reviewed the decision in March 1995, he referred it to the National Commissioners for original jurisdiction consideration and voted to require that Gambino serve out his entire sentence. Clay's decision memorandum cited as factors in his decision both Gambino's connections to organized crime and the leadership role he played in the heroin conspiracy that landed him in jail:

> Although he was not convicted of racketeering or continuing criminal enterprise, the New Jersey and Pennsylvania crime commission reports indicate that Mr. Gambino is a soldier and descendant in the Organized Crime Family of the late mob boss, Carlo Gambino. The PSI further indicates that he, along with his brother, Giuseppe, owned and operated pizza parlors in New York, Pennsylvania and Southern New Jersey to facilitate a continuing criminal enterprise[.]
>
> The current conviction surrounds Mr. Gambino's heroin distribution activities between October 1983 and March 1984. The PSI indicates that our subject was the most culpable, holding a high managerial role in this scheme which centered around six individuals, all of whom were related. Mr. Gambino had the authority to determine who would be actively involved in the heroin negotiations and transactions and how the profits would be divided among the participants.
>
> Specifically, he was involved in the arrangements to deliver ½ kilogram of heroin to undercover agents on two occasions. Also, 3 kilograms and later 2 kilograms of heroin were made available during negotiations and subject and

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[155] Roger Clinton Document Production RCC0068 (Hearing Transcript, USPC) (Exhibit 31).
[156] USPC Document Production 00486 (Initial Hearing Summary, Feb. 16, 1995) (Exhibit 35).
[157] USPC Document Production 00551 (Original Jurisdiction Appeal Summary) (Exhibit 36).

> his co-conspirators offered guarantees to supply 10 kilograms of heroin per month to the agents.[158]

In April 1995, the full Commission agreed with Clay and rejected Dwyer's initial recommendation, voting to continue Gambino's case until a 15-year reconsideration hearing in March 2010.[159] Gambino appealed the decision, arguing the Commission did not have enough evidence of his reputed membership in organized crime to legitimately consider it as a factor in denying his parole. Ultimately, the Commission based its final decision on Gambino's actual conduct rather than on his associations.

It is not necessary for one to be a member of the specific group known as La Cosa Nostra or the Sicilian Mafia to be an organized crime figure of the type for whom early release would be inappropriate. Rather, it is enough that one demonstrate certain characteristics of a lifetime, career criminal who has the inclination and capacity to run a large-scale criminal enterprise upon release. Apart from his relatives, associations, and Sicilian Mafia membership, Rosario Gambino has himself engaged in behavior that invites scrutiny from those charged with combating organized crime—behavior that led to his conviction and incarceration. In denying his parole, officials at the U.S. Parole Commission relied on Gambino's own activities and leadership in the heroin trafficking scheme for which he was convicted, noting that he exhibited the characteristics of an organized crime boss:

> It would appear that Rosario Gambino certainly has more extensive ties to organized criminals than his own circle of codefendants, but his status as a member of "organized crime" is not sufficiently clear to support a finding by the Parole Commission. . . . [However,] the Commission was persuaded that Rosario Gambino was, within his own circle, a traditional organized crime boss who operated through a reputation for violence, through evident corruption of local police, and through subordinates with close family ties of loyalty. . . . Gambino certainly has the background and behavioral characteristics of the career organized criminal, and it is reasonable to suppose that he knows no other way to succeed in life than through his "family business." His connections within the world of organized crime would probably still be extensive upon release, and Gambino shows nothing in his makeup that would distinguish him from the familiar type of Mafioso who is not deterred even by long imprisonment from continuing the only career he knows. In particular, as long as Gambino continues to file appeals in which he denies his leadership role, and portrays himself as a simple first offender, it will be difficult for the Commission to find any basis for deciding that Gambino has the capacity to shake

[158] USPC Document Production 00490 (Memorandum from Jasper R. Clay, Acting Regional Commissioner, to National Commissioners (Mar. 13, 1995)) (Exhibit 37).
[159] USPC Document Production 00480 (Continuation Order) (Exhibit 38).

> off his past, and discover a law-abiding way to make living.[160]

There is no shortage of evidence to support the assertion that Gambino exhibited the characteristics of an organized crime boss by operating through a reputation for violence and corruption of local police. When he was arrested, Gambino was in possession of police surveillance documents relating to his own case, which the Commission considered to be significant circumstantial evidence that Gambino had a "a sophisticated ability to penetrate police operations."[161] Furthermore, an investigation by the Bureau of Alcohol Tobacco and Firearms in 1980 produced evidence implicating Rosario Gambino in two arsons:

> [The arsons] appear related to efforts by Rosario and his brother, Guiseppe Gambino, to take over a pizza franchise in Cherry Hill, New Jersey. Rosario and his brother were observed at the scene of a pizza restaurant following the arson and shortly thereafter, the manager received a call and [was] told to close the store and return to New York. Two days later, the manager's automobile was destroyed by a firebomb. Two days later, the manager received a telephone call and [was] threatened with death.[162]

The Commission also relied on evidence that his subordinate co-conspirators deliberately promoted Rosario Gambino's reputation for violence to undercover police agents during the commission of the crimes for which he was convicted.[163]

Although Rosario Gambino's lawyers argued in court that denial of his parole was motivated by prejudice based on his national origin, that claim was rejected by the United States Court of Appeals for the Ninth Circuit. The statement that allegedly indicated the bias was, "Gambino appears to come from an immigrant background in which family connections are simply exploited (as in the current offense) to get around the law."[164] However, the court ruled that, "[Gambino's] contention is devoid of merit. . . . The reference to Gambino's 'immigrant background' in a Commission memorandum is insufficient to establish a due process violation. In sum, the Commission's final decision was not tainted by ethnic bias."[165] The court also rejected Gambino's argument that his due process rights were violated when his offense severity rating was set higher than that of his co-defendants:

> Differences between Gambino's offense severity rating and his codefendants' were justifiable in light of their differing roles in the heroin distribution conspiracy. Holding Gambino accountable for an amount of heroin greater than what was actually sold to government agents was sup-

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[160] USPC Document Production 00702–03 (Original Jurisdiction Appeal Summary) (Exhibit 39).
[161] *Id.* at 00701–02.
[162] USPC Document Production 00887 (Memorandum from Thomas C. Kowalski, Case Operations Manager, to Marie Ragghianti, Chief of Staff (Dec. 30, 1997)) (Exhibit 40).
[163] USPC Document Production 00702 (Original Jurisdiction Appeal Summary) (Exhibit 39)).
[164] *Id.*
[165] *Gambino v. United States Parole Comm'n*, 216 F.3d 1083 (9th Cir. 2000).

ported by evidence establishing his ability and willingness to provide greater amounts.[166]

Despite Gambino's claims to be a victim of prejudice because of his last name, the evidence is clear that he was indeed involved in organized criminal activity, and it is certainly reasonable to conclude that he was at least an associate, if not an outright member, of the Mafia. All of which made the denial of his request for early release the only conscientious, responsible course of action the U.S. Parole Commission could have taken.

C. Roger Clinton's Involvement in the Gambino Parole Effort

Tommaso "Tommy" Gambino is the 27-year old son of Rosario Gambino and a personal friend of Roger Clinton.[167] That the President's brother lobbied for the release of Rosario Gambino is troubling enough, but that he came to do so through a personal relationship with Tommy Gambino is positively alarming. According to Los Angeles law enforcement and press accounts, Tommy Gambino is not only the son of a mobster, he is a reputed underboss in the Los Angeles Mafia currently under investigation for his own criminal activity.[168] While Tommy Gambino purportedly runs a company called Progressive Telecom that places pay phones in bars, restaurants, and other businesses, his standard of living appears to be well beyond his visible means of support.[169] Like his father, Tommy Gambino associates closely with known mobsters; his partner in the pay phone business is Dominick "Donnie Shacks" Montemarano.[170] Montemarano was convicted in 1987 on racketeering, bribery, and extortion charges.[171] The indictment described Montemarano as a captain in "the Colombo organized-crime family of La Cosa Nostra."[172] He served 11 years of an 18-year sentence for his role in the scheme to obtain cash payments from New York City concrete companies in exchange for major construction projects.[173] In addition to Tommy Gambino's business partnership with a known mobster, law enforcement also suspected that

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[166] *Id*.

[167] Tommy Gambino, a resident of Los Angeles, should not be confused with the legendary Carlo Gambino's son, Thomas, a 72 year-old resident of New York. Through his lawyer, Michael Rosen, Thomas Gambino was quick to make this clear in the days following the public revelations of Roger Clinton's efforts on behalf of Tommy and Rosario. Rosen said, "my client had nothing to do with the low-rent, trailer-park trash politicians who infested our country for the past eight years." Al Guart, *Wiseguy Fires at "Trashy" Clintons*, N.Y. POST, July 1, 2001.

[168] Telephone Interview with [name redacted], Detective, Los Angeles Police Department (June 28, 2001) (identity withheld due to the sensitive nature of the detective's work). Tommy Gambino "is considered by Southern California organized crime investigators to be a rising star in the Los Angeles underworld." John L. Smith, LAS VEGAS REVIEW JOURNAL, June 29, 2001. "[T]he police and FBI . . . suspect young Gambino is a rising underboss in the Los Angeles La Cosa Nostra scene." John L. Smith, *Pardons Scandal Could Mean Congressional Heat for Gambino*, LAS VEGAS REVIEW JOURNAL, July 5, 2001. *See also* John L. Smith, *Will the Last Guy Left in L.A. Mob Please Turn Out the Lights?* LAS VEGAS REVIEW JOURNAL, Nov. 16, 1997 (indicating that Tommy Gambino was "sent West by father Rosario Gambino").

[169] Telephone Interview with [name redacted], Detective, Los Angeles Police Department (June 28, 2001).

[170] *Id*.

[171] Arnold H. Lubasch, *2 Convicted of Racketeering in Mafia Construction Case*, N.Y. TIMES, July 18, 1987.

[172] *Id*.

[173] Alan Abrahamson, *UCLA is Cleared after FBI Probe*, L.A. TIMES, Mar. 12, 1999. Following his release, Montemarano was the subject of an FBI investigation of point shaving by UCLA football players. *Id*.

he was involved in the distribution of the drug Ecstasy.[174] In October 2001, the investigation of a lab capable of producing up to 1.5 million tablets of Ecstasy per month was linked to Tommy Gambino:

> Federal agents raided the lab Oct. 17 in an industrial park. During the yearlong investigation, authorities say they taped phone conversations between Derek Galanis [one of the defendants accused of building the lab] and Tommy Gambino**,** the son of a convicted drug trafficker. Federal authorities contend his father, Rosario Gambino, is an associate of the New York-based Gambino crime family.[175]

While Tommy Gambino was not among the 24 defendants charged, prosecutors said that "members of the drug ring were attempting to seek financing for the Ecstasy lab from the Gambino family."[176]

All these circumstances make Tommy Gambino's friendship with the brother of the President of the United States unseemly, to say the least. That friendship began when the manager for 70s pop star Gino Vanelli introduced Roger Clinton to Tommy Gambino sometime in the mid-1990s at a club in Beverly Hills.[177] The purpose of the introduction was so that Tommy could request Roger's help in obtaining his father's release from prison.[178] When FBI agents interviewed him regarding the Gambino case, Roger described how he was introduced to the matter:

> The two most common questions he gets asked regularly are, "What is it like to be the President's brother? and Can you help me get someone out of jail?" Clinton stated after talking to Tommy Gambino he knew the reason for the introduction was to see if he could help Tommy Gambino get his father released from prison.[179]

Despite the fact that Clinton was accustomed to requests to help get convicts out of prison, he became particularly enamored with the Gambino family. Clinton described to the FBI why he enthusiastically joined in the effort to secure Rosario Gambino's release:

> Clinton advised that after he began to spend time with Tommy Gambino, he learned about the family and the efforts that they have made to get Tommy's father, Rosario, released from prison. They have hired very qualified attorneys and been through the appeal process. Clinton stated that he identified with Tommy Gambino on a number of levels and because of this, he became passionate about trying to help him get his father released.
>
> Clinton stated that since Rosario Gambino has been in prison, Tommy has had to grow up without a father. Clin-

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[174] Telephone Interview with [name redacted], Detective, Los Angeles Police Department (June 28, 2001).

[175] Marisa Taylor, *Feds Link Ecstasy Case, Organized Crime; Escondido Wiretapping also Points to Trafficking in Kosovo*, SAN DIEGO UNION-TRIBUNE, Oct. 25, 2001.

[176] *Id.*

[177] DOJ Document Production FBI–RC–00001 (Summary of Interview with Roger Clinton, Oct. 1, 1999) (Exhibit 1).

[178] *Id.*

[179] *Id.*

> ton advised that he, too, had grown up without a father, and sympathized with that position. Tommy Gambino has a close knit Italian family. Clinton stated that when he grew up in Arkansas he and his brother grew up close to an unnamed tight knit Italian family. He further stated that he has is [sic] own prison experience which has given him an insight to the prison system. Through his experience of being incarcerated, he claimed to have learned that things are not always as they appear or as they are reported.
>
> Clinton advised that Tommy Gambino provided him with all the case files related to his father's case. He has spent hours reviewing all the files. Clinton stated that after his full review of the case, he does not believe that Rosario Gambino is being treated fairly. Rosario Gambino has served three years longer than the maximum guidelines for his offenses. He has been given release dates on two occasions and they have both been denied. The same person, whose name he declined to provide, has denied the release, and provided different reasons each time. Clinton further advised that he believes Tommy Gambino's father may be treated differently than other people strictly because of this name. Clinton advised that he too has experienced that problem. He stated that the name can be both a positive or negative depending on the circumstances.[180]

When the Committee subpoenaed Clinton for all of his materials relating to Gambino, he provided approximately 130 pages of documents, many of which were apparently provided to him by Tommy Gambino. Most of these documents were transcripts and forms related to Rosario Gambino's parole.

After he conducted his "full review" of the Gambino case files, Roger Clinton decided to assist Gambino with his effort to obtain parole. Clinton described his decision to help Gambino to the FBI when they interviewed him in September 1999:

> He [Clinton] told Tommy Gambino that he would not agree to help the family unless they provided him with all the information related to the case. Clinton told Tommy Gambino that he did not want any information withheld that might effect his decision to help the family. Gambino told Clinton if there is any information withheld from you, it was also being withheld from him (Tommy Gambino). Clinton stated he really felt for the family and grew passionate about trying to help them. He further advised that he told Tommy Gambino that by his providing assistance and making contact with the U.S. Parole Commission to seek assistance with this case, it could actually work against him. Clinton stated his name will not necessarily be an advantage when it comes to fighting this matter. Gambino was willing to take the risk and have Clinton attempt to help.[181]

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[180] *Id.* at FBI–RC–00002.
[181] *Id.*

Given the assurances by Tommy Gambino to Roger Clinton—and by Clinton to the FBI—that Clinton had been provided with all of the relevant background information about Rosario Gambino, it is fair to conclude that Clinton was aware of the extent and seriousness of Rosario Gambino's criminal activity and mob ties, including: (1) Rosario Gambino's conviction for dealing heroin; (2) his Italian conviction for conspiracy to distribute $60 million of heroin; (3) his role in extortion and arson in southern New Jersey; and (4) his involvement in a phony kidnapping to keep a Mafia money launderer from U.S. authorities.[182] Despite his knowledge of some or all of these issues, Roger Clinton decided that he should lend his support to getting Rosario Gambino out of prison.

By Roger Clinton's own admission, he was frequently asked to help get people out of prison. Accordingly, it should be asked why he would decide to assist someone who was a member of organized crime, whose involvement in large-scale heroin dealing was beyond dispute, and who was reputed to be involved in a series of serious and violent crimes? If his motives were pure, then surely Roger could have chosen a more deserving case to champion from among all those who approached him for help. Despite Roger Clinton's efforts to convince the FBI that he assisted Gambino because he believed in the merits of his cause, and because he had known a close-knit Italian family growing up in Arkansas, the primary motivation for Roger Clinton was clearly money. Clinton confirmed this fact during his FBI interview:

> Clinton was asked if he was ever given anything of value for his assistance in this matter. He advised he had not received anything for this assistance. Clinton stated that Tommy Gambino said if he (Clinton) could help get his father out of prison, "we will take care of you." Clinton said that he knows what that means. He stated "I'm not stupid, I understand what the big picture is." He again stated that no specific compensation was discussed if he were to be successful in obtaining Rosario Gambino's release. Clinton advised it was his understanding if he were successful, he would be financially compensated. Clinton is not sure however, if he will be able to help Tommy Gambino and his family.[183]

Clinton admitted that the "big picture" included the expectation that the Gambinos would pay him for his work. What he did not admit, however, was that the Gambinos actually did pay him significant amounts of money. As discussed below, Tommy Gambino paid at least $50,000 to Roger Clinton during the time that Clinton was trying to obtain parole or executive clemency for Rosario Gambino. Clinton was also provided with an unspecified amount of "expense money," as well as a gold Rolex, while he was working on the Gambino matter. This payment, and the promise of additional payments, likely had a great deal to do with Roger Clinton's willingness to disregard the clear evidence that Rosario Gambino was a career criminal and use his influence with the Clinton Adminis-

[182] *See* n.145 and accompanying text.

[183] DOJ Document Production FBI–RC–00004 (Summary of Interview with Roger Clinton, Oct. 1, 1999) (Exhibit 1).

tration to help get Gambino out of prison. Once Roger Clinton decided to help Gambino, the real question was whether his status as the President's brother would help convince the Parole Commission to release Gambino or whether the Parole Commission would resent Clinton's attempts to lobby them. In fact, some members and staff on the Parole Commission attempted to assist Clinton, while others resisted his attempts to win the release of a major criminal.

1. Clinton's Contacts with the Parole Commission

a. Clinton's Initial Approach to the Parole Commission

Roger Clinton's lobbying on behalf of Rosario Gambino began in earnest in January 1996. He first contacted the U.S. Parole Commission's regional office in Kansas City, which had been the source of the recommendation to deny early release.[184] Apparently, Clinton spoke with Parole Commissioner Carol P. Getty and voiced his support for the parole of Rosario Gambino. Clinton also apparently told Getty that he planned on visiting her office in Kansas City on January 17 or 18, 1996, and asked if he could meet with her or her staff, and Getty agreed to a meeting between Clinton and her staff.[185] During this conversation, Clinton also mentioned that he was aware that the Kansas City Regional Office of the Parole Commission, of which Getty was the head, was scheduled to be closed.[186] Getty was concerned that Roger Clinton had this information, as it apparently made it appear that Roger Clinton was aware of some of the inner workings of the Parole Commission.[187]

After Clinton had spoken to Getty, on January 16, 1996, Getty called Parole Commission headquarters in Maryland and spoke to Commissioner Michael J. Gaines regarding the Clinton call.[188] Getty related to Gaines the fact that Clinton had called about the Gambino case. Getty told Gaines that she had scheduled a meeting between Clinton and her staff to discuss the case. Getty also told Gaines that she was concerned that Clinton was aware of the planned closure of her regional Kansas City Parole Commission office and asked Gaines if he had spoken to Clinton about the closure.[189] Gaines said he had not, to his knowledge, ever spoken with Roger Clinton.[190]

Following his conversation with Getty, Gaines notified the White House Counsel's Office of Roger Clinton's attempt to contact a Commission member about a pending case.[191] The Commission's General Counsel, Michael A. Stover said that he had suggested to Gaines that he call the White House to "warn them about Roger Clinton."[192] When interviewed by Committee staff, Gaines said his decision to contact the White House was "a spur of the moment de-

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[184] USPC Document Production 00898 (Memorandum from Michael J. Gaines, Commissioner, to Sharon Gervasoni, Designated Agency Ethics Officer (Jan. 30, 1996)) (Exhibit 41).
[185] *Id.*
[186] *Id.*
[187] *Id.*
[188] *Id.*
[189] *Id.*
[190] *Id.*
[191] *Id.*
[192] Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001).

cision" because of the appearance of impropriety.[193] He contacted someone in the Counsel's office that he had known from Arkansas, Trey Schroeder. Gaines said he wanted to ensure that someone at the White House was aware that Roger Clinton had contacted the regional office about an inmate's case.[194] Gaines told Schroeder that he did not intend to speak to Clinton, and Schroeder replied, "okay, thanks," and that was the end of the conversation.[195]

On January 17, 1996, Commissioner Getty again contacted Commissioner Gaines to inform him that Roger Clinton had contacted Rosario Gambino's hearing examiner, Sam Robertson.[196] Clinton told Robertson he would not come to the Kansas City office as he had planned, but instead would contact the Parole Commission's main offices in Maryland.[197] On January 30, 1996, he did so, leaving a message with a secretary for Commissioner Gaines.[198] The message slip read, "Roger Clinton, very important . . . ASAP, re: brother recommended meeting."[199] Because Commissioner Gaines knew from Commissioner Getty that Roger Clinton was planning to contact him about the Gambino case and because he knew that any such contact would be improper, he consulted the General Counsel Michael Stover.[200] Stover volunteered to contact Roger Clinton on behalf of Gaines to shield him from an inappropriate contact and to advise Clinton that such a contact would be inappropriate.[201]

With the Parole Commission's Deputy Designated Agency Ethics Officer ("DAEO") Sharon Gervasoni present, Stover returned Roger Clinton's phone call, describing it in detail in a memo dated the following day.[202] According to Stover's memo, Roger Clinton immediately invoked his brother, President Clinton, saying not only that the President was aware of what Roger was doing but also that he was assisting Roger with strategy on the best way to achieve his objectives:

> [Roger Clinton] began the conversation by informing me that his brother "[]is completely aware of my involvement." Roger Clinton stated that his brother had recommended to him that he not meet with Commissioner Getty . . . because Commissioner Getty's Kansas City Regional Office was about to be closed. Roger Clinton informed me that his brother suggested that he contact Commissioner Gaines instead. (I knew about the previous contact with Commis-

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[193] Telephone Interview with Michael J. Gaines, former Chairman, USPC (Aug. 7, 2001).
[194] *Id*.
[195] *Id*. When asked about Gaines' contact with the White House, Chief of Staff Marie Ragghianti stated that Gaines told her about his conversation with someone at the White House. According to Gaines, when he told White House staff about Roger Clinton's contacts with the Parole Commission, the staffer replied "for God's sake, you can handle that one." Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[196] USPC Document Production 00898 (Memorandum from Michael J. Gaines, Commissioner, to Sharon Gervasoni, Designated Agency Ethics Officer (Jan. 30, 1996)) (Exhibit 41).
[197] *Id*.
[198] USPC Document Production 00896 (Memorandum from Michael A. Stover, General Counsel, to File (Jan. 31, 1996)) (Exhibit 42).
[199] *Id*; Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001) (indicating that the message slip was attached to the last page of his January 31, 1996, memo to file at 00896).
[200] USPC Document Production 00894 (Memorandum from Michael A. Stover, General Counsel, to File (Jan. 31, 1996)) (Exhibit 42).
[201] *Id*.
[202] *Id*.

> sioner Getty's office, and that Roger Clinton is apparently a friend of Rosario Gambino's son Thomas, who also lives in California.)[203]

The parenthetical comment inserted by Stover makes clear that he understood the context of the conversation related specifically to the case of inmate Rosario Gambino. This is important because when he was interviewed by the FBI regarding his efforts in the Gambino matter, Roger Clinton told the FBI that "he did not represent to anyone on the Parole Commission that his brother was aware of his efforts to assist the Gambino family or that the President was supporting his effort to assist in getting Rosario Gambino released from prison."[204] In light of Stover's memo (as well as subsequent contacts with Case Operations Manager Tom Kowalski),[205] Roger Clinton's statement to the FBI appears to be false. If Roger Clinton believed that his brother's involvement would be illegal or improper and might spark another scandal, then he would have had a powerful motivation to lie to the FBI.

Stover's record of the January 30, 1996, conversation with Clinton indicates that Stover clearly explained to Clinton the applicable law and proper procedures for lobbying for parole:

> I informed Roger Clinton that . . . the Privacy Act of 1974 prohibited Commissioners and staff of the U.S. Parole Commission from discussing any case with a member of the public without a signed waiver from the inmate in question. . . . I further informed Roger Clinton that Commissioner Gaines could not meet with him because, even if Roger Clinton were an authorized representative of the inmate, he would have to appear before the hearing examiners at a regularly-scheduled parole hearing. . . . I explained the Commission's procedures whereby hearing examiners make recommended decisions after hearing presentations on the record, and that Commissioners vote and make their decisions without meeting with prisoners' representatives. I explained that, in this respect, the Commission operates like a court of law.[206]

According to Stover's memo, Roger Clinton reacted to Stover's explanation by once again invoking the President's authority in suggesting he meet with Commissioner Gaines:

> Roger Clinton evinced his strong disappointment upon learning that he could not meet with Commissioner Gaines about this case. . . . I informed him that such a meeting would not have been appropriate. Roger Clinton then asked me how it could be that the President would be misinformed as to the law, and emphasized that the President had suggested that he should meet with Commissioner Gaines, ". . . a friend of ours from Arkansas." Roger Clin-

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[203] *Id.*

[204] DOJ Document Production FBI–RC–00001 (Summary of Interview with Roger Clinton, Oct. 1, 1999) (Exhibit 1).

[205] Kowalski recalled that on several occasions, Clinton made it clear that his brother knew of his involvement in the Gambino matter. Telephone Interview with Thomas Kowalski, Case Operations Manager, USPC (July 27, 2001).

[206] USPC Document Production 00894 (Memorandum from Michael A. Stover, General Counsel, to File (Jan. 31, 1996)) (Exhibit 42).

> ton professed his bewilderment as to how the President would not be knowledgeable as to the law with regard to the propriety of this suggested meeting. He stated that he would have to inform his brother that his brother had been wrong. I replied that it would be an honor for me to be advising the President of the United States, directly or indirectly, as to the law. Roger Clinton again stated that he would have to report this information to his brother, who would be "glad to know" what I had said. During this colloquy, however, Roger Clinton's voice rose, and betrayed the fact that he was upset with what I was saying.[207]

Stover and Gervasoni clearly believed that Clinton's call was an attempt to exercise political influence:

> Deputy DAEO and I are disturbed at the tactic employed by Roger Clinton of repeatedly invoking his brother as having allegedly recommended that he meet with Commissioner Gaines[.] The U.S. Parole Commission must not permit itself to be subjected to improper attempts to exercise political influence over its procedures. (Roger Clinton did not address himself to the merits of the case itself.) . . . My preference is for the Commission to vote a decision based only on the facts of the Gambino case, and without reference to this episode.
>
> Finally, I have discussed the situation with Commissioner Gaines, who agrees that the Commission should be shielded, if at all possible, from the unwelcome intrusion of a man who would appear to have nothing to contribute to the Commission's deliberations in the Gambino case but a crude (and I hope unauthorized) effort to exercise political influence.

When interviewed by Committee staff, Stover reiterated his strong disapproval of Roger Clinton's attempts to contact Commission members and Commission staff, saying he "was concerned that Roger had no business contacting the Commission" and that his goal in advising Gaines on how to proceed was to keep Clinton "as far away as possible from the Commission."[208] Stover emphasized that he took two steps in response to Clinton's contact: (1) he suggested that Gaines call the White House "to warn them about Roger Clinton;" and (2) he called the Deputy Attorney General's office and spoke to Roger Adams about the matter.[209] Stover explained that "an alarm bell goes off when the half-brother of the President is helping an organized crime figure."[210] He believes that Adams discussed the matter with Deputy Attorney General Jamie Gorelick.[211]

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[207] *Id.* at 00895.
[208] Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001).
[209] At this time, Adams was an Associate Deputy Attorney General, and was Stover's primary contact at Main Justice. He later became U.S. Pardon Attorney. *Id.*
[210] *Id.*
[211] *Id.*

b. Clinton's Meetings with Parole Commission Staff

From February 1996 to November 1997, there was a pause in Roger Clinton's approaches to the Parole Commission. After Roger Clinton had his hostile telephone discussion with Michael Stover in January 1996, he did not approach the Parole Commission again until December 1997. Due to Roger Clinton's refusal to discuss the Gambino matter with Committee staff, little is known about the reasons for the nearly two-year hiatus.[212]

i. December 1997 Meeting

In December 1997, Chairman Michael Gaines informed his Chief of Staff, Marie Ragghianti, that Roger Clinton had contacted him. Ragghianti had come to the Commission as its first politically appointed staffer[213] around August 1997.[214] According to Ragghianti, Gaines called her into his office and said, "I have a problem. I hope you can handle it for me."[215] He explained to her that Roger Clinton was trying to meet with him but that he did not think it would be appropriate to do so.[216] Gaines also informed Ragghianti that Clinton had tried to contact him about the same matter almost two years earlier, in January 1996. Gaines asked Ragghianti to meet with Clinton and treat him the way she would "anyone else."[217] According to Ragghianti, Gaines' instructions to her about meeting with Roger Clinton were "as scrupulous as you could want."[218] She said that Gaines told her to be courteous because Roger was the President's brother, but to tell him that if Gaines spoke to him, Gaines would have to recuse himself.[219]

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[212] In the middle of this lull in activity, Rosario Gambino signed a letter apparently intended for President Clinton seeking his assistance. A copy of the letter was produced to the Committee by Roger Clinton. The salutation of the January 9, 1997, letter is curiously blank, but the rest reads in relevant part:

> I am writing this letter to you as my last hope to get justice. I feel that the system has been turned inside out in my case, and I now seek your help in the hope that you can right the wrong that is being done to me. What I am asking for is that my punishment be based on the crime that I did, and not on my name.
>
> The reason I am asking for your help is because my son knows your brother, and my son has told me that your brother is a good and honorable man; I know such traits run in families, and I have heard that you are also such a man. Because of the trust and respect that my son has for your family, he suggested that I write this letter to you to explain my situation in more detail. So please let me take a few lines to explain my case.

Roger Clinton Document Production RCC0046 (Letter from Rosario Gambino (Jan. 9, 1997)) (Exhibit 43). The letter continues to explain the detailed procedural history of the case and makes false statements in the process. For example, Gambino claimed that after his December 1995 parole hearing, the examiner "made a finding that I was not connected to 'Organized Crime.'" *Id.* at RCC0047. In truth, the examiner merely found that there was insufficient evidence for the Commission to conclude, for the purpose of a parole decision, that Gambino was a member of La Cosa Nostra. This finding of insufficient evidence in a particular proceeding is far different from the blanket exoneration Gambino claimed he received.

[213] Before her appointment, only the Commissioners were politically appointed. Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001).

[214] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001). As head of the Tennessee Parole Board in the 1970s, Ragghianti had been responsible for initiating a federal investigation of Governor Ray Blanton, who was later convicted on other charges, and his staff for soliciting money in exchange for clemency. Her story was told in a book by Peter Maas and in a motion picture. *Id.*

[215] *Id.*

[216] *Id.*

[217] Telephone Interview with Michael J. Gaines, former Chairman, USPC (Aug. 7, 2001).

[218] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).

[219] *Id.*

It was Ragghianti's understanding that Gaines believed it would be inappropriate for him to meet Clinton and that he wanted her to shield him from the inappropriate approach being made by Clinton.[220] When asked by Committee staff why he referred the Clinton matter to Ragghianti rather than, as before, to General Counsel Stover, Gaines said that in 1996 he had not been the Chairman of the Commission and Marie Ragghianti did not yet work for the Commission.[221] In 1997, he had become the Chairman, and as such, Chief of Staff Marie Ragghianti answered directly to him. Therefore, he subsequently asked her to handle such matters.[222] Gaines was aware that the January 1996 telephone conversation between Clinton and Stover did take place, as he requested that Stover make the contact. However, he claims that he was not aware until well after the call of what Clinton and Stover discussed or that the call was quite hostile, likely because Stover was attempting to shield him from knowledge that could arguably require his recusal from the Gambino case.[223]

After her meeting with Chairman Gaines, Ragghianti called Roger Clinton and scheduled a meeting with him for December 23, 1997.[224] Before the meeting occurred, General Counsel Michael Stover learned that it had been scheduled from Tom Kowalski, the Director of Case Operations at the Parole Commission.[225] Ragghianti had asked Kowalski to join her in the meeting with Clinton.[226] Stover said he was not pleased upon learning that the meeting was scheduled and that he called Chairman Gaines to see if he knew the meeting was going to occur.[227] Stover reiterated his advice to Gaines that "as a matter of prudence that it was not a good idea to meet with a man who had previously attempted to use political influence in an improper way."[228] According to Stover, Gaines responded "in a peremptory tone that this discussion was over" and that he believed that Roger Clinton deserved to be treated with the same courtesy as any other member of the public.[229] Wanting to do everything possible to discourage the meeting without being insubordinate, Stover made a copy of his January 1996 memo that described his conversation with Roger Clinton and gave it to Ragghianti.[230]

While Gaines asked Ragghianti to extend only common courtesy to Clinton and treat him like any other member of the public, it is clear that from the outset, Ragghianti treated Roger Clinton like a celebrity and gave him access that she never would have afforded

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[220] *Id.*
[221] Telephone Interview with Michael J. Gaines, former Chairman, USPC (Aug. 7, 2001).
[222] *Id.*
[223] *Id.*
[224] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[225] Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001).
[226] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[227] Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001).
[228] *Id.*
[229] *Id.* When interviewed by Committee staff, Gaines stated that he did not recall Stover advising against having the meeting with Clinton, or of any effort by Stover to prevent the meeting. Telephone Interview with Michael J. Gaines, former Chairman, USPC (Aug. 7, 2001).
[230] Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001). Ragghianti, however, denies that she received a copy of the memo before her meeting and denies having read it until being shown a copy by Committee staff during her interview. She said she would have remembered the memo because it "slams the Chairman." Ragghianti said she could not have forgotten "this 'friend of ours' business" and that the memo was, "pure Michael [Stover]." Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).

a member of the general public. She gave Roger Clinton her home telephone number even before she met with him, and he placed at least four calls to that home number.[231] Ragghianti's warm approach to Roger Clinton continued at the December 23, 1997, meeting. Clinton, Ragghianti, and Kowalski attended the meeting.[232] Ragghianti said the meeting was cordial and that Clinton was personable and bright.[233] Ragghianti said that Roger Clinton was "not the yokel he is painted to be" and "was downright engaging."[234] After the meeting, Ragghianti marveled at Roger's charisma, telling Tom Kowalski, "this isn't even the President. Imagine what the President is like."[235] Ragghianti explained that she had "connected" with Roger Clinton because her mother had died a few years earlier and that Roger Clinton's mother had also died recently.[236] Ragghianti took Clinton to Tom Kowalski's office, where Clinton began referring to papers regarding specific cases he wanted to discuss.[237] In addition to the Gambino case, Clinton also wanted to discuss the cases of two other prisoners. For one, John Ballis,[238] he was seeking to obtain a furlough, and for the other, whose name Ragghianti could not recall, he was seeking a pardon.[239] Tom Kowalski explained that for a furlough, Roger needed to speak to the warden of the prison in which Ballis was incarcerated and for a pardon, he needed to contact the Pardon Attorney's office.[240]

After the first two issues, Clinton turned to the Gambino matter. In describing the denial of Gambino's parole to Committee staff, Ragghianti claimed that the Commission had "thrown the book" at Gambino and that "intelligent people would be able to say that a case could be made for less time."[241] She said Clinton delivered a "heartfelt narrative" about how he had been in prison and knew what it was like.[242] The following day, Kowalski prepared a memo summarizing Roger's appeal on behalf of Gambino, whom Kowalski described as a "notorious organized crime figure:"[243]

> [Roger Clinton] basically believes that the Commission has been much too harsh in this case and that Rosario Gambino is not an organized crime boss as the Commission has considered him to be. If anything, he believes that he is only on the fringes of organized crime and he is being discriminated against because his name happens to be "Gambino." He used the Original Jurisdiction Appeal Summary by Michael Stover as his primary source of informa-

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[231] Verizon Document Production (Roger Clinton Phone Bill, Jan 1, 1998, at 12–13; Mar. 1, 1998, at 16; Aug. 1, 1998). Ragghianti claims that she gave her home telephone number to Clinton because it was difficult to get in touch with him, given the time differential between the east coast and west coast.

[232] USPC Document Production 00889 (Memorandum from Thomas C. Kowalski, Case Operations Manager, to Michael J. Gaines, Chairman (Dec. 24, 1997)) (Exhibit 44).

[233] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).

[234] *Id.*

[235] *Id.*

[236] *Id.*

[237] *Id.*

[238] *See generally* Section IV.E., "John Ballis."

[239] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).

[240] *Id.*

[241] *Id.*

[242] *Id.*

[243] USPC Document Production 00890 (Memorandum from Thomas C. Kowalski, Case Operations Manager, to Michael J. Gaines, Chairman (Dec. 24, 1997)) (Exhibit 44).

> tion. He specifically named Michael Stover as being discriminatory in his description of the prisoner and was particularly incensed by the statement in the summary which states, "Gambino appears to come from an immigrant background in which family connections are simply exploited (as in the current offense) to get around the law." In discussing this case, he was actually quite animated and argued rather emotionally about how the Commission is being too harsh with the prisoner.
>
> Ms. Ragghianti and I merely listened throughout the session since we did not have file [sic] nor did Mr. Clinton have a signed release from the subject. He was advised that the case would be reviewed and no further promises were given.[244]

Marie Ragghianti also drafted a memo regarding the same meeting, and rather than being critical of Clinton's approach, Ragghianti appeared sympathetic:

> Regarding Rosario Gambino, who apparently has been denied parole by this Commission, Mr. Clinton asked for any possible reconsideration of the matter. He pointed out that Gambino has served nearly 15 years, has at least 2 potential job opportunities, and also the support of a loving son, Tommy (Mr. Clinton's friend), and his wife and other children. We explained to him that the Commission takes a hard line in matters perceived as related to organized crime. Tom did offer to review the history of the case and write a summary (which will be sent to me). At that time, with the approval of the Commission or its legal department, I will notify Mr. Clinton of Tom's summary, as (or if) appropriate.[245]
>
> Mr. Clinton was articulate. His questions and comments were thoughtful and appropriate, which is to say that he in no way came across as wishing to capitalize on his name. Instead, he apologized for taking our time. He appeared to be a genuinely caring person, not only for the 3 individuals he was seeking advice for, but in general.[246]

While Ragghianti took the position that Clinton did not appear to be capitalizing on his name, Tom Kowalski disagreed, noting that Clinton "mentioned his brother" at virtually every meeting and made it clear that he was operating "with his brother's knowledge."[247] Kowalski said Clinton frequently made references to his plans to be in Washington and to stay at 1600 Pennsylvania Avenue, saying, "he threw it in your face that he was staying at the

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[244] *Id.*

[245] A handwritten note at this place on the memo dated September 17, 1998, nine months after the memo was initially prepared, reads "I never discussed Tom's summary at any time with Mr. Clinton (nor did he ask me to)." USPC Document Production 00891 (Memorandum from Marie Ragghianti, Chief of Staff, to File (Dec. 23, 1997)) (Exhibit 45). Even if Ragghianti did not share the summary with Clinton, it is troubling that she considered doing so, as it would have been a violation of Commission rules.

[246] *Id.*

[247] Telephone Interview with Thomas Kowalski, Case Operations Manager, USPC (July 27, 2001).

White House."[248] Kowalski said that from the first meeting, Clinton made it clear that his brother knew of his involvement.[249] Specifically, Kowalski said his impression was the President knew that Roger was contacting the Parole Commission about the Gambino case.[250] Kowalski's memory on this point was vivid. He explicitly recalled his reaction, "I thought to myself, 'Lord, Lord, Oh Lord, why would the President want to get involved in the case of this guy?' "[251]

Ragghianti told Committee staff that she and Kowalski instructed Clinton that in the future, "the best way of doing this" would be to address his concerns to the Commission in writing rather than through further meetings, although this admonition was not recorded in either of the contemporaneous memos.[252] Ragghianti thought that following her initial contact, Clinton would not return seeking further meetings.[253]

After the December 1997 meeting, Ragghianti also asked Kowalski to review the Gambino file. In case Ragghianti had any doubts about the lack of merit in Clinton's argument, Kowalski's December 30, 1997, memo summarizing the Gambino case should have dispelled them. Kowalski found, in part, that: (1) Gambino participated in a conspiracy which promised the delivery of 10 kilograms of heroin per month; (2) "Rosario Gambino's criminal activities also extend to arson and extortion;" (3) Gambino participated in harboring Michele Sindona while he was a fugitive; and (4) "[t]he Sentencing Memorandum and documents in the file clearly depict the subject as an individual deeply involved in organized criminal activity."[254] Given these findings, it is disturbing that Ragghianti continued to meet with Clinton and discuss the Gambino case with him.

ii. Spring 1998 Contacts

Roger Clinton continued to remain in contact with Ragghianti and Kowalski after the December 1997 meeting, making telephone calls to both of them regarding the Gambino case. Kowalski recalls that Gambino was scheduled for a parole review hearing and that Clinton called because he was concerned that Gambino had been moved from a prison in California to one in Arizona, which was further from Gambino's family.[255] Clinton asked Kowalski to find out why Gambino was moved.[256] Kowalski looked into the matter and discovered that Gambino was moved because he had been "muscling," or intimidating, other inmates at the prison.[257] Kowalski did not pass this information on to Clinton, but it did confirm his feelings regarding Rosario Gambino.[258] Clinton apparently prepared

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[248] *Id.*
[249] *Id.*
[250] *Id.*
[251] *Id.* Kowalski's recollections raise serious questions about Roger Clinton's veracity when he was interviewed by the FBI. *See also* n.205 and accompanying text.
[252] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[253] *Id.*
[254] USPC Document Production 00925–26 (Memorandum from Thomas C. Kowalski, Case Operations Manager, to Marie Ragghianti, Chief of Staff (Dec. 30. 1997)) (Exhibit 34).
[255] Telephone Interview with Thomas Kowalski, Case Operations Manager, USPC (July 27, 2001).
[256] *Id.*
[257] *Id.*
[258] *Id.*

talking points for himself in anticipation of these telephone calls. One set of notes, in Clinton's handwriting, reads as follows and provides a further suggestion as to the nature of Clinton's calls to Kowalski:

Questions for Tom Kowalski:

> 1) Possibility of re-transfer back to Terminal Island. Should he before or after parole hearing?
>
> 2) If transfer back to Ca. is accepted, can Sam Robertson still conduct the hearing or is it out of his jurisdiction? (Harry Dwyer?)
>
> 3) What else can I do to serve as a reminder or as further emphasis? (personal letter, etc.)
>
> 4) What is the state of the upcoming hearing at FCI-Phoenix? The last one was postponed because the Commission's counsel was reviewing the file. Sam Robertson wasn't at the last hearing that was postponed. Will he, in fact, conduct this hearing? [259]

Clinton also sent two handwritten letters to Kowalski in February 1998, in advance of the review hearing. One stated in part:

> We need someone to "step up to the plate" on this one. I firmly feel that if everything in this case was the same and the prisoner's name was Rosario Stevens (only an example), then Mr. Stevens would have been released in July 1996.
>
> I understand the scenario of decisions based on name recognition, be it positive or negative. This man deserves to be released to return to his family after 14 years. He did the crime and he has done the time. We all deserve a second chance! I am living proof of that. Please help us achieve what is right! [260]

In the other letter to Kowalski, Clinton made slightly more sophisticated arguments, analyzing the applicable sentencing provisions, arguing that Gambino was eligible for release.[261] In this letter, Clinton denied that Gambino was a member of La Cosa Nostra and claimed that the Gambino name was a common one:

> As documented by copies of pages from the Sicilian phone book, Gambino is a very popular name. A large majority is unrelated to the Gambino crime family.[262]

Remembering an occasion when Clinton made the same argument to Kowalski in person, Kowalski said: "I was very professional . . . I didn't laugh." [263]

In the spring of 1998, Clinton scheduled another meeting with Ragghianti and Kowalski. Both Ragghianti and Kowalski recall

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[259] Roger Clinton Document Production RCC0031 (Handwritten notes) (Exhibit 46).

[260] Roger Clinton Document Production RCC0176 (Letter from Roger C. Clinton to Thomas C. Kowalski, Case Operations Manager, USPC (Feb. 13, 1998)) (Exhibit 47).

[261] Roger Clinton Document Production RCC0173 (Letter from Roger C. Clinton to Thomas C. Kowalski, Case Operations Manager, USPC (Feb. 13, 1998)) (Exhibit 48).

[262] *Id.* at RCC0175.

[263] Alison Leigh Cowan, *Roger Clinton's Dogged Effort for Drug Trafficker*, N.Y. TIMES, Aug. 26, 2001.

that Clinton basically repeated the same arguments that he had made in December 1997, claiming that Gambino had been treated unfairly by the Parole Commission and should be released.[264] At the end of this meeting, as Clinton, Kowalski, and Ragghianti were saying their goodbyes in the lobby, Parole Commission Chairman Michael Gaines walked through the lobby.[265] Clinton apparently recognized Gaines on sight, and eagerly introduced himself to him. According to Gaines, Roger "acted like he knew who I was," despite the fact that he did not know Clinton.[266] According to all of those present, Gaines kept the conversation with Clinton short and limited to superficial matters.[267]

iii. July 1998 Meeting

After the spring 1998 meeting, Clinton continued to make telephone calls to Ragghianti and Kowalski to press his case. Between May 1998 and July 1998, Clinton called Kowalski and Ragghianti at least 11 times.[268] He even called Ragghianti at home on at least one occasion.[269] In July, Clinton apparently asked for and received another meeting with Kowalski and Ragghianti. While Clinton was waiting for Kowalski at the Parole Commission offices, he had a second fortuitous run-in with Chairman Gaines. Again, Gaines attempted to avoid any substantive discussion with Clinton and ended the discussion as quickly as he could.[270] The meeting between Clinton, Ragghianti, and Kowalski went much like the previous two meetings. Roger repeated his arguments that Rosario Gambino had been treated unfairly and deserved to be released. Neither Kowalski nor Ragghianti provided extensive substantive comments about the case but simply tried to listen to Clinton's concerns.[271] At the conclusion of the meeting, Ragghianti and Clinton looked over pictures of Clinton's new baby, and then Ragghianti saw Clinton to the elevators.[272] Referring to the Gambino case, Ragghianti told Clinton "the only thing worse than no hope is false hope" and that she "did not want him to have false hope."[273] Then, as Clinton got onto the elevator, Ragghianti counseled him to pray about the Gambino matter.[274]

2. The FBI Investigation of Clinton's Contacts with the Parole Commission

In late August 1998, the FBI sought to review Rosario Gambino's file at the Parole Commission.[275] Michael Stover said that the

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[264] Telephone Interview with Thomas Kowalski, Case Operations Manager, USPC (July 27, 2001); Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[265] Telephone Interview with Michael J. Gaines, former Chairman, USPC (Aug. 7, 2001).
[266] *Id.*
[267] *Id*; Telephone Interview with Thomas Kowalski, Case Operations Manager, USPC (July 27, 2001); Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[268] Verizon Document Production (Roger Clinton Phone Bill, July 1, 1998, at 10–11; Aug. 1, 1998, at 14–15); WorldCom Document Production (Roger Clinton Phone Bill, May 23, 1998, at 8–9).
[269] Verizon Document Production (Roger Clinton Phone Bill, Aug. 1, 1998, at 14).
[270] Telephone Interview with Michael J. Gaines, former Chairman, USPC (Aug. 7, 2001).
[271] Telephone Interview with Thomas Kowalski, Case Operations Manager, USPC (July 27, 2001); Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[272] *Id.*
[273] USPC Document Production 00923 (Memorandum from Marie F. Ragghianti, Chief of Staff, to File (Sept. 14, 1998)) (Exhibit 49).
[274] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[275] Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001).

FBI's original interest appeared to be in Rosario Gambino rather than Roger Clinton.[276] Stover provided the FBI with all of the documents relating to the Gambino case, including those relating to Roger Clinton's contacts with the Parole Commission.[277] On September 11, 1998, Stover informed Ragghianti that the FBI had visited USPC offices to review the Gambino file. In the following days, the agents returned to interview Stover, Ragghianti, and Kowalski about their contacts with Roger Clinton.[278] Ragghianti was "very annoyed" that Stover had not told her earlier about the FBI's interest in the Gambino file.[279] Ragghianti told Committee staff that her "private view" was that Stover had initiated the FBI's investigation of Roger Clinton's contacts with the Parole Commission.[280]

After the FBI began its investigation of Roger Clinton's lobbying for Gambino, Michael Stover learned that Marie Ragghianti and Tom Kowalski had been maintaining contact with Roger Clinton over the preceding eight months. While discussing the FBI's interest in the Gambino matter with Stover, Tom Kowalski indicated that he and Ragghianti had two additional meetings with Clinton, as well as a number of telephone conversations after the December 1997 meeting.[281] Stover knew only about the December 1997 meeting and was not happy to learn about the additional meetings, especially given the fact that he was not consulted about them before they took place. Ragghianti defended her decision to keep Stover from knowing about the meetings with Clinton on the basis that, as Chief of Staff, she did not report to Stover.[282] While Ragghianti may have been above Stover in the hierarchy of the Parole Commission, her decision to engage in a series of contacts with Roger Clinton without consulting her General Counsel is troubling and suggests that she wanted to provide Roger Clinton with an extraordinary measure of access.

As the FBI conducted its investigation of Clinton's contacts with the Parole Commission, Ragghianti and Stover disputed the propriety of the series of contacts between Clinton and Commission staff between December 1997 and July 1998. Ragghianti wrote of the meetings in a memo drafted just after she learned the FBI was involved: "[a]fter his initial visit, Mr. Clinton called and came in 2 other times. I did not record additional memoranda on either of the subsequent visits, because he did not offer additional information, but seemed only to want to be heard."[283] Rather than scrupulously attempting to avoid any appearance of impropriety and follow Stover's advice, Ragghianti continued her contacts with Roger Clinton unapologetically and without informing Stover. Ragghianti told

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[276] *Id.*

[277] *Id.*

[278] USPC Document Production 00922 (Memorandum from Marie F. Ragghianti, Chief of Staff, to File (Sept. 14, 1998)) (Exhibit 49). FBI interview summaries relating to Ragghianti, Kowalski, and Stover presumably exist, but the Justice Department has refused to produce them to the Committee. After producing hundreds of pages regarding the Clinton-Gambino matter, the Justice Department stopped producing records in August 2001 because of its "ongoing criminal investigation" into the Clinton-Gambino matter.

[279] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).

[280] *Id.* There appears to be no support for Ragghianti's view. Rather, it appears that Roger Clinton was of investigative interest to the FBI well before this point.

[281] Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001).

[282] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).

[283] USPC Document Production 00923 (Memorandum from Marie F. Ragghianti, Chief of Staff, to File (Sept. 14, 1998)) (Exhibit 49).

Committee staff that there was "no question" in her mind about the propriety of her meetings.[284] She dismissed Stover's concerns, suggesting he was motivated by a feeling that "he had been ignored" and that "he didn't like Roger Clinton."[285]

The split between Ragghianti and Stover over the propriety of staff contacts with Clinton appears to be part of a broader animosity Ragghianti harbored for Stover, but it is unclear whether their dispute over the Clinton contacts was a symptom of her antagonism or a catalyst for it. During her interview with Committee staff, Ragghianti went out of her way to criticize Stover, describing him as "a bull in a china shop" who "doesn't have a fine touch in extending common courtesy."[286] Ragghianti similarly criticized Stover's handling of the Roger Clinton matter. She wrote in a September 14, 1998, memo:

> I think the record should show that I felt that Mr. Stover had, in the past, been gratuitously rude to Mr. Clinton. My personal philosophy was that Mr. Clinton deserved to be treated at least courteously by this Commission, which is why I agreed to see him. Nevertheless, it seemed appropriate that I should not visit with him alone, not only because of "appearances," but because I did not really know the intricate details of reading inmate files, nor the precise legal constraints on what information might be appropriately shared with interested parties.[287]

When asked what her basis was for writing that Stover had been "gratuitously rude" to Clinton, Ragghianti said she could not recall but that it might have come from Chairman Gaines and may have been the reason Gaines asked her to handle the second Clinton contact rather than Stover, whom he had asked to handle the first.[288] Stover said that Ragghianti had never discussed with him his handling of the 1996 Clinton contact.[289] Ragghianti complained that Stover, "did not give Clinton the benefit of any doubt," that he viewed Clinton as "guilty until proven innocent," and that Stover's memo was "very heavy-handed."[290] For his part, Stover did not engage in any attacks on Ragghianti, but he did maintain that it was unwise for Ragghianti to engage in a series of contacts with Clinton about the Gambino case.

a. Clinton's Continued Attempts to Contact the Commission

In the fall of 1998, Roger Clinton was apparently unaware that the FBI was looking into his contacts with the Parole Commission. Following the initial FBI interviews of Parole Commission staff in the fall of 1998, Roger Clinton continued calling Commission staff. Ragghianti and Kowalski did not respond to most of these calls. When they received these calls, they reported them to Michael Sto-

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[284] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[285] *Id.*
[286] *Id.*
[287] USPC Document Production 00923 (Memorandum from Marie F. Ragghianti, Chief of Staff, to File (Sept. 14, 1998)) (Exhibit 49).
[288] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[289] Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001).
[290] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).

ver. On the one occasion where Clinton did successfully reach Tom Kowalski, Kowalski prepared a memo to the file summarizing the conversation.[291] Clinton also called seeking a meeting with Chairman Gaines, despite having been informed repeatedly that he could not meet with members of the Parole Commission.[292] Gaines, Ragghianti, and Stover then met to discuss how to respond to Clinton's request for a meeting with Gaines. They decided to send a letter to Clinton informing him that he could not meet with Gaines and that he could no longer meet with staff. Stover prepared the initial draft of the letter, and then Ragghianti "toned it down."[293] Curiously, the letter was addressed to Roger Clinton at 1015 Gayley Avenue in Los Angeles, a commercial mailbox used by Tommy and Anna Gambino.[294] The letter, dated October 26, 1998, stated:

> The Chairman has asked me to express his sincere regrets that he cannot accept your kind invitation to meet during your trip to Washington this week. As I have mentioned before, it is agency policy that members of the Commission cannot engage in private meetings of any kind with parties having an interest in parole proceedings. This is true even if the meeting is sought for purely social reasons.
>
> Similarly, our policy also restricts the ability of Commission staff from engaging in any continued series of calls or discussions on official matters that are not in the context of an agency proceeding. Should you have any further request, I encourage you to write us.[295]

The sentence regarding staff contacts appears to be at odds with the practice of Ragghianti and Kowalski before the FBI began investigating. When asked about whether the policy against third party-meetings as stated in the letter was in fact the practice of Commission staff beforehand, Stover said, "Sometimes you state a policy at the moment of its creation."[296] He said he was trying hard to set a useful policy for future precedent and that he saw Ragghianti's sending the letter with his language about staff contacts included as a victory on that issue.[297] It is curious that before the FBI began its investigation of Clinton and Gambino in September 1998, Ragghianti was strongly in favor of meeting with Clinton, and then, once the FBI began its investigation, she suddenly agreed with Michael Stover's longstanding advice to stop meeting with Clinton.

Despite the letter's clear instructions to put future requests in writing, Clinton immediately called Ragghianti upon receiving the fax.[298] In a voice mail message left for Ragghianti, Clinton said he was embarrassed and hurt that anyone at the Commission might

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[291] USPC Document Production 00915 (Memorandum from Thomas C. Kowalski, Case Operations Administrator, to File (Oct. 2, 1998)) (Exhibit 50).
[292] USPC Document Production 00868 (Meeting Notes, Jan. 26, 1999) (Exhibit 51).
[293] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[294] U.S. Postal Service Document Production (Application for Delivery of Mail Through Agent, June 2, 2001) (Exhibit 52).
[295] USPC Document Production 00876 (Letter from Marie F. Ragghianti, Chief of Staff, to Roger C. Clinton (Oct. 26, 1998)) (Exhibit 53).
[296] Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001).
[297] *Id.*
[298] USPC Document Production 00868 (Meeting Notes, Jan. 26, 1999) (Exhibit 51).

have thought he was asking for something inappropriate and asked Ragghianti to return his call, which she did not.[299] Ragghianti described the message as "long, wordy, [and] slightly incoherent" and quoted Clinton as saying, "I guess I went over the line. I didn't mean to do anything wrong."[300] Ragghianti said she did not acknowledge the call in any way.[301]

In November 1998, Hearing Examiner Sam Robertson recommended reexamination of the Commission's decision and a possible reduction of time to be served. Apparently unaware that Robertson's recommendation was only preliminary advice and not a final action on the case, Clinton sent "a lavish letter of gratitude" to the Commission on November 17, 1998.[302] The letter states in part:

> There are certain situations in almost everyone's life that require standing up for what is right, regardless of the possible consequences. . . . Over the past few years, and for several reasons, this particular case became very personal with me. I felt it necessary to stand and fight for what I thought was fair. I never asked for, never expected and never received any preferential treatment. You simply treated me with respect by allowing me, through written correspondence,[303] to express my passionate feelings regarding this case. The entire process was handled in a fair and professional manner.
>
> At the conclusion of the hearing on Friday, October 30th, 1998, a release date was given. It is to be January 15, 1999. I have marked that date on my calendar as a day of celebration. I will celebrate in my own private way, filled with satisfaction and pride. With your decision, I feel that justice has now been served for everyone.
>
> With the utmost respect, appreciation and gratitude, I want to thank you from the bottom of my heart.[304]

Neither Ragghianti nor Kowalski acknowledged the letter in any way.[305] In January 1999, the Parole Commission overruled Robertson's recommendation and set a new parole date of March 2007.[306] In April 1999, the full Parole Commission denied Gambino's final appeal and left in place a parole date of March 2007.[307] Parole Commission Chairman Michael Gaines recused himself from this decision, based on his involvement in the myriad meetings and discussions regarding Roger Clinton's involvement in the Gambino

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[299] *Id.*

[300] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).

[301] *Id.*

[302] USPC Document Production 00868 (Meeting Notes, Jan. 26, 1999) (Exhibit 51); USPC Document Production 00875 (Letter from Roger C. Clinton, to the U.S. Parole Commission (Nov. 17, 1998)) (Exhibit 54).

[303] To the extent Clinton's letter suggested that his contacts with the Parole Commission were limited to "written correspondence," it is, of course, completely untrue.

[304] USPC Document Production 00875 (Letter from Roger C. Clinton, to the U.S. Parole Commission (Nov. 17, 1998)) (Exhibit 54).

[305] USPC Document Production 00868 (Meeting Notes, Jan. 26, 1999) (Exhibit 51).

[306] USPC Document Production 00665 (Memorandum from John R. Simpson, Commissioner, to National Commissioners (Jan. 13, 1999)) (Exhibit 55).

[307] USPC Document Production 00817 (Notice of Action on Appeal, Apr. 14, 1999) (Exhibit 56).

case and the resulting FBI investigation of Clinton's contacts with the Commission.[308]

In mid-January 1999, the FBI again contacted the Commission requesting access to the Gambino file.[309] On Friday, January 22, 1999, FBI Agent Jackie Dalrymple went to the Parole Commission Offices to review the file.[310] While she was there, Roger Clinton again attempted to contact Ragghianti and Kowalski, leaving messages on their voice mail.[311] Ragghianti and Kowalski notified General Counsel Stover who suggested that Agent Dalrymple be notified.[312] Dalrymple asked to hear the two voice mail messages and, upon hearing them, asked Ragghianti and Kowalski not to delete them for a few days.[313] On Monday, January 25, 1999, Agent Dalrymple returned and asked to tape record the two voice mail messages. Stover advised Ragghianti to cooperate, and she did.[314] When asked about the content of the messages, Ragghianti said she could not recall precisely what her message said but that she was surprised Clinton was calling yet again.[315] Ragghianti said she "felt kind of bad" about allowing the FBI to tape the message, comparing it to how she felt years ago in Tennessee when "friends were in trouble with the law" because of actions she had taken.[316] Ragghianti recalled that Kowalski's message was longer than hers and that Clinton had said something on Kowalski's message that "made it sound like they were in cahoots."[317] Ragghianti recalled that she said jokingly to Kowalski, "My God Tom, what do you two have going?"[318] She believed Kowalski was embarrassed by the message and that is why he ultimately cooperated with the FBI.[319] There is no support for Ragghianti's suggestion, but it is telling that Ragghianti thought Kowalski would need some sort of secret motivation to work with the FBI. Every indication is that Kowalski worked with the FBI merely because he believed it is important to cooperate with law enforcement when requested to do so.

b. The FBI's Request to Have an Agent Pose Undercover

After listening to Roger Clinton's messages to Ragghianti and Kowalski, the FBI decided to intensify its investigation of Clinton. The FBI came to Ragghianti and suggested a plan whereby Kowalski would set up a meeting with Clinton away from the Parole Commission headquarters, at a local restaurant.[320] Kowalski would then introduce Clinton to another Parole Commission staffer who could help Clinton with the Gambino case.[321] In reality, this Parole Commission staffer would be an undercover FBI agent. This

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[308] USPC Document Production 00820 (Memorandum from Michael J. Gaines, Chairman, to File (Apr. 9, 1999)) (Exhibit 57).
[309] USPC Document Production 00868 (Meeting Notes, Jan. 26, 1999) (Exhibit 51).
[310] *Id.*
[311] *Id.*
[312] *Id.* at 00869.
[313] *Id.*
[314] Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001); Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[315] *Id.*
[316] *Id. See generally* n.214.
[317] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[318] *Id.*
[319] *Id.*
[320] *Id.*
[321] *Id.*

agent would then be able to talk to Clinton about the Gambino case and determine if Clinton was attempting to influence the Commission illegally. General Counsel Michael Stover had no objection to the FBI plan.[322] Marie Ragghianti, though, rejected this proposal out of hand without consulting with Chairman Gaines or the rest of the Parole Commission.[323]

Ragghianti's basis for rejecting the FBI proposal was highly suspect. She felt that the Parole Commission "did not conduct its business in restaurants" and that it would make the Parole Commission look bad if someone overheard the discussion between Clinton and the undercover FBI agent.[324] She also felt that it was entrapment to allow the FBI to operate under Parole Commission auspices in order to obtain evidence against Roger Clinton.[325] Ragghianti also was annoyed by Stover's approval of the FBI plan. She felt that he had "crossed over the line and lost legal objectivity" and "had no concern" for the Commission.[326] However, Ragghianti appears to be the one who "crossed over the line and lost legal objectivity" in rejecting the FBI's request. Her reason for rejecting the request—that it did not reflect the way the Commission normally conducts business—misses the point. In order to be successful, an FBI operation of this sort requires exactly the sort of informal environment to which Ragghianti objected. The fact that such a meeting would be less formal and less professional than normal Commission business is exactly why the FBI wanted to do it. If Clinton were so inclined, a relaxed environment would make him feel comfortable enough to make candid admissions that might yield evidence of illegality in the Gambino case. Ragghianti's reason for opposing the request, therefore, was essentially that it was likely to be successful. Moreover, her characterization of the FBI proposal as "entrapment" is without merit and represents a judgment that she lacked both the expertise and the responsibility to make. The FBI agents and their superiors are accountable for entrapment issues in their investigations, not the Parole Commission Chief of Staff.

The real question is what was Marie Ragghianti's actual motive for rejecting the FBI request. Ragghianti had a reputation for ethical conduct prior to coming to the Commission. That she would make such a decision is, therefore, surprising. However, she clearly went out of her way to be accommodating to Roger Clinton. Whether Ragghianti was trying to curry favor with the Clinton Administration or whether she just genuinely liked Roger Clinton is unclear. But, for Ragghianti to ignore the advice of the Parole Commission General Counsel regarding such a sensitive legal matter suggests, at best, that she was not objective in her handling of the Clinton-Gambino matter. At worst, Ragghianti may have been trying to protect Roger Clinton.

The effect of Ragghianti's decision certainly was to protect Clinton. Her decision to reject the undercover plan may have had a crippling effect on the FBI investigation. As described below, the

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[322] *Id.*
[323] *Id.*
[324] *Id.*
[325] *Id.*
[326] *Id.*

FBI would continue with its attempts to determine the purpose of Clinton's contacts with the Parole Commission. Rather than having an undercover FBI agent directly in contact with Clinton, though, the FBI had to work through Tom Kowalski, who allowed the FBI to place listening devices in his office. However, Kowalski, unlike a trained FBI agent, was uncomfortable talking to Clinton while his office was bugged. Law enforcement sources who helped investigate the Clinton-Gambino case have informed the Committee that the undercover contacts with Clinton were exactly the thing that the case was missing.[327]

c. The FBI's Recording of Clinton's Conversations with Thomas Kowalski

After Ragghianti rejected the initial FBI proposal, Agent Dalrymple proposed another possible approach to Roger Clinton. In late January 1999, she suggested that Tom Kowalski page Roger Clinton, and then when Clinton called back, the FBI would tape their conversation.[328] The FBI would provide Kowalski with suggested questions for Clinton to determine Clinton's purpose in contacting the Parole Commission. Even though the FBI had significantly reduced the scope of its request, Ragghianti still opposed cooperation.[329]

Despite her opposition to the FBI's request, Ragghianti took the FBI request to other staff at the Parole Commission. According to Ragghianti's contemporaneous notes[330] of a meeting held later that day, her initial reaction upon hearing of the request was to question whether any taping at the Commission's headquarters in Maryland would be illegal, "recalling the Linda Tripp debacle related to a similar tape recording."[331] Ragghianti also referred to her experiences in Tennessee, explaining that she had not cooperated with an FBI request for her to allow them to make recordings of her conversations.[332] Deputy DAEO Sharon Gervasoni advised Ragghianti and Kowalski that she would ordinarily urge that Clinton's call be answered by another letter requesting that Clinton send his inquiries in writing.[333] Given the FBI's request, however, she recommended that General Counsel Stover, who was home on sick leave, be contacted for his input about how to handle the situation.[334] Stover told his colleagues that a similar situation had arisen before and that the Commission employee was advised that the decision of whether to record a conversation to assist the FBI was a personal decision left to the employee and not one to be dic-

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[327] Interview with Judge Stephen Larson, former Assistant U.S. Attorney, Central District of California (Aug. 16, 2001).

[328] USPC Document Production 00869 (Meeting Notes, Jan. 26, 1999) (Exhibit 51).

[329] Telephone Interview with Thomas Kowalski, Case Operations Manager, USPC (July 27, 2001).

[330] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001); Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001).

[331] USPC Document Production 00869 (Meeting Notes, Jan. 26, 1999) (Exhibit 51).

[332] Telephone Interview with Thomas Kowalski, Case Operations Manager, USPC (July 27, 2001). *See* n.214.

[333] USPC Document Production 00869 (Meeting Notes, Jan. 26, 1999) (Exhibit 51).

[334] *Id*. Stover said he was sick with the flu and a 102-degree temperature on this day, so it was difficult for him to remember the details. He does recall staff from the Commission called him at home and insisted that he "weigh in" on the matter. After reviewing Ragghianti's meeting notes, Stover said he did not see anything in them that was inconsistent with his recollection. Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001).

tated by the Commission.[335] Therefore, Stover advised that the Commission precedent be followed and that Kowalski should make the decision about whether and to what extent he wished to cooperate with the FBI.[336] Ragghianti disagreed, inquiring as to "why any USPC employee might be free to exercise that kind of decision-making in an issue so important to the functioning of the Commission."[337] Because she disagreed with Stover on how to handle this issue, Ragghianti took it to the Parole Commissioners for their decision.[338]

At 4:35 p.m. that day, Chairman Gaines convened a meeting with Commissioner Reilly, Commissioner Simpson, Chief of Staff Ragghianti, and Deputy DAEO Gervasoni to discuss the FBI's request.[339] Two main issues arose during this meeting. First, there was discussion about whether Kowalski should be able to decide for himself whether to cooperate with the FBI or whether that was a decision for the Parole Commission to make. Second, there was extensive discussion about why the FBI was investigating Clinton and whether the investigation was part of the Office of Independent Counsel investigation of President Clinton. The Commissioners ended the meeting by reaching "the general consensus that no one present should tell Mr. Kowalski what to do."[340]

However, because of the concerns that the Commissioners and Ragghianti had about why the FBI was investigating Roger Clinton, Ragghianti followed up to determine the purpose of the Clinton investigation. According to Ragghianti, she had fears that the FBI's investigation of Roger Clinton was a "witchhunt."[341] These fears appear to have been based partly on Ragghianti's erroneous belief that the FBI investigation was part of the Office of Independent Counsel investigation of President Clinton.[342] Ragghianti first called Lynn Battaglia, the U.S. Attorney in Maryland.[343] Agent Dalrymple had told Ragghianti to call Battaglia if she had any concerns. Battaglia told Ragghianti that the investigation was "not a wild goose chase," that she knew Agent Dalrymple was a "good agent," and that this was not "a witch hunt."[344] Some of Ragghianti's fears about the investigation were allayed by Battaglia's assurances.[345] Battaglia's familiarity with the case also convinced Ragghianti that this investigation was being conducted

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[335] USPC Document Production 00869 (Meeting Notes, Jan. 26, 1999) (Exhibit 51).
[336] *Id*.
[337] *Id*.
[338] *Id.* at 00870.
[339] *Id.* at 00867.
[340] *Id.* at 00871.
[341] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[342] During the Parole Commission's debate of this issue, Commissioner Simpson also expressed concerns that the Office of Independent Counsel was involved: "Commissioner Simpson again stated that someone needs to ask Jackie Dalrymple what they're investigating. There was subsequent discussion regarding the fact that it appears at this time not to be related to Ken Starr. Commissioner Simpson stated that we need to call [Eric] Holder if we believe it's a Starr matter." USPC Document Production 00870 (Meeting Notes, Jan. 26, 1999) (Exhibit 51). However, Deputy DAEO Gervasoni "expressed doubts" about whether the Commission should contact Holder's office. She said that her "impression of Holder is that he's a 'stickler,' 'by the book' kind of person," and that the Commission would need a "good reason to refuse cooperation" with the FBI. *Id*.
[343] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).
[344] *Id*.
[345] *Id*.

by the U.S. Attorney's Office in Maryland, not Independent Counsel Starr.[346]

However, Ragghianti still was not comfortable with Michael Stover's conclusion that whether Tom Kowalski cooperated with the FBI was a personal decision, not a Parole Commission decision. Therefore, Ragghianti and Stover called the Deputy Attorney General's office and discussed the matter with Kevin Ohlsen, the Chief of Staff to the Deputy Attorney General, and David Margolis, an Associate Deputy Attorney General.[347] They called to see if "any responsible person in Main Justice was aware" of the investigation.[348] Ohlsen promised to look into it and later told Stover that the "higher-ups knew about it."[349] Ragghianti also recalls that Ohlsen and Margolis informed them that the FBI's proposed contacts with Roger Clinton were not "entrapment," but on the other hand, they stated that the Parole Commission did have a say in whether Kowalski should cooperate with the FBI.[350] But, according to Ragghianti, by this point, the Commissioners did not want to have any more meetings about the Gambino matter because they were concerned that they would have to recuse themselves from a decision on the Gambino case.[351] Therefore, they allowed Kowalski to decide for himself whether to cooperate with the FBI.[352]

According to Marie Ragghianti, the Parole Commission staff also debated whether they should inform the White House regarding the FBI's investigation. According to Ragghianti, they debated this point a "number of times" but decided not to inform the White House. While it is comforting that Parole Commission decided not to inform the White House about the investigation, it is slightly troubling that such action was even seriously considered. Clearly, the FBI was conducting a proper, authorized investigation that targeted the President's brother and potentially involved the White House. For the Parole Commission to inform the White House of such an investigation would likely have hindered the legitimate FBI inquiry.

Kowalski quickly agreed to cooperate with the FBI's investigation.[353] He went to an FBI office where there were facilities to record a telephone call and placed one to Roger Clinton's cell phone.[354] Kowalski left a voice mail for Clinton, but Clinton did not call back.[355] Kowalski could not recall for certain whether they

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[346] Michael Stover also discovered that the Roger Clinton investigation was not being conducted by Independent Counsel Starr. According to a memorandum prepared by Ragghianti, "Mr. Stover advised Ms. Ragghianti that he had been advised by Roger Adams [who was informed by the FBI when they visited his office] that the investigation was Ken Starr's; however, Mr. Stover stated that sometime later, he had received a call from an FBI asst. general counsel, who said that the investigation had the attention of both the FBI Director & Gen'l Counsel." USPC Document Production 00870 (Meeting Notes, Jan. 26, 1999) (Exhibit 51). Ragghianti also said that Stover had told her on another occasion that he believed the investigation had been initiated in a U.S. Attorney's Office in California. *Id.*

[347] Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001)

[348] *Id.*

[349] *Id.*

[350] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).

[351] *Id.*

[352] *Id.*

[353] USPC Document Production 00866 (Memorandum from Thomas C. Kowalski, Case Operations Administrator, to File (Jan. 27, 1999)) (Exhibit 58).

[354] Telephone Interview with Thomas Kowalski, Case Operations Manager, USPC (July 27, 2001).

[355] *Id.*

were ever successful in recording a live telephone conversation with Clinton but said they may have.[356]

Given their inability to obtain any useful evidence from a recorded telephone call, the FBI then arranged to record a meeting between Kowalski and Clinton at the Parole Commission offices. In Spring 1999, Clinton called Kowalski and told him that he was coming into town for the White House Easter Egg hunt and arranged to come by the Parole Commission offices and meet with Kowalski.[357] The FBI wired Kowalski's office with a microphone under his desk and monitored the conversation from a car in front of the building.[358] Kowalski said the FBI had suggested questions to ask Clinton such as, "Is there anything you want me to do," and "Should I do anything further?"[359] Clinton and Kowalski had the meeting, but Clinton did not provide any incriminating responses to Kowalski's questions.[360] Kowalski said that after the meeting, the agents came to his office and indicated they would have to close the investigation.[361] That was the last time Kowalski recalled having contact with the FBI regarding this matter.[362] Indeed, it appears that the FBI's interest in Clinton's contacts with the Parole Commission did come to an end with the taped meeting between Clinton and Kowalski.[363]

Given the fact that the Committee has not been provided with the transcript of the taped conversation between Clinton and Kowalski, it is difficult to determine all of the reasons why the FBI was not able to pursue the investigation of Clinton's lobbying of the Parole Commission. However, Kowalski made it clear that he was not comfortable participating in the taped conversation with Clinton. Kowalski's lack of comfort likely had some impact on Roger Clinton, and if Clinton had been planning to make any illegal proposals, he was unlikely to do so in such a meeting. The failure of the taped conversation with Kowalski makes Ragghianti's decision to reject the FBI undercover proposal even more significant. If the FBI was able to have a trained, professional undercover agent discussing Gambino's parole with Clinton, it might have made a significant difference in the FBI's case. However, due to Ragghianti's refusal to cooperate with the FBI, it is impossible to know what would have happened.

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[356] *Id.*
[357] *Id.*
[358] *Id.*
[359] *Id.*
[360] *Id.* A transcript exists of this taped conversation between Clinton and Kowalski. Despite specific requests from the Committee for the transcript, the Justice Department has refused to produce it. Despite the fact that they have provided the Committee with hundreds of pages regarding Clinton's involvement in the Gambino case, and the FBI's investigation of Clinton's role in Gambino case, the Justice Department claims that the transcript, and a number of other documents cannot be provided to the Committee because of the Department's "ongoing criminal investigation."
[361] *Id.*
[362] *Id.*
[363] Other commission staff also had the impression that the FBI had ceased its investigation. According to Michael Stover, "things were pretty tense at the Parole Commission about this," before he went on vacation from late March to early April 1999. However, when he returned, the issue appeared to be over because "the FBI had not heard what they wanted to hear Roger say." From Stover's perspective, they had "dropped the matter." Stover said he was not aware of any other incidents in which conversations with Roger Clinton were recorded, and he was also unaware of other contacts between Roger Clinton and Parole Commission personnel. Interview with Michael A. Stover, General Counsel, USPC (July 17, 2001)

3. Roger Clinton's Apparent Attempt to Involve the White House in the Parole Decision

One set of notes produced to the Committee by the National Archives indicates that Roger Clinton approached White House staff regarding the Gambino case. Notes produced to the Committee from the files of White House Deputy Counsel Bruce Lindsey indicate that Lindsey and Clinton met on February 19 of an unknown year regarding the Gambino matter. While assigning a date to the notes without Bruce Lindsey's or Roger Clinton's cooperation is somewhat speculative, the facts suggest that the meeting most likely occurred in February 1999.[364]

Lindsey's notes reflect that Roger Clinton explained the procedural history of Rosario Gambino's criminal case and bid for parole. Clinton apparently claimed that: (1) Gambino had only dealt one kilogram of heroin; (2) Gambino's codefendants were treated more leniently than Gambino; and (3) there was no evidence that Gambino was linked to organized crime.[365] The first and third claims are false. The second claim is true but, according to a federal appeals court, was justified in light of his leadership role in the conspiracy. Clinton apparently made special reference to Parole Commission General Counsel Michael Stover, who had rejected Clinton's previous entreaties to the Commission.[366] Lindsey's notes state, "Michael Stover—counsel to Mike Gaines" and then have an arrow pointing from Stover's name to the word "improper," which is underlined.[367] The notes also indicate that Clinton provided Lindsey with a number of documents relating to the Gambino parole case.[368]

Assuming that the meeting took place on February 19, 1999, and related to the Gambino parole effort rather than the Gambino clemency effort, the question is what, if any, action did Lindsey or other White House staff take as a result of the meeting with Roger Clinton. Neither Parole Commission nor White House records reflect any contacts between the White House staff and the Parole Commission regarding the Gambino case, other than the one previously described.[369] However, Roger Clinton's attempt to reach out

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[364] In February 1998, Clinton was still in the middle of his series of meetings with Commission staff, and likely did not yet see the need to escalate matters to the White House. By February 2000, the Commission had rejected Gambino's bid for parole, but it was likely still too early for Clinton to be meeting with Lindsey regarding a pardon or commutation for Gambino. Nothing in the notes suggests that Clinton was asking for executive clemency; rather, the discussion appeared to be limited to parole. In addition, Gambino's commutation petition was not filed with the White House until November 2000. NARA Document Production (Petition for Commutation, Nov. 2000) (Exhibit 59). In February 1999, on the other hand, Clinton was still trying to obtain meetings with Parole Commission staff, but their receptiveness had dropped off considerably, since, unknown to Clinton, the FBI was investigating the matter. In January 1999, the Commission overturned the preliminary decision in favor of Gambino, and was moving towards a final resolution of Gambino's parole bid in April 1999. A final piece of evidence supporting the conclusion that the meeting took place in February 1999 is the fact that Bruce Lindsey conducted legal research regarding the Gambino case in April 1999. NARA Document Production (Summary page from Lexis-Nexis Research, the White House, Apr. 5, 1999) (Exhibit 60). This research may have been prompted by Clinton's meeting with Lindsey. Accordingly, February 1999 is the likely time when Roger Clinton approached Lindsey and asked for his assistance with Gambino's parole bid.

[365] NARA Document Production (Handwritten Notes) (Exhibit 61).

[366] *Id.*

[367] *Id.*

[368] *Id.*

[369] The contact took place in January 1996 when Commissioner Michael Gaines called Trey Schroeder at the White House to let him know that Clinton was contacting the Commission about Gambino. *See* n.195 and accompanying text.

to Bruce Lindsey demonstrates that Clinton was intent on using his influence at the White House improperly to influence the Parole Commission's handling of the Gambino case. While Clinton may not have successfully enlisted Bruce Lindsey in his effort, it is disturbing that Clinton's overtures received any consideration at the Clinton White House at all, much less the lengthy meeting and follow-up research indicated by the documents in Lindsey's file.

Despite Roger Clinton's efforts, Rosario Gambino's bid to obtain parole failed. In April 1999, the Parole Commission denied Gambino's final appeal and set a parole date of March 2007.[370]

D. Roger Clinton's Financial Relationship with the Gambinos

Undeterred by his failure to win parole for Rosario Gambino, Roger Clinton's contacts with the Gambino family continued. Clinton's relationship with Tommy Gambino included a March 1999 trip together from Los Angeles to Washington, D.C.[371] It is unknown what Gambino and Clinton did in Washington or with whom they met.

Clinton's relationship with Gambino also had a significant financial dimension. In 1999, Roger Clinton was playing a game of pick-up golf with three strangers at a public course in Los Angeles.[372] Somewhere near the tenth hole, Tommy Gambino drove up in a golf cart and had a brief conversation with Clinton, handed Clinton a box, and left.[373] Clinton told his golfing partners that the person who had been talking to him was Tommy Gambino and that he was "helping" Tommy Gambino's father.[374] Clinton then opened the box Gambino had given him. In the box was a gold Rolex watch.[375] What Roger Clinton did not know was that two members of his foursome were Air Force intelligence officers.[376] They were apparently troubled by Clinton's relationship with Gambino and the receipt of the Rolex and reported the incident to the FBI, which was continuing its investigation.[377]

Later in 1999, Clinton received a $50,000 payment from the Gambinos. On September 27, 1999, Anna Gambino, Tommy Gambino's sister, wrote a check to Roger Clinton's company in the amount of $50,000 dated September 29, 1999.[378] The funds used to pay Clinton appear to have originated with Lisa Gambino in Staten Island, New York. Anna Gambino deposited three cashier's checks

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[370] USPC Document Production 00010 (Sentence Monitoring Computation Data, Mar. 19, 2001) (Exhibit 62).

[371] American Express Document Production (Exhibit 63).

[372] Alison Leigh Cowan, *Roger Clinton's Dogged Effort for Drug Trafficker*, N.Y. TIMES, Aug. 26, 2001. The Committee requested records relating to this matter, including summaries of FBI interviews with the Air Force intelligence officers. The Justice Department declined to produce those records to the Committee because of its ongoing criminal investigation of Roger Clinton.

[373] Alison Leigh Cowan, *Roger Clinton's Dogged Effort for Drug Trafficker*, N.Y. TIMES, Aug. 26, 2001.

[374] *Id.*

[375] *Id.*

[376] *Id.*

[377] *Id.*

[378] The discovery of this check in Roger Clinton's bank records is what led the Committee to begin inquiries regarding Rosario Gambino. When the Committee received the original check from Tommy Gambino in response to a subpoena, it became apparent that the check had been filled out by three different individuals using three different pens. Anna Gambino apparently signed the check, which was presumably blank; Tommy Gambino then apparently filled out the amount of the check, $50,000; and then the "payable to" line was filled out in Roger Clinton's handwriting, payable to Odgie Music. Tommy Gambino Document Production (Exhibit 64).

from Lisa Gambino dated April 30, 1999, totaling $227,889.97 into the account from which she later paid Roger Clinton's company $50,000.[379] The bank records indicate that without this deposit, there would have been insufficient funds to cover the check to Clinton.[380] However, Lisa Gambino has refused to answer requests for an interview. Accordingly, the Committee has been unable to determine the nature of the relationship between Lisa Gambino and Anna Gambino or why Lisa Gambino paid Anna Gambino the money.[381]

Other evidence connects Lisa and Anna Gambino to reputed organized crime figures. Both the accounts of Anna and Lisa Gambino received frequent inflows of funds from Antonio Genovese,[382] a New York businessman who was partners with Giovanni Gambino in G&G Concrete Company.[383] Giovanni "John" Gambino is the brother of Rosario Gambino and was convicted of murder and heroin distribution, together with his other brother, Giuseppe "Joe" Gambino.[384] G&G Concrete played a central role in a 1995 dispute between another New York construction firm, Nasso and Associates, and the city's School Construction Authority ("SCA"). The disagreement was settled, but according to reports, Nasso had failed to disclose that it received financing from G&G Concrete partner Antonio Genovese.[385] Both Genovese and John Gambino had worked for Julius Nasso, the grandfather of the principal of Nasso and Associates, before forming G&G Concrete.[386] According to news reports:

> Testimony at the 1987 trial of Genovese mob boss Anthony Salerno's [sic] disclosed that the elder Nasso met with then-Gambino boss Paul Castellano and others in an effort to convince another firm to step aside and let Nasso take the $26 million Javits Convention Center job.[387]

The controversy led to Nasso and Associates being prohibited from bidding on New York City school projects.[388]

E. The FBI's Interview of Roger Clinton

In the same time that Roger Clinton was receiving $50,000 and a gold Rolex from the Gambinos, the FBI was continuing its investigation of his relationship with Tommy Gambino. The report of

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[379] Fidelity Federal Document Production (Exhibit 65).
[380] Fidelity Federal Document Production (Exhibit 66).
[381] The Committee was, however, able to determine the source of the funds. The cashier's checks provided to Anna by Lisa Gambino were the proceeds of a $499,000 mortgage on her home in Staten Island, New York. Staten Island Savings Bank Document Production (Exhibit 67). In the loan application documents, Lisa Gambino wrote a note in her own hand indicating she was seeking the loan "for an investment." Staten Island Savings Bank Document Production (Exhibit 68). Given the refusal of Roger Clinton and Tommy Gambino to cooperate, however, the Committee has also been unable to definitively determine the purpose of the $50,000 payment to Roger Clinton. However, as discussed below, Clinton suggested to the FBI and the media that the money was a loan, which appears to be false.
[382] *See* Fidelity Federal Document Production.
[383] William K. Rashbaum, *Concrete Case; Firm Allegedly Tied to Mob Helps Build Federal Prison*, NEWSDAY, Jan. 23, 1995.
[384] Selwyn Raab, *Two Admit Importing Heroin for Mafia Crime Family*, N.Y. TIMES, Jan. 7, 1994.
[385] William K. Rashbaum, *Concrete Case; Firm Allegedly Tied to Mob Helps Build Federal Prison*, NEWSDAY, Jan. 23, 1995.
[386] *Id.*
[387] *Id.*
[388] *Id.*

Clinton's receipt of the Rolex reinvigorated the investigation, leading to the interview of Clinton. At some point in 1999, the Justice Department also issued a grand jury subpoena to Tommy Gambino.[389] Through his attorney, James Henderson,[390] Gambino informed the Justice Department that he planned on invoking his Fifth Amendment rights.[391] Accordingly, the Department did not call Gambino to the grand jury.[392] Instead, Gambino and his attorney participated in an interview with the Justice Department.[393] However, reportedly, little resulted from the interview.[394] Due to the Justice Department's decision to withhold documents selectively relating to the Clinton-Gambino investigation from the Committee, including the Tommy Gambino interview summary, it is not clear exactly what Gambino was questioned about, whether he was truthful, or whether he was interviewed before or after Roger Clinton.

On September 30, 1999, the same day that Roger Clinton deposited the $50,000 Gambino check, two FBI agents interviewed Clinton at his home in California.[395] It is not clear what prompted the FBI's interview, and specifically, whether they were aware of the $50,000 check. The FBI interview summary shows that Clinton attempted to mislead the FBI agents on several occasions and had to change his story a number of times. Even with Clinton's belated efforts to correct his falsehoods, in the end he appears to have lied to the FBI agents about multiple topics.

1. Roger Clinton's Statements Regarding His Brother's Knowledge

Clinton's first falsehood related to whether he discussed his efforts on behalf of Gambino with President Clinton:

> Clinton stated he did not discuss his decision to assist the Gambino family in this case with anyone. . . . Clinton stated he did not tell his brother, the President of the United States, specifically what he was working on. He believes, however, that the President knew he had some business with the U.S. Parole Commission, but did not know specifically what he was working on. He did not tell his brother that he was working on the Rosario Gambino case. He did not seek advise [sic] or referrals from the President in his efforts to contact the Parole Commission on behalf of Rosario Gambino.[396]

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[389] Interview with Judge Stephen Larson, former Assistant U.S. Attorney, Central District of California (Aug. 16, 2001).

[390] Although Henderson is the former head of the Justice Department's Organized Crime Strike Force in Los Angeles, he has represented individuals alleged to have ties to organized crime, including Tommy Gambino, Louis Caruso, a "reputed soldier in the Los Angeles mob family," and Ronald "The Cigar" Sacco, an alleged $1 billion per year bookie with reputed ties to organized crime families. John L. Smith, *Oddsmaker Going Back to Control Board to Clear His Name*, LAS VEGAS REVIEW JOURNAL, June 11, 1997; Seth Rosenfeld, *Alleged Bookie Gets Huge Bail*, SAN FRANCISCO EXAMINER, Dec. 31, 1993.

[391] Interview with Judge Stephen Larson, former Assistant U.S. Attorney, Central District of California (Aug. 16, 2001).

[392] *Id.*

[393] *Id.*

[394] *Id.*

[395] DOJ Document Production FBI–RC–00001 (Summary of Interview with Roger Clinton, Oct. 1, 1999) (Exhibit 1).

[396] *Id.* at FBI–RC–00003.

As discussed earlier, Clinton told Thomas Kowalski the opposite. According to Kowalski, Clinton explicitly told him on several occasions that the President knew what Roger was doing for Gambino.[397] Michael Stover's contemporaneous record of his conversation with Clinton in January 1996 is also far more consistent with Kowalski's recollection than with Clinton's claims to the FBI:

> [Roger Clinton] began the conversation by informing me that his brother "[]is completely aware of my involvement." Roger Clinton stated that his brother had recommended to him that he not meet with Commissioner Getty . . . because Commissioner Getty's Kansas City Regional Office was about to be closed. Roger Clinton informed me that his brother suggested that he contact Commissioner Gaines instead.[398]

Clinton told Kowalski that the President knew of his efforts on behalf of Gambino; then, he told the FBI that he never discussed the matter with his brother. Clinton told Stover that the President was actively advising him in his efforts to contact the Commission; then, he told the FBI that his brother was not involved at all. If he had said nothing further on the matter, the worst one could conclude would be that either Clinton was lying to Kowalski and Stover or he was lying to the FBI. However, Clinton went further by telling the FBI "that he did not represent to anyone on the Parole Commission that his brother was aware of his efforts to assist the Gambino family or that the President was supporting his effort to assist in getting Rosario Gambino released from prison."[399] If Kowalski is to be believed, then Clinton's statement is false. According to Kowalski, Clinton did represent that his brother was aware of his efforts to assist Gambino.[400] Unlike Clinton's statement to the FBI, Kowalski's statement is not a self-serving denial standing alone. Rather, Kowalski has no discernable motivation to lie, and his recollection about Clinton's representation of his brother's knowledge is consistent with the contemporaneous, written record of a conversation in which Clinton made very similar statements to Stover.[401]

2. Roger Clinton's Statements Regarding Payment from the Gambinos

Clinton told the FBI that his efforts on behalf of Rosario Gambino were "above board."[402] He told the agents that immediately after learning that Commission personnel were unable to discuss particulars of the case with him without violating the Privacy Act, he "processed the proper paperwork to register as an offi-

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[397] *See* n.251 and accompanying text.

[398] USPC Document Production 00894 (Memorandum from Michael A. Stover, General Counsel, to File (Jan. 31, 1996)) (Exhibit 42).

[399] DOJ Document Production FBI–RC–00003 (Summary of Interview with Roger Clinton, Oct. 1, 1999) (Exhibit 1).

[400] Telephone Interview with Thomas Kowalski, Case Operations Manager, USPC (July 27, 2001).

[401] USPC Document Production 00894 (Memorandum from Michael A. Stover, General Counsel, to File (Jan. 31, 1996)) (Exhibit 42).

[402] DOJ Document Production FBI–RC–00003 (Summary of Interview with Roger Clinton, Oct. 1, 1999) (Exhibit 1).

cial representative of Rosario Gambino."[403] The agents then began to ask about compensation for Clinton's assistance:

> Clinton was asked if he was ever given anything of value for his assistance in this matter. He advised he had not received anything for this assistance. Clinton stated that Tommy Gambino said if he (Clinton) could help get his father released from prison, "we will take care of you." Clinton said that he knows what that means. He stated "I'm not stupid, I understand what the big picture is." . . . Clinton advised it was his understanding [that] if he were successful, he would be financially compensated. . . . Clinton then stated that he had received two airline tickets to Washington D.C. from Tommy Gambino and expenses for the trips. Tommy Gambino put the airline tickets on his credit card. Clinton also admitted to having received an undisclosed amount of expenses, but did not provide any information as to how the expense money was furnished to him.[404]

The trip to Washington D.C. mentioned here appears to be a different trip than the one mentioned earlier, because the earlier trip was paid for on Roger Clinton's company credit card, not on Gambino's. Accordingly, Clinton and Gambino may have traveled to Washington together on more than one occasion.

After Clinton initially denied that he had ever received anything of value for his assistance to the Gambino family (other than the airline tickets and expense money), the agents began questioning him about any gifts he may have received from the Gambinos. Clinton then partially addressed the $50,000 he had either just received or was about to receive from Gambino that day:[405]

> Clinton advised he is currently trying to buy a house in the Torrance, California area and Tommy Gambino has offered to loan him an undisclosed amount of money for the down payment. This loan is not compensation for his assistance to the Gambino's [sic] in attempting to get Rosario Gambino released from prison. The offer is for a loan which must be repaid. It is not to give Clinton the money. This offer was made regardless of the outcome with Clintons [sic] efforts to obtain Rosario Gambino's release.[406]

Clinton's explanation of the Gambino "loan offer" is misleading for a number of reasons. First, if Clinton had received the $50,000 check from Anna Gambino at the time of the interview, his state-

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[403] *Id*. It appears that this statement was also untrue. The Parole Commission did not provide the Committee with any such paperwork, and internal Parole Commission documents repeatedly refer to the fact that Clinton had not filed the appropriate paperwork under the Privacy Act. *See, e.g.*, USPC Document Production 00879 (Memorandum from Sharon Gervasoni, DDAEO, to Marie Ragghianti, Chief of Staff (Sept. 23, 1998)) (Exhibit 69).

[404] *Id.* at FBI–RC–00004.

[405] The Roger Clinton FBI interview summary does not state what time of day on September 30 the interview was conducted. Similarly, Roger Clinton's bank records do not indicate what time of day Clinton deposited the $50,000 check from Gambino. In the absence of more documentation, it is difficult to be certain that Clinton had received the Gambino check at the time of the FBI interview. However, considering the fact that the check was dated September 29, and deposited September 30, it is distinctly possible that Clinton received the check before September 30. If Clinton had the check in his possession at the time of the FBI interview, his statements about payment from Gambino would have been explicitly false.

[406] *Id.* at FBI–RC–00005–06.

ments would clearly be misleading, as he would have received an actual payment, not just an "offer." Second, there is no evidence that the payment from Gambino was a loan, or was ever intended to be a loan. There is no record of repayment of the $50,000 in either Clinton's or Gambino's bank records.

Also undermining Clinton's claims that the money from Gambino was a loan are the other large payments Clinton received in this same period, which were clearly intended to be loans and which Clinton repaid in short order. For example, in the same time period, Clinton received and repaid a large loan from Gerard Guez, CEO of the Tarrant Apparel Group. According to Guez, Clinton said he needed money to buy a house and promised to repay Guez from funds he would soon receive as payment for a performance in Korea.[407] On October 25, 1999, Guez wired $100,000 to Roger Clinton's business checking account.[408] Less than three months later, Clinton had repaid the entire amount (with no interest) through two checks from his personal checking account: one on December 17, 1999, for $50,000 and another on January 6, 2000, also for $50,000.[409] Clinton did purchase a home for $570,000 on September 27, 1999, with a down payment of $114,000.[410] The deed transfer was recorded on October 29, 1999, four days after Guez wired the funds and two days after Clinton withdrew $115,703 from his account.[411] The $100,000 from Guez appears to have been the primary source of funds for the down payment rather than the $50,000 from Gambino. Even if Roger Clinton used some of the money from Gambino ($15,703 at most) for the down payment, there appears to be no record of his repaying any of it. This is in contrast to the $100,000 from Guez, which Roger repaid in full within three months. Accordingly, the claim that the payment from Gambino was a loan for a down payment on his house is clearly false.

There is also evidence that Clinton attempted to coach Tommy Gambino and influence his potential testimony regarding this payment. When it became clear that the Committee was investigating the $50,000 payment from Gambino, Roger Clinton reportedly called Gambino and attempted to convince him that the payment had been a loan. As *The New York Times* reported:

> According to one person close to the Gambinos, Roger Clinton called Tommy Gambino on Monday [June 25, 2001] because questions were being raised about the 1999 payment.
>
> "Don't you remember this is money you gave me for my house for a loan?" this person quoted Roger Clinton as saying to Tommy Gambino.
>
> Tommy Gambino, this person said, thought it best not to reply on the chance that the phone was tapped.[412]

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[407] Telephone Interview with Gerard Guez, CEO, Tarrant Apparel Group (June 11, 2001).
[408] Bank of America Document Production (Exhibit 70).
[409] Bank of America Document Production (Exhibit 71).
[410] Property Transfer Record, Los Angeles County, CA (Doc. #:99–2032105).
[411] *Id*; Bank of America Document Production (Exhibit 72).
[412] Alison Leigh Cowan, *Pardon for Felon Considered After Kin Paid Roger Clinton*, N.Y. TIMES, June 28, 2001.

3. Roger Clinton's Statements Regarding the Rolex Watch

Roger Clinton also attempted to mislead the interviewing FBI agents regarding the gold Rolex that he received from Tommy Gambino. Clinton first attempted to tell the agents that he never received any gifts from Gambino and then altered his story several times:

> Clinton was asked if he had received any gifts from Tommy Gambino while he was assisting the family with the case, and Clinton initially responded "no." After further inquiry, Clinton then advised "I was shown a Rolex watch once, but it was not given to me." Clinton explained that the watch was on the wrist of Tommy Gambino who asked Clinton if he ever had a Rolex.
>
> Clinton related that he and Tommy Gambino were discussing watches and cigars at a coffee shop in Beverly Hills, the name and location of which Clinton could not remember.
>
> * * *
>
> Clinton stated that after leaving the coffee shop, Tommy Gambino took him to look at watches at an unnamed "pawn shop," also in Beverly Hills, California where they encountered actor and Hollywood celebrity George Hamilton. Clinton said Hamilton, who is "a friend of Tommy's," sells watches and cigars. Clinton said Hamilton had a briefcase full of watches which he displayed to Clinton and Gambino, but they left without buying a watch.[413]

So, Clinton's initial response when asked specifically about the watch was to deny that he had ever received one. That version of events, however, did not withstand scrutiny for long:

> Clinton subsequently reversed his earlier denials and admitted to having actually received a watch from Tommy Gambino, who told him it was an "Italian custom" to give such a gift as a token of appreciation. Clinton could not remember either when he was given the watch, or where he was when he received it. Clinton claimed, however, he did not keep it, but returned it to Gambino after he had "heard" the watch is a "fake." Clinton could not remember who told him the watch was an imitation, or when he had learned it was a "fake."[414]

Thus, Clinton's second story was that he did receive a watch from Gambino but had returned it. Again, this story did not withstand scrutiny and was withdrawn:

> Clinton again amended his previous statement when pressed for details regarding the watch's return. Clinton stated that even though it was supposed to be "a fake," he

[413] DOJ Document Production FBI–RC–00004–05 (Summary of Interview with Roger Clinton, Oct. 1, 1999) (Exhibit 1).
[414] *Id.* at FBI–RC–00005.

> did not return the watch because it was a gift of appreciation from the family. Clinton contended that he never wore it because it was "too gaudy" with a thick gold band and a blue face. Clinton said he was confused in that he did not know the present location of the watch. Clinton stated "Tommy could have it," or that he may actually still have the watch. He stated "he really didn't know." Clinton advised "It could be in my flippin trunk for all I know, it could be in my garage, or almost anywhere." Clinton offered to locate the watch "if it is really important, but it's going to take a lot of effort, so don't ask unless you really need it." Clinton was asked to look for the watch after the interview and contact the interviewing agents if he located it. Clinton agreed to do so.
>
> Clinton asked if Tommy Gambino was in trouble and if he was involved in something Clinton should know about. He stated that as far a [sic] he knew, Tommy Gambino is very clean.[415]

Hence, Clinton's third version was that he had received the watch, did not return it, and was unsure of its location. Despite all three earlier claims, Clinton later produced a Rolex watch to the agents and offered the following explanation of how he had obtained it:

> Clinton stated that he does now own a silver Rolex watch. He bought it from an unknown street vendor in front of a "rainbow" or "multicolored" hotel in Tijuana, Mexico. He paid $250 dollars for the watch in cash and has no receipt of the purchase. He could not provide either the name, street address or approximate location of the hotel.[416]

At this point in the interview, the agents took the unusual step of warning Clinton about the potential consequences of lying to the FBI:

> [T]he interviewing agents advised Clinton of the provisions of Title 18, U.S. Code Section 1001 and the criminal exposure of making false statements to federal agents. Clinton was informed it was a violation of law to provide false information to federal law enforcement officers and that he could be prosecuted, fined and imprisoned for doing so. Clinton was then asked, after being advised of Title 18, U.S. Code Section 1001, would he care to change or otherwise amend any of his previous statements, and Clinton replied "No," he was comfortable with what he had said.[417]

Clinton's bumbling efforts to mislead the interviewing FBI agents should not distract from the central fact that Roger Clinton was attempting to conceal from the FBI the true nature of his relationship with Tommy Gambino, reputed underboss of the Los Angeles Mafia, and his efforts to win the release of Rosario Gambino, a convicted heroin trafficker and organized crime figure. Clinton's efforts on behalf of the Gambino family were not merely embar-

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[415] *Id.*
[416] *Id.* at FBI–RC–00006.
[417] *Id.*

rassing. His behavior was unconscionable and his attempts to conceal certain key aspects of his involvement from the FBI were illegal. Clinton was attempting to use his influence to affect the decision of the U.S Parole Commission; he was receiving money from the Gambino family; and he may have been doing it with the full knowledge of his brother, the President. For Roger Clinton to refuse to cooperate fully and truthfully with the FBI in an investigation of these deeply disturbing issues only strengthens the conclusion that Clinton knew his activity was highly unethical and quite possibly illegal.

F. The Efforts to Obtain Executive Clemency for Rosario Gambino

In November 2000, Rosario Gambino requested that President Clinton exercise his power of executive clemency and commute his prison sentence. Gambino filed with the White House a two-page commutation petition, as well as a twelve-page brief with a number of attachments.[418] Gambino's brief in support of his commutation request made a number of familiar arguments: (1) that Gambino was given a higher "offense severity rating" than his co-conspirators; (2) that Gambino had been subjected to prejudice based on national origin; and (3) that Gambino had an "outstanding institutional record" and strong family support, which merited release from prison.[419]

The arguments raised by Gambino were seriously flawed. As has been noted before, a federal appeals court explicitly rejected the first two. The Parole Commission repeatedly and properly found that Gambino's offense severity rating was correctly set at level eight, the highest available to the Commission. This rating was based on the courts' and the Commission's judgment that Gambino was at the head of a major heroin distribution ring and had been involved in other major organized criminal activities. Gambino's argument focused on the claim that his co-defendants received a less severe rating of level six while being equally involved in the heroin distribution ring. This claim does not have great merit. First, there was evidence that it was Rosario Gambino, rather than Erasmo Gambino or Anthony Spatola, who headed the heroin distribution ring. In addition, the Parole Commission also determined that Erasmo Gambino may have incorrectly been granted a rating of level six, and likely should have received a more severe rating. The Commission found that it "need not give the ringleader of a major heroin conspiracy a lower rating just because his subordinates have been rated too low."[420]

It also appears that Gambino's arguments of discrimination based on national origin were completely spurious. The only evidence cited in support of Gambino's claim was a Parole Commission memo stating that "Gambino appears to come from an immigrant background in which family connections are simply exploited

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[418] NARA Document Production (Petition for Commutation, Nov. 2000) (Exhibit 59).
[419] *Id.*
[420] USPC Document Production 00664 (Memorandum from John R. Simpson, Commissioner, to National Commissioners (Jan. 13, 1999)) (Exhibit 55).

(as in the current offense) to get around the law."[421] This quote simply provides no evidence of prejudice against Gambino. Indeed, the Ninth Circuit Court of Appeals summarily rejected Gambino's claim of racial prejudice.[422] The Court likely recognized that the Commission memo stated a simple fact, namely that Gambino's background indicated that he did, in the current offense, employ family loyalty as a tool to ensure the success of his criminal enterprise.

Gambino's claim that he was a model prisoner was incorrect. Gambino did have one official infraction in his prison record, and the Committee also learned that Gambino was transferred from at least one prison because he was "muscling" other prisoners.[423] While these offenses may not be as serious as other inmates' infractions, they are not the actions of a model prisoner. Finally, Gambino argued brazenly that he had "strong family support" and could be provided a job by his son Tommy upon release. Given the allegations suggesting that Tommy Gambino is an organized crime figure in his own right and that his business partner is convicted mobster Dominick "Donnie Shacks" Montemarano,[424] it is hardly an argument for Rosario Gambino's release that he would return home and take a job in the "family business."

It is clear that the Gambino commutation petition was filed with the White House and rejected at some point in January 2001. Beyond that, few facts about consideration of his petition are known. The inability to discover this information is the result of two unfortunate decisions. First, former Deputy White House Counsel Bruce Lindsey and former Associate White House Counsel Meredith Cabe refused to be interviewed by Committee staff regarding their handling of the Gambino matter. Second, the Bush Administration withheld from the Committee four deliberative documents regarding the Gambino commutation decision.[425] Both of these decisions are disturbing. Lindsey and Cabe would be able to shed light on whether the President was receptive to his brother's pleas and how close the Gambino commutation came to being granted. It is difficult to understand why the Bush Administration would want to withhold from the Committee key documents about the Gambino matter. The documents have a direct bearing on an apparent attempt by the former President's brother to sell his access to the White House to an alleged member of the Sicilian Mafia. Documents like these, which have a direct bearing on a case involving the sale of access to the clemency process by a presidential sibling, should not be withheld from Congress. The decision of the Bush Administration to withhold these documents has kept the Committee from determining how the Gambino commutation request was handled at the White House. These documents likely would inform the Committee whether the Gambino commutation was seriously

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[421] USPC Document Production 00890 (Memorandum from Thomas C. Kowalski, Case Operations Manager, to Michael J. Gaines, Chairman (Dec. 24, 1997)) (Exhibit 44).

[422] *Gambino v. United States Parole Comm'n*, 216 F.3d 1083 (9th Cir. 2000).

[423] Telephone Interview with Thomas Kowalski, Case Operations Manager, USPC (July 27, 2001).

[424] *See* Arnold H. Lubasch, *2 Convicted of Racketeering in Mafia Construction Case*, N.Y. TIMES, July 18, 1987 (describing Montemarano's conviction).

[425] Letter from Gary M. Stern, General Counsel, National Archives and Records Administration, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform (Aug. 2, 2001) (within Appendix I).

considered, what position White House staff took on the matter, and whether the President was receptive to the Gambino request.

The few documents received by the Committee suggest that the Gambino commutation may have received serious consideration at the White House. Two documents located in the files of Meredith Cabe indicate that Cabe requested a National Crime Information Center ("NCIC") background check on Rosario Gambino.[426] Cabe was the primary attorney in the White House Counsel's office handling clemency-related matters in the waning days of the Clinton Administration.[427] The two documents were printed from a computer diskette labeled, "pardon lists."[428] One of the documents reads as follows:

> NCIC for Michael Mahoney?
>
> NCIS [sic][429] for Rosario Gambino, [date of birth redacted], no social security number, incarcerated at Terminal Island, CA
>
> Please provide all information known regarding Kimberly Johnson's incident report for "threatening bodily harm"
>
> Ask DOJ to contact sentencing judge in Diana G. Nelson case?
>
> NCIC: Peter Ninemire, [date of birth redacted], [social security number deleted]: what happened if we commute entire federal sentence; is he remanded to state custody???[430]

The other document prepared by Cabe reads as follows:

> 1. NCIC Checks
>
> Michael Mahoney,
>
> Rosario Gambino, [date of birth redacted], no social security number, incarcerated at Terminal Island, CA
>
> Peter Ninemire, [date of birth redacted], [social security number deleted]:
>
> John Bustamente, [date of birth redacted], [social security number deleted]
>
> 2. Follow up questions
>
> Kimberly Johnson: please provide all information known regarding incident report for "threatening bodily harm"
>
> Diana G. Nelson: Please contact sentencing judge regarding position on commutation.

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[426] NARA Document Production (Typewritten Notes) (Exhibit 73).

[427] Interview with Meredith Cabe, former Associate White House Counsel, the White House (Mar. 16, 2001).

[428] NARA Document Production (Typewritten Notes) (Exhibit 73).

[429] The reference "NCIS" is apparently a typographical error by Cabe. Supporting this conclusion first is the fact that there is no relevant database called "NCIS." Second, the preceding sentence references NCIC. Third, another document prepared by Cabe indicates that she was requesting an NCIC check on Gambino.

[430] NARA Document Production (Typewritten Notes) (Exhibit 73).

> Peter Ninemire: can you determine what happened if we commute entire federal sentence; is he remanded to state custody???[431]

These documents suggest that Gambino may have been a serious candidate for clemency. Cabe was interviewed by Committee staff prior to the discovery of the Clinton-Gambino matter and explained that she was responsible for obtaining NCIC checks on serious candidates for clemency.[432] The purpose of such a background check was to ensure that there was no further criminal activity on the part of the petitioner that had not been disclosed on the petition.[433] The fact that the White House was requesting a background check on Gambino suggests that his name had passed some level of serious scrutiny, and the White House was considering the commutation. The other names listed with Gambino's also suggest that the commutation was being seriously considered. Gambino's name is listed with Michael Mahoney, Peter Ninemire, John Bustamente, Kimberly Johnson, and Diana G. Nelson.[434] Three of those five individuals received executive clemency.[435] This fact indicates that Cabe's list was not some preliminary list of individuals whose names had been received by the White House. Rather, since sixty percent of those on the list with Gambino actually received executive clemency, the list appears to consist of individuals receiving serious consideration.

The Committee has not been able to determine exactly when the President decided not to grant clemency to Rosario Gambino. However, Roger Clinton's telephone records make it appear that he was holding out hope for a commutation until the final moments of the Clinton Administration. The very first call placed by Roger Clinton after the expiration of his brother's term as President on January 20, 2001, was to the cell phone of Tommy Gambino. It seems likely that the call was to break the news to Tommy Gambino that his father would not be receiving a commutation. Supporting this conclusion is the fact that Clinton also placed telephone calls to three other individuals immediately after his call to Gambino, informing them that they did not receive the pardons that Roger Clinton had been attempting to get them. After he called Tommy Gambino, Roger Clinton called Dan Lasater, George Locke, and Joseph "Jay" McKernan and informed them that the President had not granted them pardons, despite Roger's request.[436]

The Rosario Gambino case is one of the most disturbing matters reviewed by the Committee as part of its clemency investigation. The President's brother worked to free a convicted heroin dealer and member of organized crime from prison. The President's brother engaged in these activities because of his friendship with Tommy Gambino, himself a reputed senior organized crime mem-

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[431] NARA Document Production (Typewritten Notes) (Exhibit 73).

[432] Interview with Meredith Cabe, former Associate White House Counsel, the White House (Mar. 16, 2001).

[433] *Id.*

[434] NARA Document Production (Typewritten Notes) (Exhibit 73).

[435] *See* "Clemency Recipients" <http://www.usdoj.gov/pardon/recipients.htm> (Pardons Granted by President Clinton and Commutations Granted by President Clinton).

[436] Telephone Interview with Dan Lasater (May 7, 2001); Telephone Interview with George Locke (Mar. 27, 2001); Telephone Interview with Joseph "Jay" McKernan (Apr. 10, 2001). *See also* Verizon Document Production (Roger Clinton Phone Bill, Feb. 1, 2001) at 8–9.

ber. He also engaged in these efforts because of the promise of a lucrative reward from the Gambino family, a reward that Clinton received in part, even though he did not succeed in winning Rosario Gambino's release. Moreover, when questioned by the FBI, Roger Clinton lied repeatedly in order to cover up the true nature of his relationship with the Gambino family. This episode sets a new low for presidential siblings.

III. THE LINCECUM PARDON OFFER

Among the first public reports of Roger Clinton's pardon-related activities was the story of Garland Lincecum. Garland Lincecum has claimed that he and his family were bilked out of $235,000 by Roger Clinton and two of his associates, Dickey Morton and George Locke, who claimed that they could sell presidential pardons.[437]

Garland Lincecum was convicted in July 1998 along with three co-defendants for wire fraud and mail fraud in connection with a scheme to defraud investors of $8 million.[438] Lincecum's co-defendants were Valerie Miremadi, Anthony Miremadi, and Paul Eggers, a former general counsel to the Treasury Department in the Nixon Administration and candidate for the governorship of Texas.[439] All were convicted for their roles in the scheme. Lincecum was sentenced to 87 months in prison, which he began serving in April 1999.[440] According to the government, the defendants had engaged in a "prime bank" fraud, a common scheme described by the Securities and Exchange Commission as involving "the purported issuance, trading, or use of so-called 'prime' bank, 'prime' European bank or 'prime' world bank financial instruments, or other 'high yield investment programs[.]'"[441] Investors are told that "prime banks" use their funds for short-term loans and that they will be able to earn a return of 100 percent or more.[442] Lincecum, however, maintains that little or no money was actually lost in this investment scheme and that all investors' funds were treated with care.[443]

Lincecum also had a prior conviction from 1982 for transporting an individual across state lines in furtherance of a fraudulent scheme.[444] Lincecum served 40 months in prison on those charges but maintains that he is innocent of any crime for his role in either fraudulent scheme.[445] He also believes that his co-defendants in the 1998 trial received much lighter sentences than he did, despite their more serious involvement in the investment plan.[446]

The other key actors in the Lincecum matter were George Locke and Dickey Morton. George Locke was an Arkansas State Senator

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[437] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[438] *Nixon Official Facing 5 Years for Fraud*, UNITED PRESS INTERNATIONAL, Aug. 1, 1998.
[439] *Id.*
[440] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[441] "Warning to All Investors About Bogus 'Prime Bank' and Other Banking-Related Investment Schemes," Securities and Exchange Commission, <http://www.sec.gov/divisions/enforce/primebank.shtml>.
[442] *Nixon Official Facing 5 Years for Fraud*, UNITED PRESS INTERNATIONAL, Aug. 1, 1998.
[443] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[444] *Id.* Lincecum's prior conviction related to his role in finding investors for a fraudulent gold refining process. Lincecum and two other individuals claimed to have a new process for refining gold ore. Lincecum and his investors then used the ore, which authorities charged was worthless, as collateral to borrow $250,000 from a bank in Pennsylvania. Lincecum and his partners were all convicted. Interview with Robert "R.V." Wilson (Apr. 25, 2001).
[445] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[446] *Id.*

from 1970 to 1983 but was convicted of cocaine distribution charges in 1986.[447] Locke's conviction stemmed from drug dealing activities he conducted in Arkansas in the 1980s together with Dan Lasater and Roger Clinton.[448] Locke was also a partner of Lasater's in the investment firm of Collins, Locke, and Lasater in Little Rock.[449] Dickey Morton was a star running back for the University of Arkansas during the 1970s who then played briefly for the Pittsburgh Steelers. In 1974, Morton married Sandra Clark, who was the daughter of Jimmy Clark, Locke's business partner.[450] Locke and Morton have been close since 1973 and have had a number of business ventures together.[451]

A. Garland Lincecum's Account

1. The Initial $35,000 Payment

The first time that Garland Lincecum discussed a presidential pardon with anyone was in August 1998 after he was convicted in the prime bank fraud but before he was sentenced.[452] Richard Cayce, a longtime business associate, approached Lincecum.[453] Cayce told Lincecum that he was involved in business with Roger Clinton and two of his associates, Dickey Morton and George Locke.[454] Cayce said that Clinton, Morton, and Locke had the ability to obtain presidential pardons.[455] Cayce told Lincecum that he could obtain a pardon if Lincecum could pay Clinton, Morton, and Locke $300,000.[456] Lincecum told Cayce that he was interested in this proposal, but that it would take him some time to come up with the necessary funds.[457] Cayce told Lincecum that if he was interested, he should come up with $25,000 to $35,000 immediately to indicate that his interest was serious.[458]

Lincecum went to his mother, Alberta Lincecum, and borrowed $35,000 from her.[459] Alberta Lincecum confirmed that she provided $35,000 for Garland's initial payment and also said that she over-

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[447] Letter from Mark F. Hampton, Hampton and Larkowski, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform 1 (May 18, 2001) (within Appendix I).

[448] Telephone Interview with George Locke, Partner, CLM, L.L.C. (Mar. 27, 2001).

[449] Letter from Mark F. Hampton, Hampton and Larkowski, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform 1 (May 18, 2001) (within Appendix I).

[450] Telephone Interview with George Locke, Partner, CLM, L.L.C. (Mar. 27, 2001).

[451] Letter from Mark F. Hampton, Hampton and Larkowski, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform 2 (May 18, 2001) (within Appendix I).

[452] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).

[453] *Id*.

[454] *Id*. Cayce had extensive business contacts with Morton and Locke prior to approaching them about the Lincecum pardon. Letter from Mark F. Hampton, Hampton and Larkowski, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform 2–3 (May 18, 2001) (within Appendix I). According to George Locke, Cayce was attempting to enlist Roger Clinton's support for an entity called the Legacy Foundation. Telephone Interview with George Locke, Partner, CLM, L.L.C. (Mar. 27, 2001). The Legacy Foundation claimed to be a charitable organization selling tax-exempt charitable bonds. *Id*. Cayce and others involved in the Legacy Foundation wanted to use the Clinton name to help sell the charitable bonds. *Id*. After the Securities and Exchange Commission launched an investigation, the Legacy Foundation halted its plans to issue the bonds. Cayce was trying to enlist Clinton, Morton, and Locke's support for the Legacy Foundation during the same time as Lincecum was trying to obtain his pardon. However, Morton and Locke have claimed that all of the money exchanged between Cayce, Lincecum, and CLM related to the Legacy Foundation, not any attempt to sell pardons. Letter from Mark F. Hampton, Hampton and Larkowski, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 18, 2001) (within Appendix I). As discussed in the conclusion below, this claim is not credible.

[455] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).

[456] *Id*.

[457] *Id*.

[458] *Id*.

[459] *Id*; Interview with Alberta Lincecum, in Roanoke, TX (Apr. 19, 2001).

heard telephone conversations between Garland and other unnamed individuals regarding his effort to buy a pardon. In her interview with Committee staff, Alberta Lincecum stated that she listened, on an extension, to a telephone conversation between Garland and other individuals where those unknown individuals told Garland that he needed to come up with $100,000 for a pardon.[460] Alberta Lincecum cashed a certificate of deposit and wrote a personal check to Garland for $35,000.[461] Garland then signed the check over to Richard Cayce.[462] Cayce told Lincecum that he would cash the check and deliver the cash personally to Roger Clinton.[463] According to Lincecum, Cayce also offered to loan him $70,000 to help pay for the pardon and to provide these funds directly to Morton.[464] Bank records indicate that the MM Foundation, an organization controlled by Cayce, wired $70,000 to CLM, L.L.C.,[465] a company created by Clinton, Locke, and Morton.[466]

2. The First Dallas Meeting

After Garland Lincecum informed Cayce that he was interested in paying $300,000 for a pardon, Cayce informed Dickey Morton that Lincecum was interested.[467] Cayce told Morton that Lincecum would want to meet with him personally to discuss the arrangements for the pardon.[468] Morton sent the following remarkable fax to Cayce (handwritten notations on the fax are indicated in parentheses):

> RE: Political Meeting Agreement
>
> Richard: The following is an understanding of the way this meeting will occur on Tuesday August 12, 1998, along with the compensation required to get you this meeting.
>
> Please review and sign and fax back to my fax number by this early afternoon if your group wants to consumate [sic] this meeting.
>
> 1. Call an airline representative for reservations for Roger Clinton, Mrs. Roger Clinton, and Molly Clinton[469] from Los Angeles to Dallas, Friday the 7th of August 1998, for a late direct flight first class. You pre-pay by your credit card today August 7th 1998.
>
> 2. The 1/3 of cookies ($) that we discussed or 33,000 cookies ($) will be delivered by your representative or you, cookies need to be ready to eat. A time and place will be setup early Monday morning for exchange for the meeting

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[460] *Id.*
[461] *Id.*
[462] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[463] *Id.*
[464] *Id.*
[465] First National Bank of Crossett Document Production (Exhibit 74).
[466] Records indicate that Dickey Morton was the registered agent for the company. Arkansas Secretary of State Document Production (Articles of Organization) (Exhibit 75). Clinton's and Locke's involvement in the company was confirmed by George Locke. Telephone Interview with George Locke, Partner, CLM, L.L.C. (Mar. 27, 2001).
[467] Letter from Jay Ethington, Counsel for Richard Cayce, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 1, 2001) (within Appendix I).
[468] Letter from Jay Ethington, Counsel for Richard Cayce, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 1, 2001) (within Appendix I).
[469] Given that Molly Clinton is Roger Clinton's wife, it is not clear who Morton was referring to as "Mrs. Roger Clinton."

> to set up for Tuesday, place needs to a private meeting place, as we do not need any auto graph [sic] seekers there. Roger will send his representative to meet you.
>
> 3. The meeting will be set for Tuesday, as to time and place, when you deliver cookies to Roger's representative on Monday morning the 11th of August.
>
> 4. The rest of cookies ($ money) can be delivered Tuesday right before meeting.
>
> By signing you accept conditions of meeting.
>
> I am not the representative of Roger Clinton in this transaction, you will meet him in Dallas, Texas.
>
> Best regards, Dickey Morton
>
> ($ cookies = money) [470]

In his proffer to the Committee, Morton claimed that this letter was written at the behest of Cayce:

> Casey [sic] asked that a confirmation letter be sent to him spelling out the agreement. Casey [sic] stated that the letter must be written in code since the Legacy Foundation was at present, working covertly with the federal government. Casey [sic] told Morton not to mention money in the letter.[471]

Cayce made the requested arrangements and met with Clinton, Locke, Morton, and Lincecum in a Dallas hotel in approximately August 1998.[472]

On the morning of the meeting, Cayce first met alone with Clinton, Locke, and Morton in a hotel room.[473] Garland Lincecum was not present at the meeting, but after the meeting, Cayce informed Lincecum that Cayce provided to Roger Clinton the $35,000 in cash that Lincecum had raised from his mother.[474] Dickey Morton and George Locke admitted, through their lawyer, to accepting $7,000 and $5,000 respectively at this meeting.[475] They also confirmed that Roger Clinton accepted $18,000 in cash as his share of the payment.[476] Bank records provide corroboration, indicating that Roger Clinton made a series of large cash deposits into his bank accounts around the same time frame.[477]

Cayce informed Lincecum that he discussed the pardon arrangements with Clinton, Locke, and Morton, and that they assured him

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[470] Dickey Morton Document Production 001144 (Letter from Dickey Morton, to Richard Cayce (Aug. 7, 1998)) (Exhibit 76).

[471] Letter from Mark F. Hampton, Hampton and Larkowski, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform 4 (May 18, 2001) (within Appendix I). In this proffer, Morton also maintained that the 100,000 "cookies" in the letter referred to the "appearance fee" charged by Roger Clinton for meeting with Cayce and Lincecum, not any payment for a pardon.

[472] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001); Letter from Jay Ethington, Counsel for Richard Cayce, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 1, 2001) (within Appendix I).

[473] *Id*; Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).

[474] *Id*.

[475] Letter from Mark F. Hampton, Counsel for Dickey Morton and George Locke, Hampton and Larkowski, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 18, 2001) (within Appendix I).

[476] *Id*.

[477] Between August 19, and August 25, 1998, Clinton made three separate deposits totaling $12,500. Bank of America Document Production (Exhibit 77).

that, through Clinton's contacts, they would be able to obtain the pardon.[478] After the private meeting, Cayce, Locke, and Morton came down to the hotel lobby, where they met with Garland Lincecum.[479] Roger Clinton did not participate in this meeting. During this meeting, Garland Lincecum asked whether he would definitely receive a pardon in exchange for his money.[480] Morton explained that he would receive a pardon, not merely that he and Roger would make their "best efforts" to obtain a pardon.[481] Garland said he would not have agreed to pay the money merely for a promise of "best efforts."[482] Morton stated that Roger Clinton could obtain pardons in batches of six at a time.[483] Concerned about this arrangement, Lincecum asked if this was legal, and Morton assured him that it was.[484] Morton claimed that most pardon petitions were rejected because the applicants failed to fill out the paperwork properly.[485] He explained that he, Locke, and Roger Clinton used a Washington, D.C., law firm to prepare the necessary paperwork on the pardon and that Roger would then personally deliver the paperwork to his brother, the President.[486] George Locke told Lincecum that they had obtained pardons in this way previously but declined to name any of the individuals who had obtained pardons in this manner. Locke said that after Lincecum received his pardon, he would likewise accord the same confidentiality to Lincecum if ever asked about it.[487] Morton confirmed during this meeting that he had already received $100,000 of the necessary $300,000 towards Lincecum's pardon.[488]

Roger Clinton did not participate in this hotel lobby meeting.[489] However, after the meeting, Cayce asked Lincecum if he had noticed an individual who had been watching the meeting from a second-story balcony overlooking the lobby.[490] Lincecum stated that he had, and Cayce told him that the individual was Roger Clinton.[491] Lincecum asked Cayce "well, why didn't the little bastard come down?"[492] At this point, Cayce told Lincecum that he had met with Clinton, Locke, and Morton earlier that morning and that Roger Clinton told him he would help obtain the pardon.[493]

Lincecum believed the claims of Morton and Locke for a number of reasons. First, he had heard from Cayce that they had the ability to obtain diplomatic passports.[494] This suggested to Lincecum that they had influence in the U.S. government. Second, Cayce confirmed for Lincecum that Roger Clinton was indeed working with

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[478] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[479] Letter from Jay Ethington, Counsel for Richard Cayce, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 1, 2001) (within Appendix I); Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[480] *Id.*
[481] *Id.*
[482] *Id.*
[483] *Id.*
[484] *Id.*
[485] *Id.*
[486] *Id.*
[487] *Id.*
[488] *Id.* The $100,000 that had been paid at this point consisted of the $70,000 wired by the M.M. Foundation plus the $30,000 to $35,000 delivered in cash.
[489] *Id.*
[490] *Id.*
[491] *Id.*
[492] *Id.*
[493] *Id.*
[494] *Id.*

Morton and Locke on these matters.[495] Third, Lincecum trusted Morton and Locke. Morton was a standout football player with the University of Arkansas and had a reputation as a devoted family man.[496] Locke was a former Arkansas state senator who had been close to Bill Clinton when he was Governor.[497]

In his proffer to the Committee, Cayce offers a slightly different version of events with regard to the two initial payments. Cayce claims that he, not Alberta Lincecum, was the source of the initial cash payment.[498] He also claims that he provided $30,000, rather than $35,000, in cash to Clinton, Locke, and Morton at the Dallas meeting.[499] According to Cayce, the cash from the Dallas meeting plus the $70,000 wire from the MM Foundation were intended to pay for his attempt to purchase diplomatic passports and were unrelated to Lincecum's attempt to obtain a pardon. While the differences between the accounts of Cayce and Lincecum are noteworthy, they are not highly significant. First, Cayce's account cannot be given great weight, since Cayce has invoked his Fifth Amendment rights and provided his information in the form of a proffer. Second, while there are some differences between Cayce and Lincecum, for the most part, Cayce supports Lincecum's account. Cayce confirms that Morton and Locke offered to sell a pardon to Lincecum. Cayce also confirms that Roger Clinton was directly involved in the plot to sell a pardon to Lincecum. Cayce merely disagrees on the amount of money that was paid by Lincecum for the pardon. This difference does not undermine the core of Lincecum's allegations.

3. Lincecum's Attempts to Raise the Remaining Money

Between August and November 1998, Garland Lincecum had a number of contacts with Morton regarding the payment of the remaining $200,000 towards his pardon. Lincecum stated that Morton and Locke maintained a "soft pressure" on him that was very effective in motivating Lincecum to find the money.[500] According to Lincecum, Morton had a "take it or leave it" attitude and often offered to return the money that Lincecum had already paid.[501] In Lincecum's mind, Morton's position only confirmed that the cash-for-pardon scheme was legitimate and that Morton was not swindling him.[502] However, Lincecum still had some concerns about paying all $300,000 up front before he received the pardon. At one

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[495] *Id.*
[496] *Id.*
[497] *Id.*
[498] Letter from Jay Ethington, Counsel for Richard Cayce, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 1, 2001) (within Appendix I).
[499] *Id.* The two numbers may be reconcilable. If the Lincecums gave Cayce $35,000, he may have used $5,000 for airline tickets, hotel accommodations, and other expenses for Roger Clinton and his companions on the trip to Dallas. According to Guy and Alberta Lincecum, their copy of the $35,000 check that they gave to Richard Cayce was lost. Interview with Alberta Lincecum, in Roanoke, TX (Apr. 20, 2001); Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001). The Committee was unsuccessful in its attempts to obtain records of the $35,000 directly from the bank. However, the fact that a $30,000 cash payment occurred was corroborated by George Locke and Dickey Morton, through their attorney, who explained that all three received cash from Cayce, with Roger Clinton receiving $18,000, Morton receiving $7,000, and Locke receiving $5,000. Letter from Mark F. Hampton, Counsel for Dickey Morton and George Locke, Hampton and Larkowski, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 18, 2001) (within Appendix I).
[500] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[501] *Id.*
[502] *Id.*

point, he asked Morton if he could make arrangements to pay a portion of the fee after he received the pardon.[503] Lincecum even offered to place part of the funds in escrow until he received the pardon.[504] Morton responded to these suggestions by telling Lincecum that the pardon business was "strictly cash and carry."[505]

During the fall of 1998, when he was still trying to come up with the remaining $200,000, Lincecum was concerned that Morton, Locke, and Clinton would sell off the remaining pardon slots available to Roger Clinton.[506] Garland Lincecum could not travel to Arkansas himself because the court sentenced him but had not yet ordered him to report to prison. Accordingly, the court had ordered Lincecum not to leave Texas.[507] So, he sent his brother, Guy Lincecum, to meet with Morton in Little Rock, Arkansas and hand-deliver a letter from Garland to demonstrate his serious intention to find the necessary funds for the pardon.[508] Guy traveled to Little Rock and met with Morton at a Holiday Inn.[509] Guy delivered the letter to Morton, Morton read it, and Morton then told Guy that he was puzzled as to why Guy had traveled all the way to Little Rock when he could have just mailed the letter.[510] Guy told Morton that he traveled to Little Rock because Garland wanted him to know that he was serious about wanting the pardon.[511]

After his meeting with Morton and Locke, Garland Lincecum was convinced that he wanted to obtain the pardon, but he was faced with the obstacle of raising the outstanding $200,000. To raise these funds, he initially turned to Jim McClain, a Dallas real estate developer he had done business with in the past.[512] Lincecum knew that McClain had a conviction in his past and might also be interested in obtaining a pardon himself.[513] Lincecum approached McClain and explained the offer he had received from Morton and Locke.[514] McClain informed Lincecum that he was interested in obtaining a pardon and offered to pay $300,000 for his own pardon, as well as loan Lincecum $200,000 for Lincecum's pardon.[515] McClain explained that he would be able to make the payment as soon as a major real estate deal he was working on closed.[516] Lincecum called Morton to check and see if they had a "slot" for a pardon available for McClain. Lincecum remembers that when he asked Morton this question, Morton told Lincecum to wait while he purported to check with Roger Clinton on another telephone line.[517] Lincecum heard Morton's side of the conversation as Mor-

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[503] *Id.*
[504] *Id.*
[505] *Id.*
[506] *Id.*
[507] *Id*; Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[508] *Id*; Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[509] *Id*; Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001). Guy Lincecum provided hotel records to corroborate the account of his trip. Guy Lincecum Document Production (Exhibit 78).
[510] Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[511] *Id.*
[512] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[513] *Id.*
[514] *Id.*
[515] *Id.*
[516] *Id.*
[517] *Id.*

ton purportedly confirmed with Roger Clinton that there was indeed a "slot" available for McClain.[518]

As Lincecum was receiving pressure from Morton to complete his payment for the pardon, he wrote a check for $500,000 to Morton, telling him to hold the check until he was able to get the necessary funds from McClain.[519] Lincecum hoped that the check would help reserve his and McClain's "slots" and keep Morton, Locke, and Clinton from selling them to someone else.[520] However, after waiting for several weeks, it became clear that McClain was having difficulty with his real estate deal and would not be able to provide any funds, either for his own pardon or as a loan for Lincecum's pardon.[521] Accordingly, this $500,000 check was never cashed.

When Committee staff interviewed McClain, he confirmed many key aspects of Lincecum's account. McClain confirmed that he had a number of discussions with Lincecum about buying a pardon through Morton, Locke, and Clinton.[522] McClain stated that Lincecum initially told him it would cost $500,000 to obtain a pardon.[523] Then, after checking with Morton and Locke, Lincecum returned to McClain and told him that a pardon for past offenses would cost $500,000 and a pardon for crimes currently under investigation was $1 million.[524] McClain spoke to his lawyer about Lincecum's offer.[525] The lawyer told McClain that he should not discuss these matters any further unless he wanted to be indicted again.[526] At that point, McClain stopped discussing the matter with Lincecum.[527] McClain denies that he ever took any steps toward raising the money for the pardon and also denies that he had any discussions with Morton, Locke, or Clinton regarding pardons.[528] One document produced by one of Dickey Morton's companies, however, undermines McClain's claim. A November 9, 1998, letter from Morton to McClain states:

> We had an extremely good week, with President Bill coming down to visit with us this week. After the Senator and I and Roger got together we all agreed to go forward. My only question is are you wanting to do business or not, since we have not heard from you and I left several messages on your voice mail and with your associate at Charter Financial. If so give me a call, if not, good luck.[529]

While it is not certain that Morton is referring to an offer to obtain a pardon, the time frame is consistent with the period in which Lincecum was discussing the pardon with McClain.

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[518] *Id.*
[519] *Id.*
[520] *Id.*
[521] *Id.*
[522] Telephone Interview with Jim McClain (Apr. 25, 2001).
[523] *Id.*
[524] *Id.*
[525] *Id.*
[526] *Id.*
[527] *Id.*
[528] *Id.*
[529] Dickey Morton Document Production 000044 (Letter from Dickey Morton, to Jim McClain (Nov. 8, 1998)) (Exhibit 79).

4. Lincecum's Payment of $200,000

After failing to raise funds for the pardon from any other source, Lincecum approached his family and asked his mother and brother to provide the necessary money.[530] In November 1998, Alberta Lincecum, Garland's mother, cashed a number of certificates of deposit and on November 23, 1998, had a cashier's check for $100,000 issued to CLM.[531] Morton had told Lincecum that he should make the check payable to CLM, which was the company formed by Clinton, Locke, and Morton.[532] Alberta Lincecum provided the check to Garland Lincecum, who then mailed the check to Morton, who on November 25, 1998, deposited the check into the CLM account at the First National Bank of Crossett in Arkansas.[533] The $100,000 used by Alberta Lincecum to pay for her son's pardon came from her life savings.[534] Her late husband had invested their savings in CDs, which she used for her living expenses as they came due.[535] Alberta is 85 years old and has significant health problems, which cause her to need more than the approximately $900 per month provided by her monthly social security benefits.[536] As a result of losing this money in the pardon scheme, Alberta is finding it difficult to make ends meet and is unable to travel or make any other large expenditures.[537]

Approximately one month later, Guy Lincecum provided the remaining $100,000 for Garland's pardon. Guy had a large amount of funds in an account at Edward Jones Investment, which constituted his retirement savings.[538] Before Guy cashed out the account, he had an investment representative send a letter to Dickey Morton informing Morton that Guy had $100,000 available in his account.[539] After he was able to clear the funds from the account, on December 22, 1998, he had a check issued by Edward Jones Investments to him.[540] On December 29, 1998, Guy traveled to Little Rock and hand-delivered the check to Morton.[541] Guy signed the check over to Morton and handed it to him.[542] When Morton accepted the check, he told Guy that they were "paid in full" for Garland's pardon.[543] Shortly thereafter, on December 31, 1998, the check was deposited into CLM's account at the First National Bank of Crossett.[544] To withdraw the $100,000, Guy had to pay a signifi-

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[530] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001); Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001); Interview with Alberta Lincecum, in Roanoke, TX (Apr. 20, 2001).
[531] First National Bank of Crossett Document Production (Exhibit 80).
[532] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001); Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001); Interview with Alberta Lincecum, in Roanoke, TX (Apr. 20, 2001).
[533] *Id*; Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001); Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[534] Interview with Alberta Lincecum, in Roanoke, TX (Apr. 20, 2001).
[535] *Id*.
[536] *Id*.
[537] *Id*.
[538] Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[539] Edward Jones Investments Document Production (Fax from Bill Hayes, Investment Representative, to Dickey Morton (Dec. 16, 1998)) (Exhibit 81).
[540] Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[541] *Id*; Guy Lincecum Document Production (Southwest Airlines, Ticket Stub, Dec. 29, 1998) (Holiday Inn, Bill, Dec. 28, 1998) (Exhibits 82, 78).
[542] Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[543] *Id*.
[544] First National Bank of Crossett Document Production (Exhibit 83).

cant amount in taxes.[545] He also is unable to open a small business that he was planning on running after he retired from his job.[546] He now lives with his mother, helping care for her.[547]

5. The Division of Lincecum's Money Among Clinton, Locke, and Morton

Between August and December 1998, the CLM bank account at the First National Bank of Crossett received $270,000 related to the Lincecum pardon.[548] In fact, apart from the $100 opening deposit on August 17, 1998, the Lincecum-related deposits were the only deposits to the account until June 1999 when the balance had dwindled to under $1,000.[549] Bank records indicate that the $270,000 was divided between Morton, Locke, and Clinton. Morton, the only individual who had power to withdraw money from the CLM account, signed checks totaling $67,000 from the CLM account for his company, Southern Belle Construction.[550] Morton issued two checks to George Locke totaling $65,000.[551] Morton also signed three checks to Roger Clinton totaling $25,500.[552] The following table summarizes how the money provided by Lincecum and Cayce was divided among Clinton, Locke, and Morton:

Funds Provided to CLM for the Pardon

Date	Amount	Source of Funds	Use of Funds
8/98	$35,000	Alberta Lincecum	Expenses and $30,000 in cash to CLM.[553]
8/19/98	$70,000	Richard Cayce	Wire from the M.M. Foundation to CLM.
11/25/98	$100,000	Alberta Lincecum	Deposited into the CLM bank account.
12/31/98	$100,000	Guy Lincecum	Deposited into the CLM bank account.

[545] Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[546] *Id*.
[547] *Id*; Interview with Alberta Lincecum, in Roanoke, TX (Apr. 20, 2001).
[548] First National Bank of Crossett Document Production (Exhibit 84).
[549] *Id*.
[550] *Id*.
[551] First National Bank of Crossett Document Production (Exhibit 85).
[552] First National Bank of Crossett Document Production (Exhibit 86).
[553] *See* n.499.

Significant Activity in the CLM Account

Date	Transaction	Amount	To/From
8/19/98	deposit - wire	$70,000	MM Foundation (Dallas, TX)
8/21/98	debit	-$4,000	Southern Belle Construction
8/25/98	debit	-$52,000	George Locke
8/26/98	debit	-$4,000	Southern Belle Construction
11/25/98	deposit	$100,000	Alberta Lincecum
11/25/98	check #1014	-$20,000	Southern Belle Construction
12/01/98	check #1015	-$13,000	George Locke
12/10/98	check #1016	-$10,000	Roger Clinton
12/10/98	check #1017	-$5,500	Roger Clinton
12/10/98	check #1019	-$5,000	Southern Belle Construction
12/14/98	check #1020	-$5,100	Southern Belle Construction
12/21/98	check #1023	-$8,100	Southern Belle Construction
12/22/98	check #1026	-$8,000	Southern Belle Construction
12/28/98	check #1029	-$5,000	Southern Belle Construction
12/31/98	deposit	$100,000	Guy Lincecum
1/7/99	check #1030	-$10,000	Roger Clinton
4/1/99	check #1062	-$8,300	Southern Belle Construction
	Total to Roger Clinton:	$25,500[554]	
	Total to George Locke:	$65,000	
	Total to Southern Belle:	$67,000	

The remainder of the funds in the CLM account was apparently used for other small company transactions.

6. Lincecum's Attempts to Receive the Pardon

As of December 1998, Lincecum had paid in full for his pardon and expected that he would receive the pardon soon thereafter, before he was sent to prison.[555] He had a number of telephone contacts with Morton and Locke between December 1998 and April 1999, when he reported to prison, attempting to determine the status of his pardon request.[556] A number of times after paying for the pardon, Garland asked Morton if he could meet with Roger Clinton to discuss how his request was progressing.[557] Each time Garland asked, Morton told him that Roger was traveling or otherwise unavailable.[558] As a result, neither Garland nor Guy Lincecum ever met with or discussed the pardon matter with Roger Clinton.[559] Garland also could not get a definitive answer from Morton on where his pardon stood until shortly before he reported to prison in April 1999. At that time, Morton told Garland that he would have to serve some amount of prison time before they were able to get the pardon.[560] After Garland was sent to prison, his brother Guy took over as the principal contact with Morton and Locke and continued to press them on Garland's pardon.

After Garland was sent to prison, Guy Lincecum frequently contacted Morton and Locke to inquire as to the status of Garland's pardon.[561] After Garland had served several months in prison, the Lincecums became very anxious that they receive the pardon as

[554] When the $18,000 provided to Roger Clinton in cash is added to the two checks, Roger Clinton's share of the Lincecum funds amounts to just over $43,500. *See* n.499.
[555] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[556] *Id.*
[557] *Id.*
[558] *Id.*
[559] *Id.*
[560] *Id.*
[561] *Id.*

agreed. Most of these contacts between Guy Lincecum and Dickey Morton took place over the telephone, and Morton provided a number of different excuses for the delay in receiving the pardon. Initially, Morton told Guy that Garland would have to serve at least three months in prison.[562] After that time had passed, in the fall of 1999, Morton then informed Guy that the controversy over the President's grants of clemency to the FALN terrorists would delay any grant of clemency to Garland.[563]

During the same period of time in 1999 and 2000 after Garland had been sent to prison, Garland and Guy Lincecum attempted to introduce friends and business associates to Morton, Locke, and Clinton, believing that they offered valuable business opportunities. The Lincecums believed that Morton, Locke, and Clinton, through their political contacts, would be good partners for a variety of business deals. Morton had informed the Lincecums that they had contacts in China who could provide them with cheap cement and drywall, which could be sold at a large profit in the United States, as the U.S. was experiencing a shortage of those products.[564] Morton told the Lincecums that they were also able to bring the cement and drywall into the U.S. without customs problems because of Roger Clinton's connections.[565] As a result, Lincecum introduced a number of business associates to Morton and Locke, including Robert Wilson, Jim McCaskill, Rod Osborne, David Crockett, and Harvey Greenwald.[566]

By the summer of 1999, Guy had grown frustrated with the failure to receive the pardon. As he arranged a meeting in Dallas to discuss a deal to import cement, he planned on asking Morton about the status of the pardon.[567] In June 1999, Guy Lincecum, Richard Cayce, and Harvey Greenwald met with Dickey Morton and George Locke in a Dallas hotel to discuss a possible deal to import cement into the U.S. through Morton and Locke.[568] After the meeting, Guy Lincecum approached George Locke and asked him about the status of Garland's pardon. Locke told Guy that he had reviewed Garland's trial transcript and was convinced that Garland had been wrongfully convicted.[569] Locke then told Guy that the pardon was "a done deal."[570] Guy understood Locke's comments to mean that they had paid for the pardon in full and that Garland would be receiving it shortly.[571]

However, Garland did not receive his pardon in the summer of 1999. Nonetheless, he continued to show some optimism that he would receive it. In October 1999, Garland sent a letter to Dickey Morton largely concerning business ventures he planned on pursuing with Morton. In this letter, Garland stated, "I am sure that within 60 days of my release there will be four parties prepared to

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[562] Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[563] *Id.*
[564] *Id.*
[565] *Id.*
[566] Interview with Garland Lincecum, in Roanoke, TX (Apr. 19, 2001). It should be noted that a number of these individuals who had business dealings with Morton and Locke had extremely negative experiences with them. McCaskill, Osborne, and Crockett all claim that they were cheated out of substantial sums of money by Morton and Locke in their business dealings.
[567] Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[568] *Id.*
[569] *Id.*
[570] *Id.*
[571] *Id.*

proceed on a similar item for themselves."[572] This letter indicates that Garland expected to be released from prison in a much shorter time frame than his 87-month prison sentence suggested.

In addition to the efforts of Guy Lincecum, one of Garland's friends and business associates, R.V. Wilson, also attempted to obtain assurances from Clinton, Locke, and Morton that the pardon would be issued. In June 1999, Wilson said he traveled twice from his home in Mississippi to Arkansas to meet with Morton and Locke, ostensibly about importing cement and drywall from China.[573] Wilson knew that Lincecum had paid $235,000 for a pardon and was being stalled, so Wilson brought up the issue during a meal at the Southern Kitchen, a restaurant in Little Rock.[574] Wilson said that when he raised the issue of Lincecum's pardon, Locke and Morton both looked "scared to death."[575] Wilson said Locke raised his hand and waved it in his face as if wiping something away and Dickey Morton began touching him.[576] Wilson said he then realized that Morton was patting him down to see if he was wearing a wire because they thought the FBI had sent him.[577] They said they would not discuss it.[578]

After the meal, Morton gave Wilson a ride to his hotel and while in the car, without Locke present, Morton said that "the Senator" didn't want those matters discussed in front of him in public.[579] Wilson said, "I thought this was all legal," to which Morton replied that it was "100 percent legal" but that it was "politically sensitive."[580] Morton said that while he was part of the company, CLM, Roger Clinton and George Locke handled all the pardon matters.[581] Then Morton refused to talk any more about it.[582] Wilson said he tried to obtain a meeting with Roger Clinton during his visits to Arkansas but was always told that Roger was on the golf course or sleeping.[583]

However, through the fall of 1999, despite the efforts of Guy Lincecum and R.V. Wilson, there was still no forward progress in receiving the pardon. Accordingly, when Guy Lincecum next met with Morton and Locke in person, he raised the issue again. Following another meeting about selling imported construction products, Guy Lincecum cornered Dickey Morton in the restroom of an Applebee's restaurant in Ardmore, Oklahoma, and confronted him once again about his brother's pardon.[584] Guy asked, "Is this legal?"[585] Morton said that it was and that the reason people fail to obtain pardons is that their lawyers do not know how to fill out

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[572] This letter was apparently drafted by Garland Lincecum in prison and then handed to his brother Guy Lincecum, who mailed it to Morton. Dickey Morton Document Production 000321 (Letter from Guy Lincecum, to Dickey Morton (Oct. 26, 1999)) (Exhibit 87).
[573] Telephone Interview with R.V. Wilson (Apr. 25, 2001).
[574] *Id.*
[575] *Id.*
[576] *Id.*
[577] *Id.*
[578] *Id.*
[579] *Id.*
[580] *Id.*
[581] *Id.*
[582] *Id.*
[583] *Id.*
[584] Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[585] *Id.*

the forms properly.[586] Morton assured Guy that CLM had two of the best lawyers in the country working on Garland's case, that they would complete the forms, and that Roger would deliver them to the President personally.[587]

At the meeting in Ardmore, Oklahoma, Guy had introduced Morton and Locke to Jim McCaskill, who wanted to sell cement for CLM on commission.[588] Morton had provided phone numbers for McCaskill to call when he had buyers ready to place orders, but during the winter of 1999–2000, McCaskill was having trouble contacting Morton, which was preventing him from completing any sales.[589] So, a second meeting was arranged in Oklahoma in late spring 2000 to address the problems McCaskill was having in contacting Morton and Locke.[590] McCaskill, Guy Lincecum, Morton, and Locke met early in the morning at a fast food restaurant in Broken Arrow, Oklahoma. In the parking lot as they were leaving, Guy turned to Morton and asked again when Garland would be pardoned and released from prison.[591] Morton turned to Locke and asked, "When is Garland scheduled to be released?"[592] Locke pulled out a small book; he opened it, flipped through it, and said, "He is scheduled to be released in July, the third quarter."[593] Jim McCaskill who corroborated Guy Lincecum's account to Committee staff witnessed this exchange.[594] Guy took Locke's statement to be a definitive assurance as to when the pardon would be received. However, shortly after this meeting, Guy said that Locke and Morton stopped returning his phone calls.[595]

Despite the failure of Guy Lincecum and R.V. Wilson to obtain assurances from Morton and Locke that Garland Lincecum would be receiving a pardon, the Lincecums continued to be optimistic that Garland would receive a pardon from President Clinton. Garland Lincecum informed Committee staff that he fully expected his name would be included on the list of pardons issued on President Clinton's last day in office and that he had "done everything except pack my bags."[596] Obviously, when he learned that he had not received a pardon, he was deeply disappointed and felt that Morton, Locke, and Clinton had cheated him.[597]

B. Roger Clinton's Reaction to the Allegations

Despite repeated attempts to obtain Roger Clinton's version of events, he failed to cooperate with the Committee's investigation. He refused to be interviewed by Committee staff. His lawyer indicated that if called to testify before the Committee, Clinton would likely assert his Fifth Amendment privilege against self-incrimina-

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[586] *Id.*
[587] Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[588] *Id.*
[589] *Id.*
[590] *Id.*
[591] *Id.*
[592] *Id.*
[593] *Id.*
[594] Telephone Interview with Jim McCaskill (May 2, 2001).
[595] Interview with Guy Lincecum, in Roanoke, TX (Apr. 20, 2001).
[596] Interview with Garland Lincecum, in Bastrop, TX (Apr. 19, 2001).
[597] *Id.*

tion. Finally, through his lawyer, Clinton also refused to answer questions posed to him in writing.[598]

Despite his refusal to cooperate with the Committee, Roger Clinton did speak to the press. Shortly after the Lincecum allegations became public, *The New York Times* reported that "Roger Clinton said through a spokeswoman today that though he knew Mr. Locke and Mr. Morton, he never heard of C.L.M. and had never authorized either man to use his name in any way."[599] Bank records indicating that he deposited two large checks from CLM, however, directly contradict this denial. Later, in an appearance on *Larry King Live*, Clinton was asked about the Lincecum allegations and stated that "I can tell you that there is no truth to money for pardons. There is zero truth to that, zero truth."[600] He declined to offer any details refuting the Lincecum allegations but generally suggested that Morton and Locke may have swindled Lincecum without his knowledge:

> KING. So this guy is lying to Mr. Serrano of the L.A. Times when he tells him he gave money and he was promised a pardon.
>
> CLINTON. No, sir, I'm not saying he is lying. I'm not saying he's lying.
>
> KING. You just said there was no money changed hands and he said—
>
> CLINTON. I said there was no—let me clarify: there was no money exchanged with me.
>
> KING. You never got a penny.
>
> CLINTON. And I never heard one word about a pardon.
>
> * * *
>
> CLINTON. Now there are some details that we can dress it up with, but the bottom line is I didn't do it. I don't care what this flipping guy says and his buddy [sic]. I don't care what they say. It doesn't matter to me. But I'm not saying they are lying about what they are saying, because they are not saying that I took it. They are not saying that I was there.
>
> * * *
>
> KING. Is it possible, Mark [Geragos, Roger Clinton's lawyer], that someone in the middle here—is this possible—hypothetical scenario—someone that knows Roger and knows these guys sets up a deal where he, this someone, gets money, tells him I got Roger, I will get it to Roger. They pay it as best they can and he says he will get it to Roger. Roger is innocent and they are kind of innocent.

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[598] Letter from Bart H. Williams, Munger, Tolles & Olson, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (June 27, 2001) (within Appendix I).

[599] Neil A. Lewis, *Swindle Is Reported to Use the Name of Roger Clinton*, N.Y. TIMES, Mar. 10, 2001, at A9.

[600] *Larry King Live* (CNN television broadcast, June 21, 2001).

CLINTON. Ding, ding, ding, ding, ding.

GERAGOS. Which is exactly what I said. When you've got triple hearsay, and then you've got somebody saying I pointed to a mezzanine over there, start to think about what the quality of that accusation is.[601]

However, the explanation offered by Roger Clinton to Larry King is not even remotely credible. While Clinton claimed that he never heard of CLM, he actually had a one-third ownership interest in the company, as well as other companies owned by Morton and Locke.[602] Furthermore, bank records clearly establish that Clinton received a substantial portion of the funds that were bilked from Lincecum's mother and brother. Clinton received three checks from CLM totaling $25,500 and deposited them into his bank account.[603] As discussed earlier, the source of these funds was the retirement savings of Guy and Alberta Lincecum.[604] There are only two explanations offered for how Roger Clinton acquired a substantial share of the life savings from a federal prisoner's mother and brother: the one offered by the Lincecums and the one offered by Locke and Morton. Yet, Clinton denies both and offers no explanation of his own, denying on national television that he even received the money when it is well documented that he did.

C. Dickey Morton and George Locke's Reactions to the Allegations

Dickey Morton and George Locke have not provided the Committee with an extensive account of the Lincecum matter. Committee staff did conduct a telephone interview of George Locke shortly after the Committee began its investigation of the Lincecum allegations. However, shortly after that interview, George Locke and Dickey Morton hired a lawyer and decided not to cooperate with the Committee's investigation. Therefore, the Committee was unable to interview Morton at all, and it was unable to contact Locke after the initial interview. Rather than cooperate with the Committee, Morton and Locke invoked their Fifth Amendment rights against self-incrimination.[605] However, Morton and Locke's attorney did provide the Committee with a proffer of what Morton and Locke would testify to if the Committee immunized them.[606] Because the proffer was provided by the attorney and was not made under penalty of perjury, it is of limited value. However, between the Committee staff's interview of George Locke and the proffer

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[601] *Id.*

[602] Letter from Mark F. Hampton, Counsel for Dickey Morton and George Locke, Hampton and Larkowski, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 18, 2001) (within Appendix I). A document produced to the Committee by American Gypsum and Cement Products, one of Dickey Morton's companies, suggests that Roger Clinton was a "member" of that company as well. *See* Dickey Morton Document Production 000654 (Letter from Rod Osborne, American Gypsum Cement Products, to Robert Hutchison, Hutchison Consulting Company (Feb. 17, 2000)) (Exhibit 88).

[603] First National Bank of Crossett Document Production (Exhibit 86).

[604] Interview with Alberta Lincecum, in Roanoke, TX (Apr. 19, 2001).

[605] In response to a document request from the Committee, Locke stated that he had no responsive records. Letter from George Locke, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Apr. 9, 2001) (within Appendix I). *See also* Letter from Marietta Alphin, Hampton, Larkowski & Benca, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 3, 2001) (within Appendix I). By contrast, Morton provided extensive corporate records in response to a subpoena.

[606] Letter from Mark F. Hampton, Hampton and Larkowski, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 18, 2001) (within Appendix I).

from Locke and Morton, the Committee is able to understand Morton and Locke's response to the Lincecum allegations.

In short, Morton and Locke acknowledge that CLM received $200,000 from Lincecum and another $100,000 from Richard Cayce. However, they deny that the money had any connection to an effort to obtain a presidential pardon for Garland Lincecum.[607] Rather, they claim that Cayce and Lincecum paid the $300,000 to CLM as "appearance fees" charged to them by Roger Clinton. Morton and Locke claim that Cayce and Lincecum paid this money to CLM because they wanted Clinton's support for the plan to sell tax-exempt bonds through Cayce's Legacy Foundation.

Locke and Morton claim that Richard Cayce, who had a prior business relationship with Morton, approached Morton with "an exotic plan" to make money by selling tax-exempt bonds through a charitable organization, the Legacy Foundation.[608] Locke said that Cayce wanted to use the Clinton name to sell these bonds and specifically wanted to use Morton's contacts with George Locke and Roger Clinton to see if President Clinton would support the charity.[609] Morton told Cayce that he knew Locke and agreed to take the idea to Locke to see if Locke would ask Roger Clinton to present it to the President.[610]

Locke told Committee staff that people had often approached Roger Clinton asking him to talk to the President about a variety of issues and that Roger always helped them.[611] However, Locke said that Roger was "always left out in the cold" afterwards.[612] After a number of these unpleasant experiences, Roger Clinton decided that he would not assist anyone with their business unless he received an "appearance fee" paid up front.[613] According to Locke, the fee guaranteed only a meeting with Roger Clinton to present a request and nothing more.[614] Locke informed Committee staff that he and Dickey Morton used Roger Clinton's name in their business ventures, with Roger's permission, and that they paid Roger for the right to use his name.[615] When asked how Roger Clinton's name was used, Locke stated that Morton used it "when making contacts with buyers and sellers."[616]

When Locke contacted Roger Clinton about Cayce and the Legacy Foundation, Roger agreed to meet with Cayce only if they paid him such an appearance fee.[617] Morton then arranged the meeting with Cayce, sending the coded letter referring to the number of "cookies" required to meet with Roger Clinton.[618] In his interview with Committee staff, Locke acknowledged meeting Cayce, Morton, and Roger Clinton in Dallas in August 1998.[619] Locke claimed that, at this meeting, Cayce discussed two main topics: the plan to have

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[607] *Id.*
[608] Telephone Interview with George Locke, Partner, CLM, L.L.C. (Mar. 27, 2001).
[609] *Id.*
[610] *Id.*
[611] *Id.*
[612] *Id.*
[613] *Id.*
[614] *Id.*
[615] *Id.*
[616] *Id.*
[617] *Id.*
[618] Dickey Morton Document Production 001144 (Letter from Dickey Morton, to Richard Cayce (Aug. 7, 1998)) (Exhibit 76).
[619] Telephone Interview with George Locke, Partner, CLM, L.L.C. (Mar. 27, 2001)

Clinton endorse the Legacy Foundation and Cayce's desire to obtain a U.S. diplomatic passport.[620] The proffer from Morton and Locke is similar to Locke's account in the interview but provides more detail. The proffer claims that Cayce met with Morton and Locke on August 12, 1998, and provided them with $30,000 in cash.[621] Morton and Locke then met with Roger Clinton and divided the cash between them, with Roger receiving $18,000, Locke receiving $5,000, and Morton receiving $7,000.[622] Also according to the proffer, on August 13, Cayce met with Clinton, Morton, and Locke, and Cayce discussed his desire to have Clinton's support for the Legacy Foundation. The proffer also states that Cayce asked about the possibility of obtaining a diplomatic passport through Roger Clinton. The proffer also claims that Cayce inquired whether Clinton could obtain pardons for two individuals, and while Morton and Locke do not recall whom Cayce mentioned, they are certain that it was not Lincecum.[623] Locke and Morton maintain that the additional $70,000 wired to CLM by the MM Foundation on August 19 represented the completion of the $100,000 appearance fee charged to Cayce by Clinton, Locke, and Morton for the August 12 meeting.

Locke and Morton claim that in September and October 1998, they had two meetings with Cayce in Las Vegas regarding the Legacy Foundation.[624] Roger Clinton came with Morton and Locke to each of these meetings, and accordingly, Cayce was charged $100,000 for each meeting.[625] However, Cayce did not pay, and after the second meeting, Morton and Locke claim that they refused to provide Roger Clinton for any more meetings with Cayce until they had paid $200,000 for the previous two meetings.[626] Morton and Locke claim that they then met with Cayce and Garland Lincecum. They claim that Lincecum provided them with a check for $600,000 and told them that the check would be good in two weeks.[627] Cayce informed Morton and Locke that the additional $400,000 represented an "investment" in CLM.[628] Morton and Locke claim that Cayce and Lincecum never made good on the $600,000 check.[629]

In their proffer, Morton and Locke state that in November 1998, CLM received a check from Lincecum for $100,000.[630] Then, in December, CLM received another check from Lincecum. With these two checks, Morton and Locke believed that Cayce and Lincecum had paid for the two meetings Cayce had with Roger Clinton in Las Vegas.[631] Morton and Locke acknowledge that they divided this

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[620] Letter from Mark F. Hampton, Hampton and Larkowski, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 18, 2001) (within Appendix I).
[621] *Id.*
[622] *Id.*
[623] *Id.*
[624] *Id.*
[625] *Id.*
[626] *Id.*
[627] *Id.*
[628] *Id.*
[629] *Id.*
[630] *Id.*
[631] *Id.*

money with Roger Clinton, providing him with more than $25,000 of the $200,000 they received.[632]

With two exceptions, Morton and Locke deny that they ever discussed pardons with Richard Cayce, Garland Lincecum, or Guy Lincecum. The first time they did discuss pardons was at the first meeting between Cayce, Morton, Locke, and Clinton when Cayce asked whether they could help him obtain pardons for two friends.[633] Clinton, Morton, and Locke claim that they did nothing to assist Cayce.[634] Morton and Locke also admit to having discussed pardons on one other occasion.[635] Morton and Locke acknowledge that they met with Guy Lincecum and Jim McCaskill in March 2000 at a McDonald's restaurant in Broken Arrow, Oklahoma, to discuss their business dealings.[636] While Lincecum and McCaskill claim that they had a detailed discussion about Garland Lincecum's efforts to buy a pardon through Clinton, Locke, and Morton, Locke and Morton tell a different story. They claim that Guy Lincecum informed them, for the first time, that Garland Lincecum hoped to obtain a pardon.[637] Locke offered his advice:

> First you must hire an attorney. That attorney must make application with the Department of Justice for a pardon. Then it would be up to the president as to whether a pardon would be given. Lincecum asked if the president normally gives pardons. Locke informed Lincecum that usually at the end of his term most presidents' [sic] give pardons.[638]

However, Locke and Morton deny that Guy Lincecum ever asked for Roger Clinton's help in obtaining a pardon.[639] After this discussion, Morton and Locke say that they had no further communications with Guy Lincecum regarding the pardon.[640] Other than these two brief discussions, Morton and Locke deny any communications with Garland Lincecum, Guy Lincecum, or Richard Cayce regarding presidential pardons. Obviously, there is a significant conflict between the Lincecums' account and that of Morton, Locke, and—to the extent he has offered an account—Roger Clinton.

D. Analysis

The Committee is faced with two starkly different accounts of the Lincecum matter. However, there are certain facts that are beyond

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[632] In his interview, Locke claimed he received only "a small portion" of the payment, and claimed that he could not recall exactly how much. Telephone Interview with George Locke, Partner, CLM, L.L.C. (Mar. 27, 2001). When asked to estimate how much he received, Locke said it was approximately $20,000 to $25,000. *Id*. Locke also said he was surprised to learn that CLM had received $200,000 from any source for any reason, an assertion which contradicts the proffer provided by his lawyer. *Id*. In fact, Locke received $65,000 from CLM, or approximately three times the amount he admitted to Committee staff. First National Bank of Crossett Document Production (Exhibit 85). According to Locke, he thought the money had come from Richard Cayce, not from Garland Lincecum's brother and mother. Telephone Interview with George Locke, Partner, CLM, L.L.C. (Mar. 27, 2001). Locke told Committee staff that the purpose of the payments had nothing to do with any effort to obtain a pardon. *Id*.

[633] Letter from Mark F. Hampton, Hampton and Larkowski, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 18, 2001) (within Appendix I).

[634] *Id*.

[635] *Id*.

[636] *Id*.

[637] *Id*.

[638] *Id*.

[639] *Id*.

[640] *Id*.

dispute. First, Richard Cayce provided Morton, Locke, and Clinton with $30,000 or $35,000 in cash. Second, Cayce wired $70,000 to CLM. Third, Garland Lincecum provided CLM with $200,000. Fourth, the $300,000 in funds provided to CLM were divided between Clinton, Locke, and Morton, with Clinton receiving $25,500 in checks and as much as $18,000 in cash, Locke receiving $65,000 in checks and $5,000 in cash, and Morton receiving $67,000 in checks and $7,000 in cash. Dickey Morton apparently used the remaining funds, approximately $112,500, to pursue other business interests. It is also clear that no work was ever undertaken on the Lincecum pardon. Neither the White House nor the Justice Department ever received a pardon petition for Lincecum or ever considered Lincecum for a pardon in any way. Moreover, there is no evidence that Morton and Locke even hired a Washington law firm to prepare a pardon petition for Lincecum.

There are also a number of key facts in dispute, centering on the purpose of the funds paid to CLM, with the Lincecums claiming that the money was paid to secure a pardon for Garland Lincecum, and Morton and Locke claiming that the money was paid for "appearance fees" to meet with Roger Clinton.

There is no single piece of evidence that proves the Lincecums' account is true. However, collectively, the preponderance of the evidence supports the Lincecums' account. In contrast, little evidence supports the denials offered by George Locke and Dickey Morton, and some evidence contradicts their claims. The following is a summary of the evidence that supports the Lincecums' account.

- First, there are a number of witnesses who support the Lincecums' account. Garland and Guy Lincecum both gave clear and detailed accounts of their conversations. In addition, Alberta Lincecum, Jim McCaskill, and R.V. Wilson all claim that they observed or participated in discussions with Morton and Locke regarding the Lincecums' efforts to purchase a presidential pardon.
- Second, the denial offered by Locke and Morton is not convincing. Morton and Locke maintain that Garland Lincecum had his mother and brother raid their savings so that he could pay Roger Clinton $200,000 in "appearance fees" for meetings regarding the Legacy Foundation. Given the fact that the Lincecums appear to live under relatively modest circumstances, it is difficult to believe that they would give $200,000 of their money to pay for these meetings. Rather, the Lincecums have offered the only convincing explanation that has been offered about why they would surrender their life savings—because they were attempting to obtain a pardon for Garland.
- Third, Garland Lincecum, Guy Lincecum, Alberta Lincecum, and every witness who supported their account cooperated with the Committee. On the other hand, Locke, Morton, and Roger Clinton all refused to cooperate with the Committee. The Lincecums, R.V. Wilson, Jim McClain, and Jim McCaskill were all willing to step forward and say what they knew, facing the potential of prosecution if they were lying. Therefore, their story has much more credibility

than any accounts offered by attorneys for Clinton, Locke, or Morton, who have either taken the Fifth or made it clear that they would take the Fifth.

- Fourth, the documentary evidence tends to support the Lincecum account. For example, on August 7, 1998, Dickey Morton sent Richard Cayce a letter demanding payment of $100,000 in relation to a "political meeting"—not a business meeting.[641] While this document does not explicitly refer to a pardon, the phrase "political meeting" applies more accurately to an illicit pardon-for-cash discussion than to a legitimate business proposition. Another document that supports Lincecum's account is an October 1999 letter to Dickey Morton discussing a potential oil deal between Morton and some of Lincecum's associates. In the letter, Lincecum, writing from prison, states, "I am sure that within 60 days of my release there will be four parties prepared to proceed on a similar item for themselves."[642] It is not clear whether the "item" referred to by Lincecum is a pardon, but it is clear that he anticipated a prompt release when he wrote the letter. Given that Garland had served only six of the 87 months required by his sentence when he wrote the letter, it appears to be contemporaneous corroboration of Garland's claim that he expected to receive a pardon after paying CLM. The letter supports Lincecum's claims because it establishes that his expectation significantly predates his public allegations about the payment-for-pardon scheme.

While there is a preponderance of evidence showing that Garland Lincecum attempted to purchase a presidential pardon through Dickey Morton and George Locke, there is less evidence that shows Roger Clinton was an active participant in the scheme. However, the evidence against Roger Clinton is still substantial. There are three main pieces of evidence that suggest Roger Clinton participated in the scheme to defraud the Lincecum family.

- First, Roger Clinton received at least $25,500 (or more likely $43,500, including the cash payment admitted by Locke and Morton) from CLM.[643] Yet, Roger Clinton claimed that he "never heard of CLM" and never authorized Morton or Locke to use his name in any way. Clinton's denials do not square with the indisputable fact that he received two checks from CLM totaling $25,500. Considering Roger Clinton's sporadic employment in this time frame, this was not an insignificant amount of money likely to be forgotten. The only two explanations that have been offered for these pay-

[641] Dickey Morton Document Production 001144 (Letter from Dickey Morton, to Richard Cayce (Aug. 7, 1998)) (Exhibit 76).

[642] Dickey Morton Document Production 000323 (Letter from Guy Lincecum, to Dickey Morton (Oct. 26, 1999)) (Exhibit 87).

[643] While Roger Clinton's receipt of a portion of the cash delivered by Richard Cayce is not established with absolute certainty, two factors strongly support it. First, in their proffer, Locke and Morton state that they gave Clinton $18,000 of the $30,000. Letter from Mark F. Hampton, Hampton and Larkowski, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 18, 2001) (within Appendix I). Second, Roger Clinton's bank records indicate that he deposited $12,500 in late August 1998, after the meeting in Dallas. Bank of America Document Production (Exhibit 77).

ments are that: (1) Roger Clinton was selling pardons or (2) Roger Clinton was selling his name. Clinton denied both but has offered no alternative.

- Second, in his proffer, Richard Cayce has claimed that he discussed the Lincecum pardon with Clinton, Locke, and Morton. Cayce maintains that Clinton, Locke, and Morton all told him that they could arrange the pardon for Lincecum, provided that he paid $200,000 to them. While Cayce offers a clear and damning statement against Clinton, it cannot be given significant weight for the same reason that the proffer of Morton and Locke cannot be given significant weight. Richard Cayce has invoked his Fifth Amendment rights, and has made his statements through his lawyer. On the other hand, Cayce told Lincecum in August 1998, shortly after the meeting with Clinton, Locke, and Morton, that he had discussed the purchase of a pardon with them and that they had agreed to do it. Therefore, there is some contemporaneous corroboration of Cayce's proffer. Moreover, unlike Locke and Morton, Cayce does not appear to have profited at the expense of the Lincecum family. His organization, the M.M. Foundation, actually lost $70,000 to CLM. Hence, it is difficult to imagine a motive for Cayce to lie to Lincecum in 1998 about whether he had discussed a pardon with Clinton, Locke, and Morton.
- Third, Garland Lincecum has stated that he saw Roger Clinton at the meeting in Dallas where he first arranged the purchase of the pardon. Lincecum did not participate in the meeting where the purchase of the pardon was discussed with Roger Clinton, but he did see Roger Clinton watching his meeting with Cayce, Locke, and Morton from a mezzanine in the hotel. Obviously, the mere fact that Lincecum saw Roger Clinton at a hotel in Dallas while he met with Cayce, Morton, and Locke regarding his pardon does not prove that Clinton was involved. However, that fact becomes significant when combined with the allegation that Cayce met with Roger Clinton earlier that day and discussed the purchase of a pardon with Clinton.

Therefore, there is substantial evidence that Dickey Morton and George Locke participated in a scheme to defraud Garland Lincecum and his family of a significant sum of money by promising them that they could obtain a pardon in exchange for $300,000. There is also evidence that Roger Clinton participated in this scheme. Bank records establish conclusively that Clinton received, at a minimum, $25,500 from Morton and Locke that they had obtained directly from the Lincecums, yet Clinton has offered no satisfactory explanation as to why he received this money. However, the evidence against Roger Clinton in the Lincecum matter is somewhat equivocal. A full understanding of his role in the Lincecum matter could not be obtained without full and honest cooperation from Dickey Morton, George Locke, and most importantly, Roger Clinton. All three refused to provide the requisite level of cooperation.

IV. OTHER PARDON CANDIDATES

In addition to Gambino and Lincecum, the Committee obtained evidence connecting Roger Clinton to many other pardon seekers—many more than the six, unnamed "close friends" for whom Clinton has publicly admitted lobbying. While Clinton was unsuccessful in actually obtaining a pardon for anyone but himself, he nonetheless attempted to misuse his position and access to the President for personal gain. It appears that President Clinton may have categorically decided to deny clemency petitions advocated by his brother. Roger Clinton told the media that his brother's rejection of his appeals caused "a serious rift" between him and his brother:

> Saying he told his brother he would forgo a pardon for himself if the president would grant clemency to his friends, Roger Clinton added: "I cried about a couple of days; I was in an emotional funk. I didn't know how to feel. It was so important to me that these people on the list, that they get it and not me. I guess he didn't think so[.]" [644]

Regardless of whether President Clinton's clemency decisions involving his brother were categorical or based on the merits of each individual case, the unusually large number of cases associated with Roger Clinton merit further inquiry and explanation. Some of the clemency-seekers discussed below were likely in the category of "close friends." Others, however, had only met Roger Clinton, if at all, after he began lobbying on their behalf. More importantly, several of the cases involve solicitations or promises of some form of payment, such as cash or lucrative business interests, in exchange for Clinton's assistance.

A. Dan Lasater and George Locke

In the early 1980s, Dan Lasater was a Little Rock, Arkansas, bond broker and partner in the firm Collins, Locke, and Lasater. Lasater was a close associate of the Clintons, raising money for Bill Clinton's political campaigns and loaning money to pay Roger Clinton's drug debts. George Locke was an Arkansas state senator and business associate of Lasater's. In December 1986, Dan Lasater pled guilty in federal court to conspiracy to possess and distribute cocaine and was sentenced to 30 months in prison.[645] Roger Clinton and George Locke were also convicted for their involvement in the Lasater cocaine distribution conspiracy.[646] Clinton was sentenced to 24 months in prison and Locke was sentenced to 15 months.[647]

The Clintons have a long association with Lasater and Locke, dating back years before the cocaine convictions. Bill Clinton met with Dan Lasater, David Collins, and George Locke the day after losing his re-election bid for Governor to Frank White in 1980.[648] The purpose of the meeting was to secure Lasater's support for his

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[644] Susan Schmidt, *Clinton's Brother Promised Pardons*, WASH. POST, Feb. 24, 2001.
[645] Dan Lasater Document Production (Petition for Pardon, May 4, 2000) (Exhibit 89).
[646] *Id.*
[647] *Id.*
[648] INVESTIGATION OF WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS, S. Rep. No. 104–280, at 361.

bid to regain the governorship in 1982.[649] Lasater subsequently became a major donor and fundraiser for Clinton's political campaigns. At the request of then-Governor Bill Clinton, Lasater gave Roger Clinton a job in 1983 on his horse farm in Ocala, Florida.[650] When Roger Clinton could not pay debts to his drug dealer, Lasater loaned him $8,000.[651] In its final report, the Senate's Special Committee on Whitewater detailed the troubling evidence that Governor Clinton's office steered state bond business from the Arkansas Housing Development Agency and the Arkansas State Police Commission to Lasater's firm, providing it an unfair advantage over other firms competing for the underwriting business.[652] In 1990, Governor Clinton issued a conditional state pardon proclamation restoring all of Lasater's rights, privileges, and immunities under state law before his cocaine conviction, "including the right to own and possess firearms provided, however, no such restoration is effective until a federal removal of disabilities has been granted."[653]

Lasater filed a federal pardon application to the Justice Department on May 4, 2000.[654] In the petition for clemency, Lasater maintains, "I *never* sold cocaine, ever."[655] Rather, Lasater says he merely "shared my financial success" with friends by paying for their dinners and drinks and drugs: "If we were in a social setting and cocaine was available, anyone who wanted to could participate. No one forced it on anyone."[656] However, this account from the clemency petition appears to have been somewhat sanitized. According to news reports, affidavits gathered by Julius "Doc" Delaughter, the State Police Investigator who conducted the Lasater investigation, tell a more damning story:

> The extent of Lasater's alleged partying and coke distribution, and of his preying on teenage girls and young women, is outlined in dozens of affidavits taken by Delaughter. In one affidavit, Patricia Anne Smith alleges: "I was introduced to cocaine by Dan Lasater when I was 16 or 17 years old and a student at North Little Rock Old Main High School. . . . I was a virgin until two months after I met Dan Lasater. Lasater plied me with cocaine and gifts for sexual favors." She claimed he also arranged for her to see a doctor and be put on birth-control pills.
>
> Other young girls related similar stories. Lisa Ann Scott, who was 19 when she first encountered Lasater and one of his broker partners, George Locke, alleged she received cocaine from both men from the middle of 1984 to the beginning of 1985: "The first time I met Dan Lasater and George Locke was at George Locke's apartment. On this particular evening George Locke gave me approximately ten snorts of cocaine. I received approximately eight to ten

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[649] *Id.*
[650] *Id.* at 361–62.
[651] *Id.* at 362.
[652] *Id.* at 363–71.
[653] Dan Lasater Document Production (State of Arkansas Proclamation, Nov. 13, 1990) (Exhibit 90).
[654] Telephone Interview with Dan Lasater (May 7, 2001).
[655] Dan Lasater Document Production (Petition for Pardon, May 4, 2000) (Exhibit 89).
[656] *Id.*

snorts from Dan Lasater." Scott also detailed a trip to Las Vegas that she took with other girls on Lasater's jet where cocaine was made available.[657]

Lasater told Committee staff that he discussed his pardon petition with Roger Clinton on several occasions.[658] He also forwarded a copy of his petition to Roger Clinton on May 8, 2000, four days after filing it with the Justice Department.[659] Lasater understood that Roger would bring his petition to the President's attention but did not recall Roger saying anything about contacts with other White House staff regarding the petition.[660] He recalled Roger talking about his plan to give the President a list of people that Roger wanted to receive pardons but did not know whether that actually happened.[661]

George Locke also sought a pardon through Roger Clinton. Discussions about a pardon between Clinton and Locke began after Bill Clinton's reelection in 1996.[662] Roger informed Locke that "when the time was right that he would ask 'big brother' if he would consider giving Roger, Dan Lassiter [sic] and George Locke a pardon[.]"[663] In December 2000, Locke prepared a pardon petition and sent it to Roger Clinton at the White House.[664] Shortly thereafter, Roger informed Locke that he was going to discuss the pardon with the President.[665] Both Locke and Lasater deny that they paid any money to Roger Clinton to obtain his help lobbying for the pardons. Rather, Locke believes that "Roger still felt responsible for the investigation and conviction of George Locke and Dan Lassiter [sic] and was, in essence, attempting to set the record straight between Locke, Lassiter [sic] and Clinton."[666]

The Committee has been unable to obtain detailed information about the President's reasons for denying the Locke and Lasater pardons. The only information obtained by the Committee comes from Associate White House Counsel Eric Angel, who stated that President Clinton, Bruce Lindsey, and Beth Nolan discussed the Lasater and Locke pardons.[667] Angel stated that President Clinton believed that Lasater and Locke deserved pardons on the merits of their cases.[668] However, according to Angel, the White House staff opposed the Lasater and Locke pardons because they believed they would be too controversial.[669] Angel himself expressed concern to the President that conservative publications had written about Lasater and Locke and that they were the subject of "conspiracy theories" and the "conservative conspiracy theorists" would "go

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[657] Jamie Dettmer, *Dan Lasater: A Friend of Bill's*, INSIGHT, Nov. 6, 1995.
[658] Telephone Interview with Dan Lasater (May 7, 2001).
[659] Dan Lasater Document Production (Letter from Dan Lasater, to Roger Clinton (May, 8, 2000)) (Exhibit 91).
[660] Telephone Interview with Dan Lasater (May 7, 2001).
[661] *Id.*
[662] Letter from Mark F. Hampton, Hampton and Larkowski, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform 9 (May 18, 2001) (within Appendix I).
[663] *Id.*
[664] *Id.*
[665] *Id.*
[666] *Id.*
[667] Interview with Eric Angel, Associate Counsel to the President, the White House (Mar. 28, 2001).
[668] *Id.*
[669] *Id.*

nuts" if the pardons were granted.[670] Whether the President rejected the Lasater and Locke pardons for these reasons or others is unknown.

It appears that Roger Clinton called Dan Lasater and George Locke on January 20, 2001, immediately after President Clinton left office. Roger Clinton told Lasater and Locke in these calls that he had failed to obtain their pardons. According to Lasater, Roger Clinton said he was embarrassed that his brother would not do that favor for him.[671]

B. J.T. Lundy

In 1982, J.T. Lundy became President of Calumet Farms, the legendary horse-breeding farm that had dominated U.S. horseracing for decades.[672] Lundy gained control of the farm through his marriage to Calumet heiress Cindy Wright.[673] Despite continued success at the track, by 1991, Calumet was bankrupt.[674] Lundy was convicted in February 2000 on charges of bank fraud and bribery; he was sentenced in October 2000 to four and a half years in prison and $20 million in restitution to the FDIC.[675] The jury found that Lundy paid a $1.1 million bribe to a Houston bank in exchange for $65 million in unsecured loans.[676]

Dan Lasater knew J.T. Lundy through their mutual involvement in the horseracing business.[677] Following his release from prison, Lundy had employed Roger Clinton at Calumet farms.[678] Lasater indicated that he had discussed with Roger Clinton the possibility of obtaining a pardon for Lundy and that he believed Lundy and Clinton may have met to discuss a pardon as well.[679] Documents indicate that, in late 1999, J.T. Lundy and his son Robert had extensive contacts and discussions with Lasater and Clinton regarding several business deals.[680] It appears that Lundy was offering these business opportunities to Lasater and Clinton in return for Clinton's help in obtaining a pardon for Lundy before his case went to trial. On September 14, 1999, J.T. Lundy wrote to Dan Lasater:

> I absolutely give you my word that all things we have given to you and everything we have told you is 100% true and proven. You can use what has been told to you with-

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[670] *Id.*

[671] Telephone Interview with Dan Lasater (May 7, 2001).

[672] Jacalyn Carfagno, *Fabled Silks, Faded Glory; The Rise and Fall of the Legendary Calumet Farm*, HOUSTON CHRONICLE, Mar. 29, 1992.

[673] *Id.*

[674] *Id.* ("Calumet's board learned that the farm had $400 in the bank and $40 million in debt currently due. It was a steep plunge for a farm that had been transferred, debt-free, to a new generation of owners less than a decade before").

[675] *Calumet Farm Executives Sent to Prison for Bribery, Fraud*, ASSOCIATED PRESS, Oct. 20, 2000.

[676] *Id.* During the financial downfall of Calumet Farms, its largest asset and most famous stallion, Alydar, died under suspicious circumstances. Prosecutors in Houston argued unsuccessfully that Lundy was complicit in the death of Alydar, who was insured for $35 million. Janet Patton, *Closing the Book on Calumet Story: Farm's Friends Hope Sentencing Spells the End*, LEXINGTON HERALD LEADER, Oct. 21, 2000. A U.S District Judge found, "There is some physical evidence, and circumstances surrounding the event that are suspicious, but I cannot conclude he is responsible." *Id.* However, Alydar's groom, on duty when he was injured, was convicted of perjury before a Houston grand jury investigating the incident. *Calumet Farm Executives Sent to Prison for Bribery, Fraud*, ASSOCIATED PRESS, Oct. 20, 2000.

[677] Telephone Interview with Dan Lasater (May 7, 2001),

[678] Josh Tyrangiel, Viveca Novak, and Michael Weisskopf, *Brother, Where Art Thy Standards?* TIME, July 9, 2001.

[679] Telephone Interview with Dan Lasater (May 7, 2001).

[680] *Id.*

> out any worries or any concerns. I have *been* working on these projects for several years and have put together the whole structure. This is not hear say [sic] I am telling you.
>
> * * *
>
> We have every document, map, studies, mining plans and everything to provide for you.
>
> * * *
>
> Once again I want to thank you for helping to save me.[681]

On the same day, Robert Lundy wrote to Lasater:

> My Venezuelan partners Aura Diaz and Robert Korsakas are scheduled to meet with British Petroleum on Sept. 20. BP is being represented by an agent from Spain, BP has a [sic] tentatively offered .38 cents USD a metric ton. There are an [sic] estimated reserves of 107,000,000+.
>
> (.38 X 107 million metric tons = $40,660,000) We have not accepted this offer, we [sic] feel the concessions are worth .30 to .55 cents per metric ton.
>
> All of our information is from the Venezuelan Government's geological reports of the coal in the Franja Nor Oriental coal region of Tachira State. Our concessions are located in this region. The concessions we have offered to BP are Concession Las Mesas Escalante, #16, #17 and #18.[682]

On October 11, 1999, Robert Lundy wrote to Roger Clinton (and provided a copy to Dan Lasater) the following letter:

> I wish to find out when you and Dan [Lasater] will be able to schedule a meeting in Florida. Dan said, he will work with your schedule and will be available at your convenience.
>
> * * *
>
> I want to point out a couple of things to you. As you know, Dan and J.T. have been doing deals together for more than 25 years. I am sure that Dan will tell you that J.T. has never told him anything that is not 100% right.
>
> Dan has told J.T., He [sic] agreed to put the stock in his name for the group's interest. This way there will be no hassles or worries.

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[681] Roger Clinton Document Production RCC0006 (Letter from J.T. Lundy, to Dan Lasater (Sept. 14, 1999)) (Exhibit 92).

[682] Roger Clinton Document Production RCC0007 (Letter from Robert Lundy, to Dan Lasater (Sept. 14, 1999)) (Exhibit 93).

* * *

> If you recall when we met at the Dallas Airport, we talked about racehorses. . . . J.T. really wants to get back into it full time. . . . With the impute [sic] and directions from everyone, we can all have a lot of fun and make money.

* * *

> I know you understand the anxiety that J.T. is going through. Please try to set up a meeting date as soon as your schedule permits.[683]

Approximately one month later, on November 10, 1999, J.T. Lundy wrote to Roger Clinton, indicating his growing concern as his trial date grew nearer:

> I am sorry to worry you and Dan continually, but I am sure both of you know why I am so anxious, with the trial date set for January 16, 2000.
>
> Dan and I talk nearly everyday. . . . I wrote Dan a Fedex letter, last Saturday, to explain my ideas of how we can handle everything.
>
> You and Dan can make final plans. We will go on and transfer the stock share over to Dan now. This will allow you and your group some time to see if anyone owes you a favor that needs to be repaid. If you find that something good develops, we will work and get the rest of the stock for you at a reasonable price.
>
> I have suggested a way that Dan can own your stock, and there is no way any outsider can every [sic] know the true owners. Also, no one can ever get their hands on any of your money. And it is TAX FREE!

* * *

> Robert will need your proxy so he will still have the 51% majority vote, as he does now.
>
> With your help, we can work out a way to postpone everything until between November 8, 2000; and January 19, 2001.[684]

On November 30, 1999, J.T. Lundy sent another letter to Roger Clinton with almost the exact same wording but with a more frantic tone:

> You will make a great deal of money. Dan can give you an idea of the amounts you will get.

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[683] Roger Clinton Document Production RCC0010 (Letter from Robert Lundy, to Roger Clinton (Oct. 11, 1999)) (Exhibit 94).

[684] Roger Clinton Document Production RCC0011 (Letter from J.T. Lundy, to Roger Clinton (Nov. 10, 1999)) (Exhibit 95).

> With you and Dan's help, a way can be worked out to postpone everything until after the November 8 election, and before the date you all leave office in 2001.
>
> *PLEASE* get in touch with Dan *soon*. He has all the details of what you will received and he is willing to take care of everything for you all. *Time is getting short! PLEASE HELP ME NOW!*[685]

These documents demonstrate that, as Lundy's trial date neared, he was more and more urgently seeking Lasater's and Clinton's participation in the Venezuelan coal deal. They also demonstrate that Lasater was intimately involved in the deal and that Lundy clearly expected the deal to have some impact on his legal troubles. Together with Lasater's admission to Committee staff that he and Lundy discussed obtaining a pardon for Lundy through Roger Clinton, the documents strongly suggest that Lundy was providing Roger Clinton a sweetheart business deal in exchange for his help in trying to obtain a pardon. First, the repeated reference to timing "everything" so as to occur after the presidential election but before the end of the Clinton Administration suggests that whatever Roger's part in the deal involved, it would be politically damaging if discovered just before the election. It also suggests Roger's part in the deal would require some official, presidential act, which could not occur after President Clinton left office. Second, the repeated references to Lundy's rapidly approaching trial date suggest that Roger's part in the deal would have some impact on Lundy's legal jeopardy. The most likely explanation is that Lundy was seeking some form of executive clemency through Roger Clinton.

When questioned about these matters, Dan Lasater was less than forthcoming.[686] Lasater at first claimed that other than some matters related to horseracing, he and Lundy did not have any business dealings together.[687] His denial directly contradicted the extensive documentary evidence discussed above; Lasater was presumably unaware the Committee possessed those documents. Regarding pardon discussions, Lasater said he had asked Roger Clinton about a pardon for Lundy on one occasion but that Roger had said he thought a pardon was not appropriate before someone had gone to prison.[688] Lasater did not recall any discussions of a commutation for Lundy and did not know when the meeting between Lundy and Clinton occurred.[689]

When asked if Clinton was doing any business with Lundy, Lasater said not to his knowledge, and "I don't know how they could have."[690] When asked whether he had ever discussed holding

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[685] Roger Clinton Document Production RCC0012 (Letter from J.T. Lundy, to Roger Clinton (Nov. 30, 1999)) (Exhibit 96)

[686] Lasater has also lied to federal authorities in the past. In 1986, a federal judge found that he lied under oath in the course of the bankruptcy trial of his partner George Locke. INVESTIGATION OF WHITEWATER DEVELOPMENT CORPORATION AND RELATED MATTERS, S. REP. NO. 104–280, at 362. Moreover, the Senate Special Committee on Whitewater noted in its final report that Lasater did not disclose the judge's finding to the Committee. Instead Lasater falsely claimed, "it has never been alleged that I committed any fraudulent act or lied in the course of any investigation." *Id.*

[687] Telephone Interview with Dan Lasater (May 7, 2001).

[688] *Id*. This remark is similar to what Dickey Morton told Garland Lincecum. *See* Section III.A.6., "Lincecum's Attempts to Receive the Pardon."

[689] Telephone Interview with Dan Lasater (May 7, 2001).

[690] *Id*.

Clinton's interest in an investment, Lasater said he had not.[691] Lasater's denial directly contradicted the statement in Robert Lundy's letter to Roger: "Dan has told J.T., He [sic] agreed to put the stock in his name for the group's interest. This way there will be no hassles or worries."[692] After denying he had agreed to hold stock for Clinton, Lasater said that Lundy was "really at his wits end the nearer he got to actually going into prison."[693] Lasater said Lundy mentioned "some things" to him but that he did not pass them on to Roger. Lasater said Lundy was "asking a question out of desperation" and mentioned helping Roger with proceeds of a coal deal in Venezuela.[694] Lasater said Lundy did not mention a number or an estimate of how much Roger could make and that he just "blew it off."[695] However, Lasater had in fact received a letter from Robert Lundy estimating the deal's total worth at nearly $41 million, and J.T. Lundy had written to Roger (and sent a copy to Lasater), saying: "You will make a great deal of money. Dan can give you an idea of the amounts you will get."[696]

When confronted with questions about specific documents, Lasater's answers became less responsive and more vague. Committee staff asked about the letters to Roger Clinton from J.T. Lundy and copied to Lasater stating, "With you and Dan's help, a way can be worked out to postpone everything until after the November 8 election, and before the date you all leave office in 2001."[697] In response, Lasater claimed that he had merely invested money and lost it. He stated that the "only thing" he did "on the Venezuela coal deal" was to put in money.[698] Lasater said that Lundy thought the whole deal would make $10 million of which Lasater owned 20 percent, but Lasater said he had made no money.[699] Lasater's admission to owning 20 percent of the coal deal contradicted his earlier claim to have no non-horse-related business dealings with Lundy. Moreover, his admission came only after he learned that Committee staff had reviewed documents related to the deal. Lasater went on to deny that he ever discussed the coal deal with Roger Clinton, repeating that he merely "blew it off."[700] Given that Lasater invested his own money and owned 20 percent of the venture, this statement presumably refers to the idea of involving Roger Clinton in the deal. Apparently still referring to Clinton's involvement, Lasater went on to say that "it was too far out" and "you just don't do those things."[701] Then, Lasater declared: "there is nothing in the coal deal. I guarantee it."[702]

It is unclear whether Roger Clinton asked President Clinton to grant executive clemency to J.T. Lundy. Regardless, Lundy did not

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[691] *Id.*
[692] Roger Clinton Document Production RCC0010 (Letter from Robert Lundy, to Roger Clinton (Oct. 11, 1999)) (Exhibit 94).
[693] Telephone Interview with Dan Lasater (May 7, 2001).
[694] *Id.*
[695] *Id.*
[696] Roger Clinton Document Production RCC0007 (Letter from Robert Lundy, to Dan Lasater (Sept. 14, 1999)) (Exhibit 93); Roger Clinton Document Production RCC0011 (Letter from J.T. Lundy, to Roger Clinton (Nov. 10, 1999)) (Exhibit 95).
[697] Roger Clinton Document Production RCC0012 (Letter from J.T. Lundy, to Roger Clinton (Nov. 30, 1999)) (Exhibit 96)
[698] Telephone Interview with Dan Lasater (May 7, 2001).
[699] *Id.*
[700] *Id.*
[701] *Id.*
[702] *Id.*

receive clemency. It is also uncertain whether Roger Clinton received any financial benefits from Lundy. Clinton did receive tens of thousands of dollars in travelers checks purchased in Venezuela in 1999 and 2000, but it is not clear if any of those checks have a connection to the Lundy matter.

C. Blume Loe

On August 10, 1999, Blume Loe was convicted on charges of tax fraud.[703] Loe was the manager of High Port Marina, a complex of boat slips, restaurants, and other businesses on Lake Texoma at the Texas-Oklahoma border.[704] The lake is owned by the U.S. Army Corps of Engineers and was leased by Loe's family.[705] At the time of his conviction, Loe's parents were already serving time in prison on charges of mail fraud, wire fraud, and defrauding the Corps of Engineers, which was entitled to a portion of gross sales under the terms of the lease.[706] Blume Loe failed to report $450,000 of income on his tax returns and claimed that the money was a series of loans from his mother.[707] However, Loe was found to have been a knowing participant in a scheme to hide the money from the Corps of Engineers and the IRS.[708]

Blume Loe had worked for Dan Lasater in the 1980s as a salesman at his bond firm and presumably knew Roger Clinton through their mutual association with Lasater.[709] On May 30, 2000, Loe wrote to Roger Clinton seeking his assistance in obtaining a pardon:

> I thought I would be direct. Yes, this is me, and yes, this is Blume Loe asking you to get with brother Bill, and get me PARDONED.
>
> As you know I was convicted on some tax charges. I never believed your brother's Government would get a conviction, but they did. I was sentenced to prison, and I know you know what that means. Seems now I am going through all those things that I never believed I would have to do to get this thing taken care of. For one, I am sitting in this goddamn law library typing a letter like a prison writ-writer. If these guys around me knew what I was writing, or who I was writing to, [G]od knows what would happen. So anyway, it's me, and I need your help.[710]

Loe had attempted to contact Clinton through some mutual friends, David Burnett and David Crews. According to Dan Lasater, David Crews' sister, Lana Crews, had once been Roger Clinton's

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[703] Bill Lodge, *Manager of Lake Texoma Marina Convicted of Fraud*, DALLAS MORNING NEWS, Aug. 11, 1999.
[704] *Id.*
[705] *Id.*
[706] *Id.*
[707] *Id.*
[708] *Id.*
[709] Telephone Interview with Dan Lasater (May 7, 2001). When Loe's wife spoke to the media, she indicated that Loe had met Roger Clinton "in the late 1970's when they were students at University of Arkansas." Alison Leigh Cowan, *House Committee Asks Roger Clinton to Explain Some Ties to Pardon Requests*, N.Y. TIMES, June 29, 2001.
[710] Roger Clinton Document Production RCC0002 (Letter from Blume Loe, to Roger Clinton (May, 30, 2000)) (Exhibit 97).

girlfriend.[711] Loe's letter describes his previous attempts to contact Clinton:

> I talked to Dave [Burnett], and we discussed how this could get this done. Dave talked to David Cruse, [sic] and David Cruse [sic] says he talked to you about this deal. I hope all this happened like I was told, but if it did not I would not be surprised. I learned in here that things are not always like they have been told. However, whether you have talked to anyone about me, to date, or not, I am now reaching out to you personally.[712]

David Crews confirmed that David Burnett contacted him about helping to secure Roger Clinton's help in obtaining a pardon for Blume Loe.[713] Crews knew Roger Clinton and estimated that he probably saw him once a year.[714] However, Crews said he did not want to approach Roger with "something like this."[715] Crews denied that he did anything to assist Loe in his effort to obtain a pardon.[716]

> Loe's letter also refers to contacts between his lawyer and Roger Clinton:
>
> You will be receiving a package from my attorney on appeal about the pardon issue. Her name is Cindy Goosen, and all the paperwork on my side should be in that package. She's a good lawyer, and you can talk to her. She knows what time it is. She ain't no idiot, like my trial lawyer was. Talking to her is talking to me.
>
> * * *
>
> I also know that what I am requesting is extraordinary. While I know that you are trying to get one, I hope yours comes, if at all, at about the same time mine comes . . . if you know what I mean. I would not be approaching you with this if I was not desperate with no where else to turn. I need your help on this.[717]

When Committee staff contacted Loe's lawyer, Cynthia Goosen, and attempted to arrange an interview, she first responded by claiming that she could not discuss any matters related to Loe because of the attorney-client privilege.[718] After being informed that any contacts with Roger Clinton, whom she did not represent, would not fall within the attorney-client privilege, Goosen then claimed that "any work done pursuant to any attempt to obtain clemency would have been protected by the attorney work product privilege" and that "as to any related matters which may not fall

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[711] Telephone Interview with Dan Lasater (May 7, 2001).
[712] Roger Clinton Document Production RCC0002 (Letter from Blume Loe, to Roger Clinton (May, 30, 2000)) (Exhibit 97).
[713] Telephone Interview with David Crews (May 29, 2001).
[714] *Id.*
[715] *Id.*
[716] *Id.*
[717] Roger Clinton Document Production RCC0002–3 (Letter from Blume Loe, to Roger Clinton (May, 30, 2000)) (Exhibit 97).
[718] Letter from David Kass, Deputy Chief Counsel, Comm. on Govt. Reform, to Cynthia S. Goosen, Cooper & Scully (May 14, 2001) (within Appendix I).

strictly within the privilege, it is my policy as an attorney to treat same as confidential and not to disclose same unless compelled to do so by judicial process."[719] The refusal of Blume Loe and his lawyer to cooperate with the Committee's investigation limits what can be known about Loe's efforts to obtain a pardon.[720] Likewise, because of Roger Clinton's refusal to cooperate, it is unclear whether Loe was one of the names Clinton submitted to his brother for consideration.

D. Rita Lavelle

Roger Clinton did not limit his pardon lobbying to personal friends. He also agreed to assist Rita Lavelle, an Environmental Protection Agency Assistant Administrator for Solid Waste and Emergency Response in the Reagan Administration. In 1983, Lavelle was convicted of making false statements, obstructing a Congressional Committee, perjury before a Senate Committee and perjury before a House Committee.[721] She was sentenced to six months in prison, five years of probation, and a $10,000 fine.[722] The charges against Lavelle stemmed from an investigation of allegations that she had continued to work on matters relating to a Superfund clean-up site despite formerly being employed by one of the alleged polluters of the site. Lavelle was convicted of lying about precisely when Justice Department and EPA lawyers had advised her to recuse herself.

Lavelle has maintained her innocence, appealing her conviction and attempting since the Reagan Administration to obtain executive clemency.[723] She argues first that her former employer, Aerojet, was not charged with dumping at the Superfund site in question, Stringfellow, because "they never did."[724] Secondly, she contends that she was under no obligation to recuse herself but that she had merely made "a personal promise" to the Senate Confirmation and Oversight Committee not to work on matters "directly involving" her former employer.[725] And thirdly, she alleges that her accusers had received campaign contributions or had other connections with named Stringfellow dumpers who "would economically benefit by stalling and de-railing EPA's cleanup orders[.]"[726] She has also implied that political corruption tainted the appellate review of her conviction:

> Approximately three weeks after the Appellate Court Hearing, Senators Metzenbaum and Kennedy asked me to come to Kennedy's Office. They were on the Judiciary Committee and they wished me to testify against Ed Meese who was nominated for the new Attorney General.

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[719] Letter from Cynthia S. Goosen, Cooper & Scully, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 22, 2001) (within Appendix I).

[720] Despite Loe's refusal to speak to Committee staff, his wife's comments on the matter were reported in the press: "She said she and her husband may have discussed going to Roger Clinton for help, 'but we didn't know how to contact him,' said Ms. Loe. 'I wouldn't call us a dear friend,' she said. 'We haven't talked to him in over 20 years.'" Alison Leigh Cowan, *House Committee Asks Roger Clinton to Explain Some Ties to Pardon Requests*, N.Y. TIMES, June 29, 2001.

[721] Rita Lavelle Document Production 005 (Petition for Pardon, Jan. 7, 2001) (Exhibit 98).

[722] *Id*. at 005.

[723] Telephone Interview with Rita Lavelle (July 11, 2001).

[724] Rita Lavelle Document Production 013 (Petition for Pardon, Jan. 7, 2001) (Exhibit 98).

[725] *Id.* at 014.

[726] *Id*.

> Having worked for Mr. Meese and President Reagan since the early days in California when Reagan was Governor, it was obvious to them I could evoke some "tantalizing" memories. At first they were charming then they got down to threats if I didn't co-operate. Finally Kennedy told me either I appear before his committee and testify against Meese or I would lose the Appeal and go to Jail. My Irish Pride and Catholic Optimism took over and after informing them there was only one innocent person in the room and she was leaving, Kennedy screamed the prophetic "and she is going to jail."
>
> Several months later (to be specific the Friday before the Inauguration of Reagan for his second term) the Court made a "small" announcement that they were denying the Appeal with NO Comment. The three member Appellate Court Hearing was now reduced to two Democrats who had "No Comment." The one Republican Member had accepted a Sabbatical to England and had not provided comment prior to leaving.[727]

Sometime in 2000, Lavelle decided to seek to obtain clemency from the Clinton administration. She first approached a friend, Michael Dodds, who was a contract security provider who frequently traveled with Roger Clinton overseas.[728] Lavelle told Committee staff that Dodds knew that she was having trouble finding work because of her felony conviction and that he helped her contact Roger Clinton to request that Roger hand-carry her pardon petition to President Clinton.[729] At one point, she spoke to Dodds and Clinton on the phone simultaneously about her request.[730] Later, Lavelle said that, through Michael Dodds, Roger Clinton asked for "$10,000 or $30,000" to hand carry the petition for her.[731] Although Dodds claimed that he "never supposed that [Clinton] might want payment" and that Clinton merely thought Lavelle's case was deserving, Lavelle's memory on this point is clear.[732] In fact, Lavelle said that such a fee request "was to be expected" and that it "was not a quid pro quo."[733] Lavelle explained that she was bankrupt and that, although she could not afford to pay, Roger Clinton "was kind enough" to carry it without payment.[734] Dodds denied the allegation that Clinton asked Lavelle for money.[735]

Clinton instructed Lavelle to send her petition to an address at the White House Usher's office. Lavelle did so.[736] She also spoke to Roger Clinton by phone about her pardon petition several times.[737] In the first contact after Clinton had agreed to deliver her petition, he called to say that the President was "favorably disposed" to granting her clemency.[738] But, on the Friday night before

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[727] *Id.*
[728] Telephone Interview with Rita Lavelle (July 11, 2001).
[729] *Id.*
[730] *Id.*
[731] *Id.*
[732] Telephone Interview with Michael Dodds (July 31, 2001).
[733] Telephone Interview with Rita Lavelle (July 11, 2001).
[734] *Id.*
[735] Telephone Interview with Michael Dodds (July 31, 2001).
[736] Telephone Interview with Rita Lavelle (July 11, 2001).
[737] *Id.*
[738] *Id.*

the inauguration, Roger Clinton called again and asked Lavelle, "Do you have $100,000 to get this through?" [739] Lavelle said she interpreted the comment as a joke because she was bankrupt and could not possibly raise $100,000 so quickly.[740] Also, Clinton had already told her that it was probably too late to get her petition granted.[741] Nevertheless, Roger Clinton did ask Lavelle if she had $100,000 in connection with the pardon effort. Clinton went on to explain that "the President is under a lot of pressure" and asked "what can you do with the Bush team?" [742] Lavelle replied that she was "close to the conservative elements." [743] Roger told her that "political equity was more important than money at this point." [744]

Lavelle did not receive clemency on inauguration day and, much as he apparently did with others for whom he had lobbied, Roger Clinton called to tell her that he was upset and embarrassed that his requests for pardons were not granted.[745] Lavelle spoke to Clinton one more time after his brother was out of office, but she could recall only that the conversation focused on his claim that he was framed on a drunk driving charge that had recently received a lot of press attention.[746] Lavelle's account provides a disturbingly cynical view of politics and the pardon process. It also illustrates that Roger Clinton was willing to use his relationship and access to the President to help not only dear friends, as he has claimed in the press, but also any stranger who might possibly provide money or "political equity" beneficial to the Clintons.

E. John Ballis

In 1990, Houston real estate developer John Ballis pled guilty to paying a savings and loan president $371,000 in kickback money ($300,000 of which was provided in the form of a cash-stuffed duffel bag delivered via helicopter) in exchange for $6.7 million in loans.[747] As part of the plea arrangement, Ballis provided authorities with details about the bribe and was given immunity from further prosecution arising out of the investigation.[748] Ballis was sentenced to two years' probation and 160 hours of community service.[749] Shortly after completing his community service, however, Ballis was indicted again for the crime to which he had earlier pled guilty as well as obstruction of justice.[750] Prosecutors had cancelled the plea agreement on the grounds that Ballis had not met his obligation under the bargain to be complete and truthful in his debrief-

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[739] *Id.*
[740] *Id.*
[741] *Id.*
[742] *Id.*
[743] *Id.*
[744] *Id.* Lavelle also claims that Clinton then asked her, "Who do you know at Pepperdine?" Lavelle said she realized later that this was a reference to former Independent Counsel Kenneth Starr's aborted departure to become Dean of Pepperdine Law School. Lavelle understood Roger Clinton to be probing to see if she could assist in obtaining a deal or if her pardon could become part of a deal between President Clinton and the Office of Independent Counsel. The President was engaged in last-minute negotiations that ultimately led to the agreement not to prosecute that was announced hours before Clinton left office. *Id.*
[745] *Id.*
[746] *Id.*
[747] Steve McVicker, *Bad Deal; John Ballis Was a Crook. But He Expected the Federal Government to Keep Its End of a Bargain*, HOUSTON PRESS, Dec. 4, 1997.
[748] *Id.*
[749] *Id*; Roger Clinton Document Production RCC0016 (Letter from John Ballis, to Roger Clinton (Jan. 9, 1999)) (Exhibit 99).
[750] *Id.*

ing.[751] Ballis was tried, convicted, and sentenced to 12 and a half years in prison.[752]

In 1989, Ballis married Joni Anderson.[753] Anderson-Ballis had been a reporter for KTHV television in Little Rock, Arkansas, as well as an employee of Lasater and Co., a Little Rock-based securities company owned by Dan Lasater.[754] Anderson-Ballis said she knew Bill Clinton, Roger Clinton, Bruce Lindsey, and Virginia Kelly (President Clinton's mother) "fairly well."[755] She said John Ballis began seeking executive clemency soon after the revocation of his plea agreement in 1994.[756] Anderson-Ballis wrote to President Clinton seeking clemency for her husband in November 1994:

> I have met with Bruce Lindsey on this matter. He can show you the documents and fill you in on the details. He can also tell you about Representative Jack Brooks' interest and involvement in the case.
>
> * * *
>
> I'm aware the demands on your time are overwhelming and if it were not for our friendship, you'd probably never see this letter. However, friendship aside, this situation is one that warrants your consideration.[757]

The request did receive attention early on, according to Anderson-Ballis. She met with Webster Hubbell about the issue when he was Associate Attorney General and with Bruce Lindsey for two hours once when President Clinton was in Houston to attend a fundraiser.[758] She also wrote letters to Roger Clinton and Bruce Lindsey. Her letter to Roger suggests he played an active role in advocating for Ballis:

> Roger the Dodger—
>
> I can't tell you how much your help means to me. I'm sure you understand.
>
> * * *
>
> Please ask Bill if he got the letter and also get any advice on how I should proceed with this. Mention to him that Primetime Live is interested in doing a piece at this point

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[751] Steve McVicker, *Bad Deal; John Ballis Was a Crook. But He Expected the Federal Government to Keep Its End of a Bargain*, HOUSTON PRESS, Dec. 4, 1997.

[752] Roger Clinton Document Production RCC0016 (Letter from John Ballis, to Roger Clinton (Jan. 9, 1999)) (Exhibit 99).

[753] Roger Clinton Document Production RCC0022 (Letter from Joni Anderson-Ballis, to President William J. Clinton, the White House (Nov. 21, 1994)) (Exhibit 100).

[754] George Wells, *Former Reporter Appears*, ARKANSAS DEMOCRAT-GAZETTE, Sept. 19, 1986. Anderson-Ballis appeared as a witness before a grand jury investigating Dan Lasater for cocaine distribution. *Id*.

[755] Telephone Interview with Joni Anderson-Ballis (June 12, 2001).

[756] *Id*; Roger Clinton Document Production RCC0022 (Letter from Joni Anderson-Ballis, to President William J. Clinton, the White House (Nov. 21, 1994)) (Exhibit 100).

[757] *Id*. *See also* Roger Clinton Document Production RCC0025 (Letter from Joni Anderson-Ballis, to Bruce Lindsey, Special Counsel to the President, the White House (Nov. 21, 1994)) (Exhibit 101).

[758] Telephone Interview with Joni Anderson-Ballis (June 12, 2001).

> (Rick Nelson is the contact there)—I'm sending them documents today.[759]

Despite Ballis' connections, and even though the federal judge who initially sentenced Ballis wrote a letter supporting a grant of clemency,[760] no executive action was taken on Ballis' case. One reason cited at the time was that Ballis had not yet exhausted his judicial appeals.[761]

Roger Clinton did not stop trying to help Ballis, however. In December 1997, when he was lobbying the U.S. Parole Commission for the release of organized crime figure Rosario Gambino, he also inquired about a furlough for John Ballis.[762] According to Parole Commission staffers Marie Ragghianti and Tom Kowalski, Roger Clinton knew that Ballis had recently received a tentative release decision from a Parole Commission hearing examiner and was merely inquiring about the possibility of a furlough release for the holidays. Ragghianti and Kowalski referred him to the warden of Ballis' prison on the furlough issue and emphasized that the hearing examiner's decision was merely a recommendation and had to be approved before becoming final.[763]

Clinton was successful, at least according to Ballis, in helping him obtain a parole date of March 26, 1998, after serving 40 months of his 12-year prison term. Upon learning in January 1998 of the parole date, Ballis wrote a letter to Roger: [764]

> I finally got my copy of the Notice of Action—it was here the whole time—they just couldn't locate it—if you believe that bullsh*t.
>
> But anyway I thought you might like to see the result of your help & work.
>
> I can't thank you enough. I sure hope your meeting w/ Disney went OK & that you have a good trip to Korea.[765]

While Ballis' letter credits Clinton with helping him obtain his release, it is unclear exactly what, if anything, he did for Ballis before meeting with Parole Commission personnel in December 1997.

After Ballis was released from prison, Roger Clinton continued to help him in his effort to obtain executive clemency. Oddly enough, with all the help Clinton had given John Ballis through the years,

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[759] Roger Clinton Document Production RCC0021 (Letter from Joni Anderson-Ballis, to Roger Clinton) (Exhibit 102).

[760] Roger Clinton Document Production RCC0019 (Letter from the Honorable Lynn N. Hughes, U.S. District Judge, District Court for the Southern District of Texas, to President William J. Clinton, the White House (Oct. 28, 1994)) (Exhibit 103).

[761] Roger Clinton Document Production RCC0028 (Letter from Margaret Colgate Love, Pardon Attorney, Department of Justice, to the Honorable Lynn N. Hughes, U.S. District Judge, District Court for the Southern District of Texas (Jan. 6, 1995)) (Exhibit 104).

[762] Interview with Marie Ragghianti, former Chief of Staff, USPC (July 27, 2001).

[763] USPC Document Production 00889 (Exhibit 40). Other documents, however, indicate that during his December meeting with Parole Commission staff, Clinton did more than merely ask about a holiday furlough. Clinton also provided copies of correspondence from Lois Franco, a criminal justice consultant apparently hired by Ballis. The correspondence consists of a fax from Franco to Clinton detailing the procedural status of Ballis' case and attached letter to the Commissioners arguing for Ballis' early release. USPC Document Production 00961 (Exhibit 105). The fax indicates that Ballis had instructed Franco to provide the information at Clinton's request and thanks Clinton for his assistance. *Id.* at 00961–63.

[764] Roger Clinton Document Production RCC0014–015 (Letter from John Ballis, to Roger Clinton (Jan. 15, 1998)) (Exhibit 106).

[765] *Id.* at RCC0014.

they did not meet in person until 1999. Ballis wrote to Clinton in January 1999:

> It was so nice to finally get to meet you. I trust you had a nice trip home and are getting ready to go to D.C. I wanted to get you the information on my commutation request so you would be able to familiarize yourself with it before your trip.
>
> * * *
>
> As you know, I have served my prison time and am currently in the half-way house until March 10, 1999. I will remain under the jurisdiction of the justice system until 2004 when my sentence ends. I am also required to pay fines and restitution in excess of 4 ½ million dollars.
>
> * * *
>
> I could go on and on about the injustices in my case, but, I'd rather put it all behind me and rebuild my life. I'm hoping you can help me do this by assisting me in getting Executive Clemency. This would eliminate future parole supervision—which lasts until 2004—and do away with the fine and restitution portion of my sentence.[766]

Joni Anderson-Ballis told Committee staff that she met with Roger Clinton about her husband's case about a week before the end of the Clinton Administration.[767] Clinton told her that he was making a list of people that he planned to give to his brother and ask that they be granted executive clemency.[768] Clinton also told her that he was trying to obtain a pardon for himself but did not know whether he was going to receive one. Anderson-Ballis told Clinton to tell the President to "please take another look at the Ballis case."[769] She also said that she doubted that Roger actually asked the President to grant a pardon to her husband.[770] However, there is documentary evidence suggesting that Roger Clinton did indeed present Ballis' name to the President. The National Archives produced to the Committee a document with the name "John Ballis" printed on it, and next to it, in President Clinton's handwriting was the following note, "Meredith call him on this I think there's a different option than the one we discussed—BC."[771] While this document does not contain Roger Clinton's name, it was produced to the Committee in the middle of a number of documents relating to Roger Clinton, so it is possible that Roger provided Ballis' name to the President.

Although it is not certain whether Roger Clinton lobbied the White House on the Ballis pardon, the Ballis case apparently did receive serious consideration in the closing days of the Clinton Ad-

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[766] Roger Clinton Document Production RCC0016 (Letter from John Ballis, to Roger Clinton (Jan. 9, 1999)) (Exhibit 99).
[767] Telephone Interview with Joni Anderson-Ballis (June 12, 2001).
[768] *Id.*
[769] *Id.*
[770] *Id.*
[771] NARA Document Production (Handwritten Note) (Exhibit 107).

ministration. Ballis' name appears on three White House documents, in addition to the note from President Clinton to Meredith Cabe: a table of cases being tracked by Associate White House Counsel Meredith Cabe and two draft memos to the President.[772] In the entry for Ballis, the Meredith Cabe table notes, "Atty. Don Clark of Houston, dropped of [sic] papers personally; BRL?"[773] Joni Anderson-Ballis said that Clark was the last lawyer they hired to work on the case.[774] According to the draft memos dated December 17 and December 20, 2000, White House Counsels Beth Nolan, Bruce Lindsey, and Meredith Cabe all recommended to the President that he grant clemency to Ballis.[775] The December 20, 2000, memo recommends that the President, "Commute remaining period of sentence of confinement (for which he is currently paroled), and remit fine, leaving intact the obligation to pay restitution."[776] Anderson-Ballis said that their attorney, Don Clark, had traveled to Washington to meet with Administration officials regarding the Ballis request and also that Clark received a call two nights before the inauguration from Associate White House Counsel Eric Angel.[777] Apparently, Angel was pursuing the "different option" suggested by the President in his note to Meredith Cabe. Angel asked Clark if there was any piece of the clemency request that Ballis would accept such as having the probation commuted but the restitution left intact.[778] Clark replied that they would accept whatever was granted but that they preferred to receive a "complete pardon."[779] After the call from Angel, Ballis was optimistic about the prospects, but in the end, he received no commutation.[780]

Anderson-Ballis said that she had not spoken to Roger Clinton since the end of the Clinton Administration.[781] Anderson-Ballis stated that she was initially mad at Roger when no commutation was granted but not any longer because she realized that "Bill loves his brother, but he does not respect him."[782] When asked if Roger was paid for his work on the clemency request, Anderson-Ballis stated that he was not, and that anything that Roger did was out of friendship.[783] Anderson-Ballis stated that "Roger is a good guy, but he is a lost soul."[784]

F. Steven Griggs

In 1992, Steven M. Griggs pled guilty in the Eastern District of Missouri to conspiracy to manufacture and possess 100 grams or more of methamphetamine.[785] Before being sentenced, however, he fled and remained a fugitive until being captured over a year

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[772] NARA Document Production (Exhibits 108, 109, 110).
[773] NARA Document Production (Exhibit 108).
[774] Telephone Interview with Joni Anderson-Ballis (June 12, 2001).
[775] NARA Document Production (Exhibits 109, 110).
[776] NARA Document Production (Exhibits 110).
[777] Telephone Interview with Joni Anderson-Ballis (June 12, 2001).
[778] *Id.*
[779] *Id.*
[780] *Id.*
[781] *Id.*
[782] *Id.*
[783] *Id.*
[784] *Id.*
[785] Steven Griggs Document Production (Petition for Commutation, June 20, 2000) (Exhibit 111); Alison Leigh Cowan, *Plea Mailed to Roger Clinton Was Flagged by President*, N.Y. TIMES, June 30, 2001.

later.[786] Griggs was sentenced to over 24 years in prison and will not be released until 2013.[787]

In June 2000, Griggs submitted a commutation petition to the White House and Justice Department.[788] Griggs' request for a commutation was based on the argument that a 24-year prison sentence was too harsh for a first-time nonviolent offender, even one engaged in large-scale methamphetamine manufacture.[789] In an effort to ensure that the petition would be granted, Griggs' father sought Roger Clinton's help through an old family friend. Griggs' father is Chief Carl "Grey Owl" Griggs of the Northern Cherokee Nation of Missouri and Arkansas, an American Indian tribe, which is not recognized by the United States.[790] The Clinton family friend is Daley McDaniel, the owner of a moving company in Hot Springs, Arkansas.[791] McDaniel knew Chief Griggs because McDaniel had been seeking admission into the tribe.[792] McDaniel told Committee staff that he also knew Roger Clinton very well, that he "helped raise Roger."[793] At one point, Roger Clinton had dated McDaniel's daughter.[794] McDaniel described how he had suggested to Chief Griggs that Roger might be able to help the Northern Cherokee Nation obtain official recognition by the U.S. government.[795] McDaniel said that, when Bill Clinton was governor of Arkansas, McDaniel could leave a message and his call would always be returned within a few days.[796] But, McDaniel did not enjoy the same access to Bill Clinton after he became President.[797] So, McDaniel decided to try to use Roger Clinton to gain the President's attention on the Northern Cherokee Nation recognition issue.[798]

When McDaniel told Chief Griggs about his plans to obtain federal recognition for the tribe, Griggs raised the issue of his son's imprisonment.[799] McDaniel could not recall whose idea it was initially, but together they decided to also enlist Roger's help in getting Steven Griggs out of prison.[800] According to McDaniel, the Chief told him that his son was in prison for marijuana.[801] Not until after a *New York Times* article[802] on the Griggs case was published did McDaniel learn that Steven Griggs was actually in prison for methamphetamines and that Griggs had been a fugitive for a year.[803] McDaniel said he had not spoken to the Chief since

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[786] *Id.*
[787] Steven Griggs Document Production (Petition for Commutation, June 20, 2000) (Exhibit 111).
[788] *Id.*
[789] *Id.*
[790] Alison Leigh Cowan, *Plea Mailed to Roger Clinton Was Flagged by President*, N.Y. TIMES, June 30, 2001; Telephone Interview with Daley McDaniel (July 9, 2001).
[791] *Id.*
[792] Alison Leigh Cowan, *Plea Mailed to Roger Clinton Was Flagged by President*, N.Y. TIMES, June 30, 2001.
[793] Telephone Interview with Daley McDaniel (July 9, 2001).
[794] *Id.*
[795] *Id.*
[796] *Id.*
[797] *Id.*
[798] *Id.*
[799] *Id.*
[800] *Id.*
[801] *Id.*
[802] Alison Leigh Cowan, *Plea Mailed to Roger Clinton Was Flagged by President*, N.Y. TIMES, June 30, 2001.
[803] Telephone Interview with Daley McDaniel (July 9, 2001).

the article was printed and that he felt like the Chief had misled him about the merits of his son's case.[804]

About six months before the end of the Clinton Administration, McDaniel called Roger Clinton to discuss the tribal recognition issue and the Steven Griggs case.[805] McDaniel told Roger that Griggs was in prison for drug possession and "needed a pardon from Bill."[806] Roger said, "sure."[807] McDaniel gave Roger the Chief's phone number and believes that Roger spoke with the Chief two or three times by phone, beginning that evening.[808] However, McDaniel was never privy to their conversations, and he did not believe Roger ever met the Chief in person.[809] McDaniel said Roger helped "by running messages back and forth to his brother."[810] McDaniel and Chief Griggs sent faxes about the case to Roger who would then forward them to the President.[811] McDaniel also said he had a lot of interaction with Associate White House Counsel Meredith Cabe related to the Griggs case.[812] Cabe even called him on his cell phone to ask him questions about the case.[813] Documents substantiate McDaniel's account of Cabe's involvement. One of the tables used by Cabe to track pardon cases contains an entry for Stephen M. Griggs and notes under the heading, "Referred/Contacted by" that "Daley McDaniel strongly supports; acc. to McDaniel, Roger Clinton also supports[.]"[814]

According to Gary Krupkin, attorney for the Griggs family, one motive for Chief Griggs' and McDaniel's efforts seeking recognition for the tribe was to be able to establish a casino under the tribe's auspices.[815] Daley McDaniel said he never discussed any exchange of money with Roger Clinton or Chief Griggs.[816] McDaniel also denies that he discussed a potential casino with Clinton or Griggs.[817] McDaniel did admit to one reference to a casino in discussions with Roger Clinton. On December 25, 2000, McDaniel was speaking to Roger Clinton about the Griggs commutation while Roger was in the Oval Office.[818] McDaniel said he heard the President in the background saying: "Ask Daley if there are any casinos involved in this thing. I don't want any surprises."[819] McDaniel told Roger that there were no casinos involved and offered to have Chief

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[804] *Id.*
[805] *Id.*
[806] *Id.*
[807] *Id.*
[808] *Id.*
[809] *Id.*
[810] *Id.*
[811] *Id.*
[812] *Id.*
[813] *Id.*
[814] NARA Document Production (Exhibit 108). This table was located in a file identified as belonging to Bruce Lindsey labeled "General Pardon File." This document's reference to Roger Clinton raises questions about the veracity of Bruce Lindsey's testimony before the Committee at its March 1, 2001, hearing where Lindsey was asked, "were you aware at the time the pardons were being considered at the White House in January of this year that the President's brother [Roger Clinton] was advocating on behalf of certain individuals?" Lindsey replied, "No, sir, I don't believe so." "The Controversial Pardon of International Fugitive Marc Rich," *Hearings Before the Comm. on Govt. Reform*, 106th Cong. 418–19 (Mar. 1, 2001).
[815] Alison Leigh Cowan, *Plea Mailed to Roger Clinton Was Flagged by President*, N.Y. TIMES, June 30, 2001.
[816] Telephone Interview with Daley McDaniel (July 9, 2001).
[817] *Id.*
[818] *Id.*
[819] *Id.*

Griggs write a letter "saying there were no plans to build any casinos."[820] Roger told McDaniel that no such letter was necessary.[821]

The following day, McDaniel spoke to Roger again. Roger called and said "Big Brother wants you to send him everything about Steven."[822] According to McDaniel, the President had instructed that the materials be sent by overnight mail.[823] McDaniel called Chief Griggs who worked through the night to prepare and send a packet about Steven Griggs' accomplishments in prison.[824] Roger Clinton provided a new fax number and a new address, which McDaniel said "had something to do with ushers." Soon afterward, Roger Clinton called McDaniel to say that the information packet had been lost for a time but had now been found.[825] Clinton told McDaniel he was "heading to Big Brother's office to deliver it."[826] Again, documents substantiate this account. The National Archives produced to the Committee a copy of an envelope sent by the Northern Cherokee Nation to Roger Clinton at the White House.[827]

Clinton's call led McDaniel and Griggs to believe "it was a done deal."[828] McDaniel said the prison put Griggs "in protective custody" just before the end of the administration, leading the family to believe his sentence was going to be commuted.[829] They thought he was being protected from other inmates who might be jealous of his being suddenly released.[830] McDaniel said that, on the last day of the administration, Griggs was "on pins and needles" expecting the pardon to come down.[831] Indeed, Clinton had delivered the packet to the President, and the President appears to have been favorably disposed to granting a commutation. The President wrote a note to Associate White House Counsel Meredith Cabe on the outside of the envelope containing the Griggs material, "Meredith, looks like a case for commutation pls check out—BC."[832] Despite the apparent support from the President himself and despite the assistance of Roger Clinton in moving Griggs' last-minute petition to the head of the line, Griggs did not receive clemency. Daley McDaniel suspected that the President had learned something "at the last minute" that stopped him from granting the pardon.[833] McDaniel speculated that it might be the fact that Steven Griggs had been a fugitive, which McDaniel himself did not learn until later[834] and which had not been referenced in the petition. After the announcement of who had received pardons, McDaniel called Roger to find out what happened.[835] Clinton told McDaniel that he and his brother had "a bad argument."[836] Roger told McDaniel

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[820] *Id.*
[821] *Id.*
[822] *Id.*
[823] *Id.*
[824] *Id.*
[825] *Id.*
[826] *Id.*
[827] NARA Document Production (Envelope from Northern Cherokee Nation to Roger Clinton) (Exhibit 112).
[828] Telephone Interview with Daley McDaniel (July 9, 2001).
[829] *Id.*
[830] *Id.*
[831] *Id.*
[832] NARA Document Production (Envelope from Northern Cherokee Nation to Roger Clinton) (Exhibit 112).
[833] Telephone Interview with Daley McDaniel (July 9, 2001).
[834] *Id.*
[835] *Id.*
[836] *Id.*

that "it got rough" and that even the pardons for Roger's personal friends that he had wanted most were denied.[837]

Committee staff made numerous attempts to interview Chief Griggs and Steven Griggs regarding these matters. After initially indicating a willingness to allow Chief Griggs to be interviewed, Griggs' attorney then indicated that he could not allow the Chief to participate in an interview. The attorney also indicated that if Chief Griggs were subpoenaed to testify, he would invoke his Fifth Amendment rights.

G. Phillip Young

Phillip Young along with his family operates Catfish Young's, a catering business and restaurant in North Little Rock, Arkansas.[838] In 1992, Young pled guilty to illegally transporting federally protected game fish across state lines.[839] Young had bought approximately 4,000 crappie in Louisiana for use in his family restaurant.[840] It was a felony offense, and he was sentenced to 10 months in prison.[841] In November 1998, with the help of his attorney, Gene O'Daniel, Young began the process of applying for a pardon.[842] Young brought O'Daniel copies of the Justice Department pardon forms and asked him to help file a petition.[843] O'Daniel said he did not know what prompted Young to request a pardon, but he filled out the forms and worked with the Pardon Attorney's Office to submit, correct, supplement, and finalize the application.[844] It was final and complete at some point in 1999.[845]

According to O'Daniel, Young asked him for a copy of his pardon petition so that he could give it to Roger Clinton.[846] Afterwards, in early January 2001, he learned from Young that someone had offered to obtain a pardon for Young if Young would pay Roger Clinton $30,000. Young told O'Daniel that he had rejected this offer and that the unnamed person had come back and offered to obtain the pardon in exchange for a $15,000 payment to Roger Clinton.[847] Young refused to tell O'Daniel who made the offer, and O'Daniel told Young not to accept it.[848] O'Daniel said he based his advice on his previous experience with Roger Clinton.[849] In 1985, O'Daniel had represented Sam Andrews, Jr., who was convicted on cocaine charges on the testimony of Roger Clinton.[850] In the course of the trial, O'Daniel had seen surveillance tapes of Roger that convinced

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[837] *Id.*
[838] Telephone Interview with Phillip Young (Apr. 26, 2001).
[839] Gene O'Daniel Document Production (Phillip Young's Petition for Pardon, Nov. 13, 1998) (Exhibit 113).
[840] *Id.*
[841] *Id.*
[842] Telephone Interview with Gene O'Daniel, former Counsel for Phillip Young (Mar. 29, 2001).
[843] *Id.*
[844] *Id.*
[845] *Id.*
[846] *Id.*
[847] *Id.* Young mentioned to O'Daniel that there was a "Hollywood producer," Harry Thomason, who could help get a pardon, but O'Daniel did not think Young made any effort to contact Thomason. *Id.* Dan Lasater also reported that he "was told that Patsy Thomason had helped Jimmy Manning get a pardon" and that he had "heard that Sony Tucker of Hamburg, Arkansas, was trying to get pardon with Patsy Thomason's help." Telephone Interview with Dan Lasater (May 7, 2001).
[848] Telephone Interview with Gene O'Daniel, former Counsel for Phillip Young (Mar. 29, 2001).
[849] *Id.*
[850] *Id.*

him that Roger Clinton was a "bullsh*tter" who could not be trusted to deliver a pardon.[851]

When interviewed by Committee staff, Phillip Young provided a conflicting account. According to Young, in late 2000, his brother Carey suggested that John Burkhalter, a friend of Carey's, might be able to help Young obtain a pardon because Burkhalter knew Roger Clinton.[852] Carey Young had met Burkhalter while in college and had remained friends since.[853] Carey Young knew that Burkhalter was friends with Roger Clinton.[854] Phillip Young said that he and his brother Carey discussed between themselves whether Clinton would charge a fee to help him obtain pardon.[855] Phillip Young claims that, between themselves, they surmised that Roger would want between $10,000 and $15,000.[856] Carey Young then approached Burkhalter about getting Clinton to work on Young's pardon.[857] He called Burkhalter in October or November 2000 to determine whether Burkhalter would be willing to ask Clinton to deliver a copy of the pardon petition directly to the President.[858]

In the meantime, Phillip Young discussed the situation with his lawyer, Gene O'Daniel.[859] Without naming Burkhalter, Young told O'Daniel he knew someone who knew Roger Clinton and that he was considering asking Clinton to help with the pardon.[860] Young said that O'Daniel's reaction was to advise against getting Roger Clinton involved.[861] While Carey Young was waiting to hear back from Burkhalter, Young said O'Daniel called him repeatedly to ask whether he had gone through with his plan to involve Clinton in the pardon effort.[862] Young told O'Daniel he had spoken with Clinton but decided not to use his help.[863] Young told Committee staff, however, that his claim to have spoken with Clinton was a lie fabricated merely to "get O'Daniel off of his back" and that he had not actually spoken to Clinton.[864] Given Young's claim to have lied in order to deflect questions from O'Daniel, it is odd that O'Daniel did not even recall the supposed lie. Instead, O'Daniel said that he did not know whether Young ever spoke directly to Roger.[865] After he told O'Daniel that he was not going to use Clinton, Young heard back from Burkhalter.[866] Burkhalter had spoken with Roger Clinton, who told him it was too late to help Young obtain a pardon.[867] Carey Young confirmed this aspect of his brother's story, saying he had a total of two discussions with Burkhalter about the pardon: one to ask him to contact Roger Clinton and one in which

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[851] *Id.*
[852] Telephone Interview with Phillip Young (Apr. 26, 2001).
[853] Telephone Interview with Carey Young (Apr. 30, 2001).
[854] *Id.*
[855] Telephone Interview with Phillip Young (Apr. 26, 2001).
[856] *Id.*
[857] *Id.*
[858] Telephone Interview with Carey Young (Apr. 30, 2001).
[859] Telephone Interview with Phillip Young (Apr. 26, 2001).
[860] *Id.*
[861] *Id.*
[862] *Id.*
[863] *Id.*
[864] *Id.*
[865] Telephone Interview with Gene O'Daniel, former Counsel for Phillip Young (Mar. 29, 2001).
[866] Telephone Interview with Phillip Young (Apr. 26, 2001).
[867] *Id.*

Burkhalter reported Clinton's answer that it was too late.[868] Carey Young also insisted that there was no mention of money during either of these conversations.[869] John Burkhalter likewise said he never discussed money with Roger Clinton, Carey Young, or Phillip Young in connection with Clinton's possible assistance.[870]

O'Daniel's and Young's accounts of their conversations about Roger Clinton are fundamentally incompatible. While both agreed that Young mentioned the possibility of enlisting Roger Clinton's help through an unnamed intermediary (presumably Burkhalter), they disagreed about the crucial facts regarding discussions of a fee. O'Daniel provided a more detailed account about an initial price of $30,000, which was rejected and then discounted to $15,000. Also O'Daniel clearly understood the price to have originated with either Roger Clinton or the intermediary rather than with Young. O'Daniel was certain on this point because, he said, Young told him that the intermediary had asked Roger whether he could "guarantee" that if Young paid the money that he would get the pardon.[871] Roger reportedly said "no," and then Young refused to pay.[872] In Young's account, no amount of money was ever discussed with anyone other than in speculation with his brother. Carey Young supports his brother's account, saying that he and his brother had conversations about whether they might have to pay Roger Clinton a "lobbying fee."[873] He said they did guess at some numbers but could not recall the numbers.[874] However, Carey Young could not corroborate his brother's version of the conversations with his attorney. When asked if his brother had ever discussed conversations with his lawyer, Young said he had not.[875]

O'Daniel's understanding of what his client had said led him to report the matter to the Office of the Pardon Attorney. He said he felt an ethical obligation to inform the Justice Department and that he was also trying to protect his client.[876] He didn't want Young to get into more trouble or to have the application denied because of Roger Clinton.[877] Sometime in January 2001, O'Daniel called Sam Morison in the Pardon Attorney's Office and told him that there were people trying to sell pardons and were using Roger Clinton's name.[878] Morison replied that he was aware that people were trying to get around the Justice Department and go directly to the White House.[879]

Phillip Young did receive a pardon from President Clinton. There is no evidence, however, that Roger Clinton actually intervened in the Young case. Rather, Associate White House Counsel Meredith Cabe recalls that the Justice Department recommended denial of

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[868] Telephone Interview with Carey Young (Apr. 30, 2001).
[869] *Id.*
[870] Telephone Interview with John Burkhalter (May 8, 2001).
[871] Telephone Interview with Gene O'Daniel, former Counsel for Phillip Young (Mar. 29, 2001).
[872] *Id.*
[873] Telephone Interview with Carey Young (Apr. 30, 2001).
[874] *Id.*
[875] *Id.*
[876] Telephone Interview with Gene O'Daniel, former Counsel for Phillip Young (Mar. 29, 2001).
[877] *Id.*
[878] *Id.*
[879] *Id.*

Young's pardon request but that President Clinton granted it because it seemed like a minor offense.[880]

H. Joseph "Jay" McKernan

Joseph "Jay" McKernan was sentenced to three years imprisonment in July 1984 on charges of possession with intent to distribute four and a half pounds of cocaine.[881] While in prison, McKernan met and became friends with Roger Clinton.[882] McKernan served one year of his three-year sentence and was paroled.[883] He had become such close friends with Clinton that, after being released, they continued to speak by phone on a weekly basis.[884] McKernan even attended Clinton's wedding.[885]

In 1995, McKernan received a Louisiana state pardon, and in 1998, petitioned for a federal pardon. McKernan argued that he deserved a pardon because he had turned his life around and his criminal record negatively impacted his ability to become a lawyer or own a firearm.

McKernan said he did not discuss his pardon application with Roger Clinton when he filed it. Later though, he did discuss it with Roger, and Roger said he would urge his brother to grant it. Although Clinton also told McKernan that he would "get Bill Clinton to look at it," McKernan said he did not give Roger Clinton a copy of the petition.[886] McKernan said he asked Roger Clinton about the application on a number of occasions, and Roger told him the pardon would likely be granted at the end of the administration.[887] McKernan said that Roger never gave him any assurance that the pardon would be granted but said he thought that McKernan had "a good shot" because he was an "ideal candidate."[888] On initial inspection, it does appear that McKernan fit the profile that President Clinton had outlined to the White House Counsel's Office for the type of cases that he most wanted to review for potential pardons: non-violent drug offenders "who had convictions from an abuse problem and who had kicked the habit and had been clean since then."[889] Yet despite his friendship with Roger Clinton and despite fitting the profile the President was interested in pardoning, McKernan's petition was denied.

On the last day of the Clinton Administration, when the list of those pardoned was released to the media, McKernan learned that he did not receive a pardon.[890] According to McKernan, he spoke to Roger Clinton twice that day about whether he had received a pardon.[891] Phone records confirm that Roger Clinton placed two calls to McKernan on January 20, 2001, each lasting 11 minutes.[892]

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[880] Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).
[881] Joseph "Jay" McKernan Document Production (Petition for Pardon, July 10, 1998) (Exhibit 114).
[882] Telephone Interview with Joseph "Jay" McKernan (Apr. 10, 2001).
[883] *Id.*
[884] *Id.*
[885] *Id.*
[886] *Id.*
[887] *Id.*
[888] *Id.*
[889] Interview with Meredith Cabe, former Associate Counsel to the President, the White House (Mar. 16, 2001).
[890] Telephone Interview with Joseph "Jay" McKernan (Apr. 10, 2001).
[891] *Id.*
[892] Verizon Document Production (Roger Clinton Phone Bill, Feb. 1, 2001, at 9).

The records also indicate that, in between these two contacts with McKernan, Clinton twice called former President Clinton's number in Chappaqua, New York.[893] The first call to McKernan occurred at 8:02 p.m.[894] During this conversation, McKernan asked whether he had received a pardon.[895] Roger said that "it doesn't look good" but that he would check.[896] Immediately after ending the call to McKernan, Roger Clinton called his brother's number at 8:13 p.m. for two minutes. Roger later called Bill Clinton's number again at 11:06 p.m. for one minute. At 11:07 p.m., Roger called McKernan for the second time.[897] Roger told McKernan that McKernan's pardon had been signed and that it was the only one among those Roger had requested that was granted.[898] According to McKernan, Clinton said, "I don't want to get your hopes up, but I was told that yours was signed." [899]

The next business day, January 22, 2001, Richard Crane, McKernan's lawyer, contacted Hope McGowan at the Pardon Attorney's Office and told her what Roger had said.[900] He asked if there could be some kind of clerical error or mistake that could have improperly kept McKernan's name off the public list of pardons issued by President Clinton.[901] McGowan told Crane that Meredith Cabe was the person handling pardons at the White House Counsel's Office and she would know for certain.[902] Crane said his sense was that McGowan "didn't care enough about the issue to even write it down," and therefore, he was surprised to see his contact written about in the newspapers.[903] Contrary to what Roger Clinton had told McKernan, the President had not granted his clemency request. Because Roger Clinton refused to cooperate with the Committee's investigation, it is unclear why Roger Clinton believed that President Clinton had granted the McKernan pardon. There is strong circumstantial evidence, though, that the President himself told Roger that he had granted the McKernan pardon. It is unclear why the President would do this. The case of Mitchell Wood, as described below, offers one plausible theory.

I. Mitchell Wood

The Mitchell Wood story is the opposite of the Jay McKernan story. While McKernan's pardon was supposedly granted but never actually issued, Wood's pardon was issued unexpectedly. In December 1986, Mitchell Wood pled guilty and was sentenced to four months in prison on cocaine charges resulting from the investigation of Dan Lasater, David Collins, George Locke, and Roger Clinton.[904] Wood was an employee of the Arkansas Industrial Development Commission who said he had obtained cocaine from Lasater,

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[893] *Id.*
[894] *Id.*
[895] Telephone Interview with Joseph "Jay" McKernan (Apr. 10, 2001).
[896] *Id.*
[897] Verizon Document Production (Roger Clinton Phone Bill, Feb. 1, 2001, at 9).
[898] Telephone Interview with Joseph "Jay" McKernan (Apr. 10, 2001).
[899] *Id.*
[900] *Id.*
[901] *Id.*
[902] *Id.*
[903] *Id.*
[904] George Wells, *More Sentenced in Lasater Case*, ARKANSAS DEMOCRAT-GAZETTE, Dec. 23, 1986.

Collins, and Clinton, but never sold it.[905] At his sentencing, Wood told the judge that he had already "overcome a cocaine habit about two and a half years ago. He also said he had nearly paid off heavy debts he incurred because of his habit and had returned to normal health."[906] The sentencing judge said "he believed Wood 'has learned his lesson,' but said that 'some imprisonment' should be imposed 'if fairness all around is to be achieved.'"[907]

Wood informed the Committee that, after his imprisonment, he underwent a major lifestyle change. Impressed by this change, his friends, and even his probation officer, encouraged Wood to seek a pardon.[908] Wood applied for a pardon through the Justice Department in December 1995 but was denied by President Clinton on December 28, 1998.[909] It is unclear how or why the Wood case came to be considered a second time despite having already been rejected by the President once before. When interviewed by Committee staff, Meredith Cabe indicated that the Justice Department had recommended against granting clemency to Wood but that his "was the type of case the President would want to consider."[910] Cabe indicated that the President wanted to review the Wood case despite the Justice Department's negative recommendation.[911] Cabe recalled that Wood's conviction was "at the same time as Roger Clinton's" but was apparently unaware that Wood had admitted to actually receiving cocaine from Clinton.[912]

Wood stated that he never asked for help from Roger Clinton, Dan Lasater, or George Locke in obtaining the pardon.[913] Associate White House Counsel Meredith Cabe stated that she had no indication that Clinton had lobbied for Wood's pardon.[914] Likewise, none of the documents reviewed and none of the witnesses questioned in the Committee's investigation provide any indication that Roger Clinton lobbied for Mitchell Wood's pardon. Dan Lasater said he had not seen Mitchell Wood in 10 to 15 years.[915] According to George Locke, who described himself as a close friend of Wood's, he "thought that he had been denied and was surprised to hear the news that he had been pardoned."[916] Locke also said, however, that he had never discussed Wood's pardon request with Roger Clinton.[917] Wood himself was surprised and baffled that his petition was granted after having been previously denied. He said, "I have no earthly idea how it happened. I didn't know anybody. I'm just blessed[.]"[918]

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[905] *Id.*
[906] *Id.*
[907] *Id.*
[908] Telephone Interview with Mitchell Wood (Apr. 4, 2001).
[909] Fax from Dave Blake, Office of Legislative Affairs, Department of Justice, to James C. Wilson, Chief Counsel, Comm. on Govt. Reform 8 (Feb. 15, 2001) (within Appendix I).
[910] Interview with Meredith Cabe, Associate Counsel to the President, the White House (Mar. 16, 2001).
[911] *Id.*
[912] *Id.*
[913] Telephone Interview with Mitchell Wood (Apr. 4, 2001).
[914] Interview with Meredith Cabe, Associate Counsel to the President, the White House (Mar. 16, 2001).
[915] Telephone Interview with Dan Lasater (May 7, 2001).
[916] Telephone Interview with George Locke (Mar. 27, 2001).
[917] *Id.*
[918] Brian Blomquist, *Pardon Probe: Clinton Library Books Will Be Checked Out*, N.Y. POST, Feb. 10, 2001.

The McKernan and Wood cases present a decidedly odd coincidence. The cases are similar in that both men knew Roger Clinton around the time of his conviction and both were non-violent drug offenders. Yet, McKernan received an unexpected denial after being informed that the President had granted his petition, and Wood received an unexpected pardon after an initial denial. While no final conclusion can be drawn from this coincidence, it suggests a possibility that perhaps there was some miscommunication about the precise identity of Roger Clinton's old friend with the non-violent drug conviction. It is also possible that President Clinton granted a pardon to Mitchell Wood when, in fact, he intended to grant a pardon to Joseph McKernan. Without the complete cooperation of Roger Clinton and officials from the Clinton Administration, however, the truth about what exactly happened in these two cases remains in question.

J. Mark St. Pé

On January 2, 2001, Mark St. Pé's lawyer, Walter Wiggins, transmitted a letter to Roger Clinton addressed to him at the White House Usher's Office. The letter states:

> As we have discussed previously, the case of Mark St. Pé is a sympathetic one for the reasons outlined exhaustively in the materials transmitted herewith for your immediate review and consideration. Please bring this case to the attention of your brother, Bill Clinton, the President of the United States. This is truly an opportunity for you to have a direct impact in the cause of justice for Mr. St. Pé.[919]

Wiggins told Committee staff he was both a "friend of a friend" of Mark St. Pé and a friend of Roger Clinton.[920] According to Wiggins, however, Clinton and St. Pé did not know each other.[921] Wiggins said he submitted St. Pé's clemency application to the Justice Department at the same time that he gave it to Roger Clinton, in January 2001.[922] In addition to the clemency application, Wiggins had been in contact with the U.S. Attorney in Little Rock in an attempt to reduce St. Pé's sentence (St. Pé is from Louisiana but is currently imprisoned in Forrest City, Arkansas).[923]

Wiggins said he contacted Roger Clinton because he was exploring all possible avenues to obtain clemency for St. Pé.[924] He said he turned to Roger as an obvious way of getting attention for the clemency petition.[925] Wiggins had not heard that Roger was presenting other clemency petitions to the President but assumed that Roger would have been doing so.[926] Wiggins said that there was absolutely no monetary inducement of any kind for Roger Clinton to help St. Pé and that Roger did whatever he did out of friendship with Wiggins.[927] Wiggins agreed to cooperate with the Committee

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[919] NARA Document Production (Letter from Walter F. Wiggins, Jr., Counsel for Mark St. Pé, to Roger Clinton (Jan. 2, 2001)) (Exhibit 115).
[920] Telephone Interview with Walter F. Wiggins, Jr., Attorney for Mark St. Pé (June 12, 2001).
[921] *Id.*
[922] *Id.*
[923] *Id.*
[924] *Id.*
[925] *Id.*
[926] *Id.*
[927] *Id.*

and offered to send a copy of St. Pé's clemency petition to the Committee.[928] Wiggins did not, however, actually send any documents despite several follow-up phone calls attempting to arrange for their production to the Committee.

Wiggins sent a copy of St. Pé's commutation petition to Roger Clinton at the White House. While the Committee is unable to conclude definitively what happened in the St. Pé case, it appears that Roger Clinton provided materials on the St. Pé case to President Clinton. The National Archives produced to the Committee a copy of the envelope Wiggins used to send the St. Pé clemency petition to Roger Clinton at the White House.[929] Under the address, in what appears to be the President's handwriting, there is a note stating "To M Cabe."[930] This note, if it is indeed in the President's handwriting, would indicate that Roger Clinton provided the St. Pé petition to President Clinton, who then provided it to Meredith Cabe for review. However, what happened after that point is unknown. It is unclear how seriously the St. Pé petition was considered. However, it was ultimately denied.

K. William D. McCord

When Dan Lasater was convicted on cocaine distribution charges, his Little Rock bond company was taken over and renamed by William D. McCord.[931] George Locke, co-conspirator in the Lasater cocaine distribution ring, is McCord's father-in-law.[932] In 1995, McCord was convicted on federal gambling charges, pled guilty, and received probation.[933] The National Archives produced to the Committee a handwritten cover page reading: "Meredith Cabe, William Doyne McCord, Petition for Pardon" in the midst of other Roger Clinton- and clemency-related documents from the files of the Clinton White House.[934] However, the National Archives did not produce an actual petition for clemency. Because of its placement in the files, this cover page suggests that the consideration of McCord's petition had some relationship to Roger Clinton. Moreover, the Committee received an uncorroborated allegation that George Locke believed McCord had paid Roger Clinton $10,000 in late 2000 or early 2001 in exchange for Clinton's help with his clemency petition. While Clinton's bank records do indicate several large cash deposits in that time frame, McCord denied that he paid Roger Clinton any money.[935]

McCord sent a petition to the Justice Department's Pardon Attorney in early 1999.[936] He also sent one to the White House at some point but could not recall when or to whom he directed it.[937] McCord completed and filed the forms himself with some informal help from his probation officer and a friend who is an attorney.[938]

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[928] *Id.*
[929] NARA Document Production (Envelope from Walter Wiggins to Roger Clinton) (Exhibit 116).
[930] *Id.*
[931] Julian E. Barnes, *McCord Admits He Helped Run Gambling House*, ARKANSAS DEMOCRAT-GAZETTE, May 2, 1995.
[932] Telephone Interview with William D. McCord (Feb. 27, 2002).
[933] *Id.*
[934] NARA Document Production (McCord Petition Cover Page) (Exhibit 117).
[935] Telephone Interview with William D. McCord (Feb. 27, 2002).
[936] *Id.*
[937] *Id.*
[938] *Id.*

McCord said he met Roger Clinton 25 years ago when he had a box next to Clinton's mother's at the Oaklawn Park race track.[939] However, now they are merely casual acquaintances.[940]

When asked about his most recent contacts with Roger Clinton, McCord recalled that they had met by chance at a Hot Springs Golf Tournament sometime after McCord had filed his clemency petition.[941] Around the same time, McCord also had a drink with Clinton at a restaurant in Hot Springs.[942] He was uncertain, but McCord thought he may have discussed his pardon petition with Clinton briefly during one of these meetings.[943] McCord said that he "may have" asked if Roger could help him but claimed that he could not remember Clinton's reply.[944] He said Clinton "didn't offer any favors" and that he left with the impression that Clinton would not be assisting him.[945] Asked explicitly whether he had paid anyone any money in connection with seeking a pardon, McCord said, "no."[946] He also said that no one asked for money for anything else of value to help him obtain a pardon.[947]

McCord did admit to discussing his petition with George Locke, who was also seeking a pardon. McCord said Locke asked him for a copy of McCord's application on more than one occasion, ostensibly so that Locke could use it to learn by comparison how to complete his own application.[948] However, McCord maintained that he did not ask for help from Locke because he knew that, after his conviction, "Locke had lost all his contacts."[949]

V. FAILURE OF KEY PARTIES TO COOPERATE IN THE ROGER CLINTON INVESTIGATION

A. Roger Clinton

Roger Clinton was at the center of a number of allegations investigated by the Committee. Early in the Committee's investigation, Chairman Burton requested that Roger Clinton participate in an interview with Committee staff, but he declined.[950] When Committee staff discussed with Clinton's attorney, Bart Williams, the possibility that Clinton would be called to testify before the Committee, Williams stated that it was likely that Clinton would invoke his Fifth Amendment rights if called to testify. Despite his unwillingness to speak to Committee staff, Roger Clinton used his access to the media to deceive the public about matters the Committee was investigating by appearing on *Larry King Live* and making several false statements. Clinton did, however, comply with a number of document subpoenas served upon him by the Committee. However, Clinton's refusal to provide testimony to the Committee

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[939] *Id.*
[940] *Id.*
[941] *Id.*
[942] *Id.*
[943] *Id.*
[944] *Id.*
[945] *Id.*
[946] *Id.*
[947] *Id.*
[948] *Id.* Locke made a similar request for a copy of Dan Lasater's petition as well. Telephone Interview with Dan Lasater (May 7, 2001).
[949] Telephone Interview with William D. McCord (Feb. 27, 2002).
[950] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Roger C. Clinton (Mar. 13, 2001) (within Appendix I).

voluntarily regarding his efforts to obtain pardons for his friends and associates has hampered the Committee's investigation.

Moreover, on March 23, 2001, while the Committee was attempting to obtain the cooperation of Roger Clinton, he received a wire transfer of $15,000 from a Citibank account entitled "E.C. 934(A) c/o Eric Hothem."[951] Eric Hothem was an aide to First Lady Hillary Rodham Clinton. When contacted about this transfer, Hothem's lawyer referred the Committee to the President's lawyer, David Kendall.[952] The Chairman then sought from Mr. Kendall an explanation of the account and the transfer.[953] According to Kendall's reply: "The account is a personal Citibank account of former President and Senator Clinton. The transfer you inquire about was a loan by President Clinton to his brother so that he might retain counsel to represent him in the Committee's and other investigations."[954] It is unclear whether Roger Clinton has repaid or intends to repay the money.[955] The payment occurred at the height of public outcry and investigative activity regarding the pardons and at a time when Roger Clinton was deciding whether to provide testimony to the Committee and to authorities in the Southern District of New York. The media also reported that Roger Clinton had fought bitterly with his brother about the denial of his clemency requests. It is unknown whether Roger Clinton's acceptance of $15,000 for his legal fees from his brother made him any less likely to provide testimony adverse to his brother to the Committee or to law enforcement agencies.

B. Tommaso Gambino

When the Committee discovered that Tommaso Gambino had a financial relationship with Roger Clinton, and that Clinton had tried to obtain a commutation for his father, Rosario Gambino, the Committee attempted to interview Tommaso Gambino. Gambino refused to participate in an interview. Gambino did, however, comply with a document subpoena.

C. Lisa Gambino

Committee staff attempted to interview Lisa Gambino about her role in providing $227,889 to Anna Gambino, funds which were used to provide at least $50,000 to Roger Clinton. Ms. Gambino refused to respond to repeated requests for an interview.

D. Victoria Crawford and Kathy Vieth

Victoria Crawford is Roger Clinton's manager and bookkeeper. Because Crawford managed Clinton's money, and apparently his travel as well, the Committee attempted to interview Crawford. Crawford refused to participate in an interview. Then, the Committee issued subpoenas to Crawford and her company, Crawford

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[951] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to David E. Kendall, Counsel for Bill and Hillary Clinton, Williams & Connolly, Attachment #1 (July 30, 2001) (within Appendix I).

[952] *Id.* at 1.

[953] *Id.*

[954] Letter from David E. Kendall, Counsel for Bill and Hillary Clinton, Williams & Connolly, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform (Aug. 20, 2001) (within Appendix I).

[955] Records indicate that shortly after the wire transfer, Roger Clinton paid his attorney only $10,000 as a retainer, not $15,000. Bank of America Document Production (Exhibit 118).

Management.[956] Upon receiving this subpoena, Crawford and her partner, Kathy Vieth, invoked their Fifth Amendment rights rather than comply with the Committee's subpoena.[957]

E. George Locke

After learning of George Locke's involvement in trying to obtain pardons through Roger Clinton, Committee staff interviewed Locke. Locke participated in an hour-long telephone interview on March 27, 2001. Locke also responded to a request for documents by informing the Committee that he had no responsive documents.[958] However, after his interview with Committee staff, Locke retained a lawyer (the same lawyer representing Dickey Morton) and invoked his Fifth Amendment rights rather than cooperate further with the Committee.[959]

F. Dickey Morton

Shortly after interviewing George Locke, Committee staff attempted to interview Dickey Morton.[960] Morton refused to participate in an interview and invoked his Fifth Amendment rights against self-incrimination.[961]

G. Richard Cayce

When the Committee learned of Richard Cayce's central role in the Lincecum matter, Committee staff attempted to interview Cayce. However, Cayce's attorney, Jay Ethington, informed the Committee that Cayce would not participate in a voluntary interview and would assert his Fifth Amendment rights if subpoenaed to testify.[962] Cayce did provide the Committee with a proffer detailing his potential testimony if he were immunized.

H. J.T. Lundy

Committee staff attempted to interview J.T. Lundy regarding his efforts to obtain a pardon through Roger Clinton. Lundy is currently in federal prison, so Committee staff attempted to arrange an interview through Lundy's attorney, David McGee. Mr. McGee informed Committee staff, though, that Mr. Lundy would invoke his Fifth Amendment rights rather than cooperate with the Committee.

I. Robert Lundy

Committee staff also attempted to interview Robert Lundy, the son of J.T. Lundy. Robert Lundy was also involved in the effort to

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[956] Subpoena *duces tecum* to Victoria Crawford (Aug. 29, 2001) (within Appendix II); Subpoena *duces tecum* to Crawford Management (Aug. 29, 2001) (within Appendix II).

[957] Letter from Bruce F. Black, Counsel for Vicki Crawford and Kathy Vieth, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (Sept. 6, 2001) (within Appendix I).

[958] Letter from George Locke to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (received Apr. 9, 2001) (within Appendix I).

[959] Letter from Mark F. Hampton, Counsel for Dickey Morton and George Locke, Hampton and Larkowski, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Apr. 3, 2001) (within Appendix I).

[960] Letter from the Honorable Dan Burton, Chairman, Comm. on Govt. Reform, to Dickey Morton (Mar. 14, 2001) (within Appendix I).

[961] Letter from Mark F. Hampton, Counsel for Dickey Morton and George Locke, Hampton and Larkowski, to the Honorable Dan Burton, Chairman, Comm. on Govt. Reform (Apr. 3, 2001) (within Appendix I).

[962] Letter from Jay Ethington, Counsel for Richard Cayce, to David Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 1, 2001) (within Appendix I).

obtain a pardon for J.T. Lundy. However, David McGee, who also represented Robert Lundy, informed the Committee that Mr. Lundy would invoke his Fifth Amendment rights rather than cooperate with the Committee.

J. Chief Carl Griggs

As part of its investigation of Roger Clinton's efforts to obtain a commutation for Steven Griggs, the Committee attempted to interview Chief Carl Griggs, Steven Griggs' father. Chief Griggs' attorney, Gary Krupkin, initially indicated a willingness to allow the Chief to participate in an interview. However, when Committee staff attempted to schedule the interview, Krupkin expressed concern about allowing the Chief to participate in an interview while the criminal investigation of Roger Clinton was pending. Accordingly, Chief Griggs refused to participate in an interview with Committee staff.

K. Blume Loe and Cynthia Goosen

When the Committee learned of Blume Loe's request that Roger Clinton help him obtain a pardon, the Committee attempted to arrange an interview of Loe and his attorney, Cynthia Goosen.[963] According to documents obtained from Roger Clinton, Goosen may have had contact with Roger Clinton about the Blume Loe pardon request. However, Goosen refused to participate in an interview with Committee staff, citing attorney-client privilege.[964] Goosen made this claim despite the fact that much of the information sought by the Committee, for example, her contacts with Roger Clinton, would not be covered by the attorney-client privilege.[965]

L. Bruce Lindsey

Bruce Lindsey testified at a Committee hearing on March 1, 2001, regarding the Marc Rich pardon. After the hearing, the Committee discovered that Roger Clinton had lobbied for parole and executive clemency for Rosario Gambino. It appears that Roger Clinton had contacts with Lindsey on the parole matter and perhaps on the clemency request as well. Accordingly, the Committee asked Lindsey to participate in an interview with Committee staff regarding his role in the Gambino matter. Through his attorney, William Murphy, Lindsey informed the Committee that he would not participate in the requested interview.

M. Meredith Cabe

Meredith Cabe participated in a voluntary interview with Committee staff on March 16, 2001. However, after the interview, Committee staff learned of Roger Clinton's role in the Gambino matter. The evidence obtained by the Committee indicated that Cabe handled Gambino's clemency request at the White House. Therefore, Committee staff requested a new interview with Cabe. However, the Committee was informed by Cabe's attorney, William Murphy,

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[963] Letter from David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform, to Cynthia S. Goosen, Cooper & Scully (May 14, 2001) (within Appendix I).

[964] Letter from Cynthia S. Goosen, Cooper & Scully, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform (May 22, 2001) (within Appendix I).

[965] Letter from David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform, to Cynthia S. Goosen, Cooper & Scully (May 30, 2001) (within Appendix I).

that Cabe would not participate in an interview with Committee staff regarding the Gambino matter.

N. Department of Justice

The Department of Justice initially provided the Committee with records regarding two investigative matters related to Roger Clinton: first, records relating to the FBI's investigation of the effort to force John Katopodis to hire Clinton; and second, records relating to the FBI's investigation of Roger Clinton's relationship with the Gambino family. However, after providing the Committee with hundreds of pages relating to the Gambino matter, including sensitive Parole Commission files and the summary of Roger Clinton's interview with the FBI, the Justice Department suddenly stopped producing Gambino records to the Committee. The only reason the Justice Department gave for its decision was concern that Congressional access to the records would jeopardize the Department's ongoing criminal investigation of Roger Clinton. However, the records sought by the Committee related to the 1999 and 2000 investigation of Clinton and Gambino which was reportedly closed in 2000, not the Southern District of New York's investigation, which was commenced in 2001. The refusal of the Justice Department to provide these records prevented the Committee from developing any true understanding of the reasons for the Department's failure to pursue criminal charges against Roger Clinton.

O. The White House

Notwithstanding President Clinton's decision to refrain from invoking a privilege, the Bush Administration refused to provide the Committee with a number of key documents relating to the clemency process in the Clinton White House. As described previously, the only documents provided to the Committee regarding the consideration of clemency requests at the Clinton White House were produced by accident. Were it not for this inadvertent production, the Committee would not have had access to any documents at all from the Clinton White House related to the Gambino commutation effort. Despite the accidental production, the Bush Administration managed to withhold four additional Clinton White House records related to the Gambino commutation request.[966] According to the National Archives, these four records contain internal White House deliberations regarding the Gambino matter.[967] These records would potentially inform the Committee about how seriously the Gambino commutation was considered and why it was ultimately rejected. The Bush Administration's decision to withhold these records from the Committee is deeply troubling. In effect, it is keeping Congress and the American public from learning the full truth about the efforts of a major organized crime figure to obtain executive clemency through the paid efforts of President Clinton's brother.

[Exhibits referred to follow:]

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[966] *See* Letter from Gary M. Stern, General Counsel, National Archives and Records Administration, to David A. Kass, Deputy Chief Counsel, Comm. on Govt. Reform (Aug. 2, 2001) (within Appendix I).

[967] *Id.*

FD-302 (Rev. 10-6-95)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/01/1999

Roger C. Clinton, date of birth (DOB), [redacted] was interviewed at his residence. After being advised of the identity of the interviewing agents and the nature of the interview, Clinton stepped out into the front yard of the house, and voluntarily agreed to answer questions. He thereafter provided the following information:

Clinton advised he first met Tommy Gambino about four to four and a half years ago. He was introduced to Tommy Gambino at a club in Beverly Hills by a man named Pasquale (LNU), who was the manager for musician Gino Vinelli. Clinton could not provide the name or location of the club.

Clinton stated that the two most common questions he gets asked regularly are, "What is it like to be the President's brother? and Can you help me get someone out of jail?" Clinton stated after talking to Tommy Gambino he knew the reason for the introduction was to see if he could help Tommy Gambino get his father released from prison.

At this point, Clinton and the reporting agents moved from the front lawn of the house to the side of the house and stood on the driveway for the remainder of the interview.

Clinton advised that after he began to spend time with Tommy Gambino, he learned about the family and the efforts that they have made to get Tommy Gambino's father, Rosario, released from prison. They have hired very qualified attorneys and been through the appeal process. Clinton stated that he identified with Tommy Gambino on a number of levels and because of this, he became passionate about trying to help him get his father released.

Clinton stated that since Rosario Gambino has been in prison, Tommy has had to grow up without a father. Clinton advised that he, too, had grown up without a father, and sympathized with that position. Tommy Gambino has a close knit Italian family. Clinton stated that when he grew up in Arkansas he and his brother grew up close to an unnamed tight knit Italian family. He further

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Investigation on 9/30/99 at Redondo Beach, CA

File # 72-BA-96138 Date dictated 10/1/99

by SA Tracey Silberling
SA Kevin M. Adley

ATTACHMENTS

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EXHIBIT 1

stated that he has is own prison experience which has given him an insight to the prison system. Through his experience of being incarcerated, he claimed to have learned that things are not always as they appear or as they are reported.

Clinton advised that Tommy Gambino provided him with all the case files related to his father's case. He has spent hours reviewing all the files. Clinton stated that after his full review of the case, he does not believe Rosario Gambino is being treated fairly. Rosario Gambino has served three years longer than the maximum guidelines for his offenses. He has been given release dates on two occasions and they have both been denied. The same person, whose name he declined to provide, has denied the release, and provided different reasons each time. Clinton further advised that he believes Tommy Gambino's father may be treated differently than other people strictly because of this name. Clinton advised that he too has experienced that problem. He stated that the name can be both a positive or negative depending on the circumstances.

Clinton stated that after getting to know Tommy Gambino, and reviewing Rosario Gambino's case file, he wanted to help the family. He told Tommy Gambino that he would not agree to help the family unless they provided him with all the information related to the case. Clinton told Tommy Gambino that he did not want any information withheld that might effect his decision to help the family. Gambino told Clinton if there is any information withheld from you, it was also being withheld from him (Tommy Gambino). Clinton stated he really felt for the family and grew passionate about trying to help them. He further advised that he told Tommy Gambino that by his providing assistance and making contact with the U.S. Parole Commission to seek assistance with this case, it could actually work against him. Clinton stated his name will not necessarily be an advantage when it comes to fighting this matter. Gambino was willing to take the risk and have Clinton attempt to help.

Clinton stated that his agreement to help Tommy Gambino attempt to obtain the release of his father from prison was purely informal. They did not write any contracts or discuss specific compensation for the assistance. Clinton told Tommy Gambino that he did not know if his efforts to assist would produce any positive results. In fact, he stated some of the officials he contacted might be worried about appearances of helping him because of his name, and that could work against them. Clinton said, "As you can see, I was right. To date, my efforts have provided no help".

Clinton stated that he knew his name associated with the Gambino name would raise some eyebrows, but he did not realize it would generate this much interest.

Clinton stated he did not discuss his decision to assist the Gambino family in this case with anyone. He advised he telephoned the U.S. Parole Commission directly and asked for the names of the individuals who are members of the Commission. He then began to telephone and write letters to individuals on the Commission in an attempt to arrange meetings and discuss the case. Clinton stated he did not tell his brother, the President of the United States, specifically what he was working on. He believes, however, that the President knew he had some business with the U.S. Parole Commission, but did not know specifically what he was working on. He did not tell his brother that he was working on the Rosario Gambino case. He did not seek advise or referrals from the President in his efforts to contact the Parole Commission on behalf of Rosario Gambino.

Clinton stated that he did not represent to anyone on the Parole Commission that his brother was aware of his efforts to assist the Gambino family or that the President was supporting his effort to assist in getting Rosario Gambino released from prison. Clinton stated he would not ask the President for help in a matter like this. Clinton further stated that is why he was keeping his contact with the U.S. Parole Commission "above-board." In fact, during the process he learned from someone at the Parole Commission that if he was to receive information regarding a specific case, he would have to obtain a waiver from the prisoner or his or her family. He would have to register himself as an official representative of that person, in order to permit the authorized disclosure of personal and protected information. Clinton stated as soon as he learned that, he processed the proper paperwork to register as an official representative of Rosario Gambino.

Clinton stated that one of the individuals he met with on the Parole Commission was Tom Kowalski. Another individual he attempted to meet with was the Commissioner Michael Gaines. Clinton stated that he knew Gaines from growing up in Arkansas. He placed a telephone call to Gaines office requesting an after hours meeting or dinner with Gaines. Clinton advised Gaines must have known what he wanted to discuss because Gaines assistant called Clinton back and told him that it was inappropriate for Gaines to speak with Clinton regarding a case. He has placed telephone calls, written

letters and attempted to set up meetings with others on the Commission to discuss the Gambino case.

Clinton advised that he did not want to provide the names of specific people he has spoken with concerning this matter. Clinton said "I'm sure it is a public record and you can find out by checking the records."

Clinton was asked if he was ever given anything of value for his assistance in this matter. He advised he had not received anything for this assistance. Clinton stated that Tommy Gambino said if he (Clinton) could help get his father released from prison, "we will take care of you." Clinton said that he knows what that means. He stated " I'm not stupid, I understand what the big picture is." He again stated that no specific compensation was discussed if he were to be successful in obtaining Rosario Gambino's release. Clinton advised it was his understanding if he were successful, he would be financially compensated. Clinton is not sure however, if he will be able to help Tommy Gambino and his family. Clinton then stated that he had received two airline tickets to Washington DC from Tommy Gambino and expenses for the trips. Tommy Gambino put the airline tickets on his credit card. Clinton also admitted to having received an undisclosed amount of expenses, but did not provide any information as to how the expense money was furnished to him.

Clinton was asked if he had received any gifts from Tommy Gambino while he was assisting the family with the case, and Clinton initially responded "no." After further inquiry, Clinton then advised "I was shown a Rolex watch once, but it was not given to me." Clinton explained that the watch was on the wrist of Tommy Gambino who asked Clinton if he ever had a Rolex.

Clinton related that he and Tommy Gambino were discussing watches and cigars at a coffee shop in Beverly Hills, the name and location of which Clinton could not remember. He stated he and Tommy Gambino got into a conversation about cigars. Clinton stated he knew that if the embargo on Cuban cigars ever got lifted, "they could all make a lot of money." Clinton recalled a conversation, the date or approximate time of which he could not recall, he had with his brother, Bill Clinton, who told him the cigar embargo would not be lifted while he was still President. President Clinton allegedly said "The embargo will be eased for food and medicine because that is the direction the world is going, but not for cigars, not during your life time."

Clinton stated that after leaving the coffee shop, Tommy Gambino took him to look at watches at an unnamed "pawn shop," also in Beverly Hills, California where they encountered actor and Hollywood celebrity George Hamilton. Clinton said Hamilton, who is "a friend of Tommy's," sells watches and cigars. Clinton said Hamilton had a briefcase full of watches which he displayed to Clinton and Gambino, but they left without buying a watch.

Clinton subsequently reversed his earlier denials and admitted to having actually received a watch from Tommy Gambino, who told him it was an "Italian custom" to give such a gift as a token of appreciation. Clinton could not remember either when he was given the watch, or where he was when he received it. Clinton claimed, however, he did not keep it, but returned it to Gambino after he had "heard" the watch is a "fake." Clinton could not remember who told him the watch was an imitation, or when he had learned it was a "fake."

Clinton again amended his previous statement when pressed for details regarding the watch's return. Clinton stated that even though it was supposed to be "a fake," he did not return the watch because it was a gift of appreciation from the family. Clinton contended that he never wore it because it was "too gaudy" with a thick gold band and a blue face. Clinton said he was confused in that he did not know the present location of the watch. Clinton stated "Tommy could have it," or that he may actually still have the watch. He stated "he really didn't know." Clinton advised "It could be in my flippin trunk for all I know, it could be in my garage, or almost anywhere." Clinton offered to locate the watch "if it is really important, but it's going to take a lot of effort, so don't ask unless you really need it." Clinton was asked to look for the watch after the interview and contact the interviewing agents if he located it. Clinton agreed to do so.

Clinton asked if Tommy Gambino was in trouble and if he was involved in something Clinton should know about. He stated that as far a he knew, Tommy Gambino is very clean.

Clinton advised he is currently trying to buy a house in the Torrance, California area and Tommy Gambino has offered to loan him an undisclosed amount of money for the down payment. This loan is not compensation for his assistance to the Gambino's in attempting to get Rosario Gambino released from prison. The offer is for a loan which must be repaid. It is not to give Clinton the

money. This offer was made regardless of the outcome with Clintons efforts to obtain Rosario Gambino's release.

Clinton repeatedly asked if Tommy Gambino was in trouble. He said he felt very uncomfortable about giving information about Tommy Gambino because he was a friend. Clinton stated he learned in prison not to "rat" on people. He said he is very uncomfortable giving the reporting agents any names unless he is given a very specific reason for the need. Clinton stated "I don't even have to talk to you guys." The reporting agents acknowledged Clinton's comment, and again thanked him for his cooperation and answering questions.

Clinton stated that he does now own a silver Rolex watch. He bought it from an unknown street vendor in front of a "rainbow" or "multicolored" hotel in Tijuana, Mexico. He paid $250 dollars for the watch in cash and has no receipt of the purchase. He could not provide either the name, street address or approximate location of the hotel.

Clinton went inside the residence and returned with the watch he purchased in Mexico. The watch is a Rolex Oyster Perpetual Date Explorer II, with an expandable silver band. On the reverse side of the face, a faint serial number 16570 appeared below the Rolex logo inside the green medallion.

At this stage in the interview, the interviewing agents advised Clinton of the provisions of Title 18, U.S. Code Section 1001 and the criminal exposure of making false statements to federal agents. Clinton was informed it was a violation of law to provide false information to federal law enforcement officers and that he could be prosecuted, fined and imprisoned for doing so. Clinton was then asked, after being advised of Title 18, U.S. Code Section 1001, would he care to change or otherwise amend any of his previous statements, and Clinton replied "No," he was comfortable with what he had said.

Clinton was asked about his business travel. He stated that he has made a number of business trips to foreign countries over the last few years. Clinton stated that he is a musician and plays with a six piece band. He has received invitations from Presidents and other foreign government leaders from between 10-12 different countries. Clinton advised he knows he receives these invitations strictly because he is the First Brother of the President of the United States. Clinton advised that the President

is aware of the invitations, in general, but may not know each time he takes a trip. Clinton stated that when he receives an invitation to visit a country he is often offered money by the country to make the trip. He stated that he would not accept the invitation unless he could earn the money. He insists on performing with his band while visiting the country. He is a musician and wants to be recognized for his music. Clinton stated he receives a minimum of $25,000 per performance when he travels. He may play a few nights during a given trip. He likes to perform for children during these trips and attempts to make those arrangements.

Clinton stated he has traveled to South Korea approximately six times. He has gone as the personal guest of President Kim Dae Jong (phonetic). He has been paid as much as $200,000 for performing on a trip. He has also traveled to Japan, Argentina and 8 to 10 others countries. Clinton stated that the country extending the invitation usually pays for him and his six piece band to fly to the country and perform. The host country usually pays all their expenses and provides a Presidential security detail while they are there.

Clinton stated he has received payment for these performances in a number of ways. He has received payment by check in United States dollars, cash in United States dollars and also in the currency of the host country. Clinton stated in some instances the foreign government even provides extra funds to cover the costs of taxes that would be assessed against the money. Clinton advised he did not want to provide specific details on what exactly he is paid for his performances or the method of payment because that is "personal."

Clinton stated that when he receives an invitation to a country he always calls the National Security Council to get the clearance to make the trip. He stated that they usually say no at the very beginning, then he talks them into agreeing to let him make the trip. Clinton stated that he always provides the Security Council with an itinerary whenever he makes one of these trips. Clinton advised that he usually does not take his wife on these trips because he considers these trips to be business trips. She has gone on one or two of the trips with him. Clinton stated that just last week they got back from Kazakhstan.

Clinton advised that while he visits foreign countries as their guest he is often presented with all kinds of gifts. Examples he gave were vases, sheep skin rugs and many more he could not

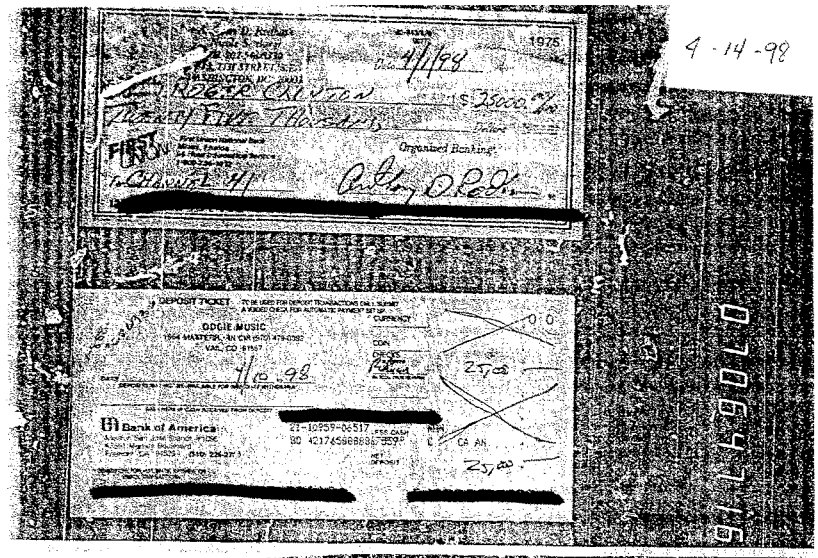
FD-302a (Rev. 10-6-95)

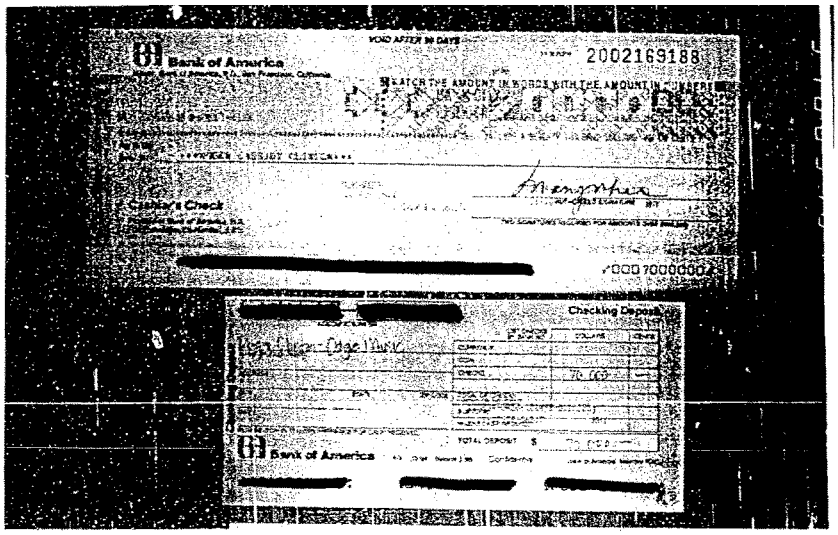
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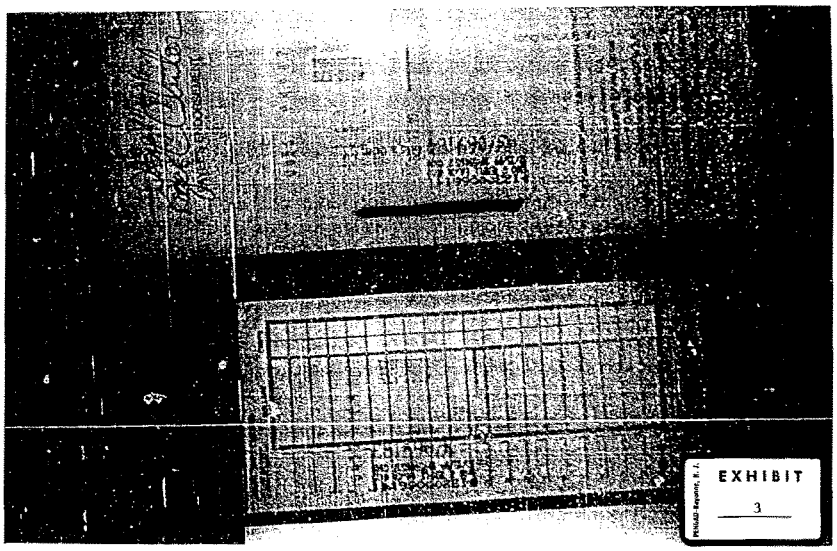
Continuation of FD-302 of Roger C. Clinton, On 9/30/99, Page 8

remember. He also received gifts for the President which he has sometimes kept. Clinton advised that in his earliest trips, at the beginning of the Presidents term, he would be offered money for the President from some of the foreign government officials he was visiting. He stated years ago he did not know he could not accept money for the President. Clinton stated he was told by either the President or his staff that he could not bring money back from a foreign country for the President. He advised he was told on a couple of occasions to send the money back because the President was not allowed to accept money from a foreign country.

Clinton was asked if he reported the money he earned on his foreign country visits as income on his United States tax returns. He stated that yes he reported the income. He was asked if he claimed the expenses on his tax returns as well. Clinton stated that he only claimed the expenses that he actually paid for on his tax returns. Clinton further advised that years ago he had some tax problems. At one point he owed between $40,000 to $60,000 dollars in taxes. He made arrangements with the Internal Revenue Service (IRS) to pay of the tax debt, and does not want to have any more problems.


4-14-98
1975
4/1/98
Organized Banking
DEPOSIT TICKET
DOGIE MUSIC
Bank of America
for deposit only
EXHIBIT
2


Bank of America
2002169188
Cashier's Check
Checking Deposit
Bank of America


EXHIBIT
3

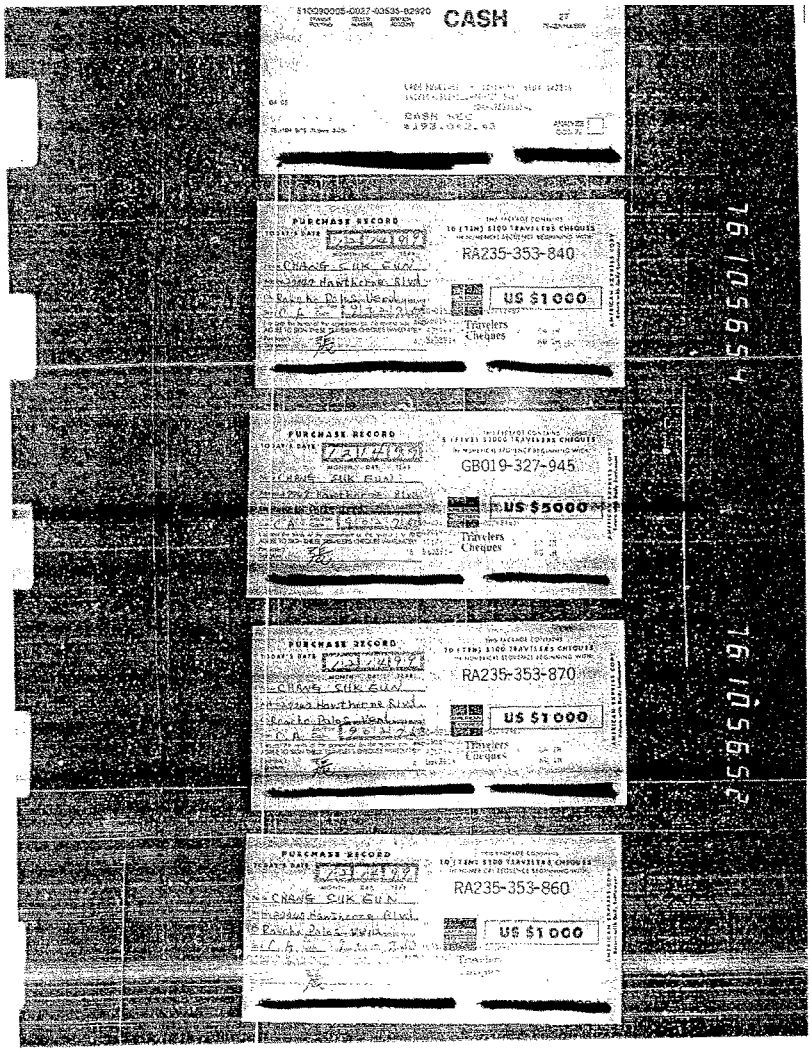

CASH
PURCHASE RECORD
RA235-353-840
US $1000
Travelers Cheques
PURCHASE RECORD
GB019-327-945
US $5000
Travelers Cheques
PURCHASE RECORD
RA235-353-870
US $1000
Travelers Cheques
PURCHASE RECORD
RA235-353-860
US $1000
Travelers Cheques

EXHIBIT
4

CONSULTING AGREEMENT

This Consulting Agreement ("Agreement") is made and entered into as of the ____ day of June, 2000 (" Effective Date") by and between Roger Clinton, d.b.a. Odgie Music ("Consultant"), and J. Perez Associates, Inc. ("Client").

RECITALS

1. WHEREAS, Client is in the business of importing and exporting goods from countries outside the Unites States of America; and

2. WHEREAS, Consultant is in the business of providing counsel and advice in the areas of International Business Relations with respect to the importing and exporting of goods to and from the United States of America; and

3. WHEREAS, Client desires to retain Consultant to provide counsel, advice and to promote Client to entities necessary to conduct its import and export business.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, each intending to be legally bound, do hereby agree as follows:

TERM AND RENEWAL

This Agreement becomes effective as of the Effective Date, and shall continue for a period of one (1) month ("the Term"), unless sooner terminated by either party. Client and Consultant agree to enter into a second agreement on the same terms as this Agreement for the month during which Client's travel outside the United States takes place.

CONSULTANT'S SERVICES

Client desires to retain Consultant to provide counsel, advice and to promote Client to entities necessary to conduct its import and export business. Consultant agrees that during the Term, it shall spend a minimum of 20 hours to meet with Client to assist Client with its import and export opportunities.

COMPENSATION OF CONSULTANT

1. For the Term of this Agreement, Consultant's charges for the Services described in the Recitals above shall be Five Thousand Dollars and no cents ($5,000.00) per month. Client shall pay these charges in advance, with the first payment paid upon execution of this Agreement.

2. Consultant shall provide an invoice for his services.

3. Client agrees to pay for all reasonable travel expenses incurred by Consultant as they relate to travel approved by Client under this Agreement.

INDEMNITY BY CLIENT

Client indemnifies and holds harmless Consultant from any and all claims, demands, actions, causes of action, judgments, orders, damages (including foreseeable and unforeseeable consequential damages), costs, expenses, fines, penalties directly or indirectly arising out of, relating to, or resulting from this

EXHIBIT
5

Agreement, unless they are a result of the actual or alleged negligence, whether passive or active, or intentional acts or omissions of Consultant.

INDEMNITY BY CONSULTANT

Consultant indemnifies and holds harmless Client from any and all claims, demands, actions, causes of action, judgments, orders, damages (including foreseeable and unforeseeable consequential damages), costs, expenses, fines, penalties directly or indirectly arising out of, relating to, or resulting from this Agreement, unless they are a result of the actual or alleged negligence, whether passive or active, or intentional acts or omissions of Client.

RELATIONSHIPS OF PARTIES

The relationship between Client and Consultant, as created pursuant to the terms of this Agreement, is an independent contractor relationship. None of the provisions of this Agreement are intended to create, nor shall they be deemed or construed to create any relationship between the parties other than that of an independent contractor. It is further agreed that nothing contained herein shall be construed to create a joint venture, partnership, lease or employer/employee relationship between Client and Consultant.

TERMINATION

Termination for Cause. Either party may terminate this Agreement at any time for "cause," which, for purposes of this Section shall be defined as and limited to, the following defaults by the other party:

1. Breach of Payment Obligations. In the event that Client fails to pay any amounts when due.

2. Other Breach. A failure by the defaulting party to perform any material obligation required hereunder other than payment obligations, if such default shall continue for ten (10) calendar days after the giving of written notice from the nondefaulting party specifying the nature and extent of such default, or, if the breach cannot reasonably be cured in ten (10) days, if the breaching party has not acted diligently, or subsequently acted diligently, to attempt to cure the breach within the ten (10) day period following notice from the nondefaulting party. If the parties disagree as to the existence of a breach or, whether the breach has been cured, the parties shall use their good faith efforts to resolve the dispute through negotiation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

Consultant: ODGIE MUSIC

By: _____

Its: _____

Client: J. Perez Associates, Inc., a Texas corporation

By: _____

Its: _____

Agreement, unless they are a result of the actual or alleged negligence, whether passive or active, or intentional acts or omissions of Consultant.

INDEMNITY BY CONSULTANT

Consultant indemnifies and holds harmless Client from any and all claims, demands, actions, causes of action, judgments, orders, damages (including foreseeable and unforeseeable consequential damages), costs, expenses, fines, penalties directly or indirectly arising out of, relating to, or resulting from this Agreement, unless they are a result of the actual or alleged negligence, whether passive or active, or intentional acts or omissions of Client.

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The relationship between Client and Consultant is created pursuant to the terms of this Agreement, is an independent contractor relationship. None of the provisions of this Agreement are intended to create, nor shall they be deemed or construed to create any relationship between the parties other than that of an independent contractor. It is further agreed that nothing contained herein shall be construed to create a joint venture, partnership, lease or employer/employee relationship between Client and Consultant.

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Consultant: ODGIE MUSIC

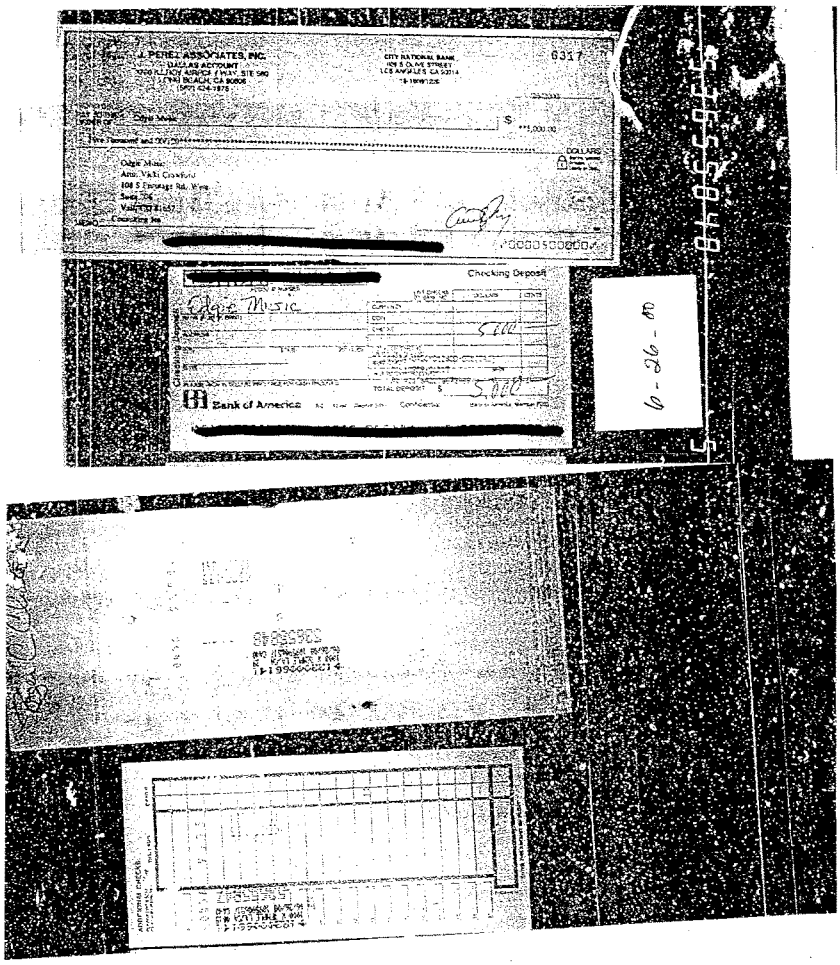
By: Roger C. Clinton

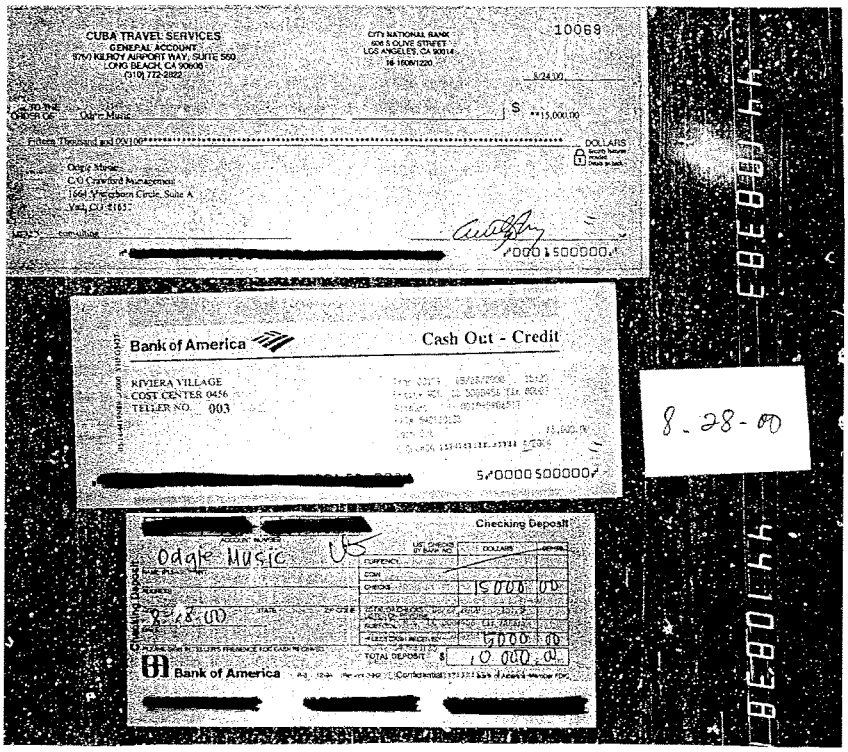
Its: _____

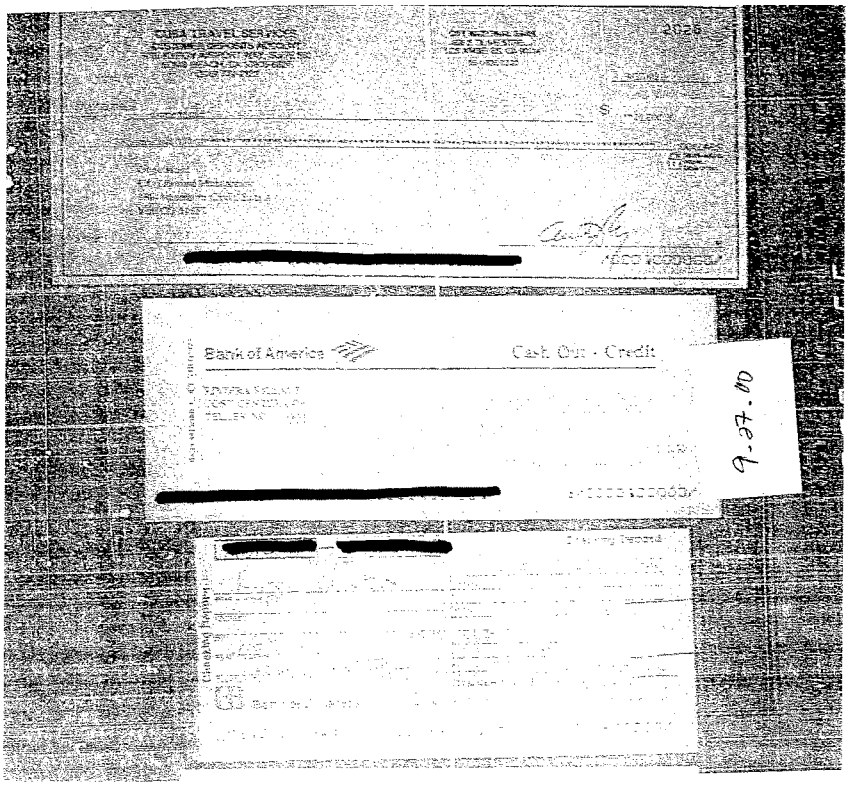
Client: J. Perez Associates, Inc., a Texas corporation

By: _____

Its: _____


J. PETRI, ASSOCIATES, INC.
DALLAS ACCOUNT
6317
Checking Deposit
Bank of America
EXHIBIT
6


CUBA TRAVEL SERVICES
GENERAL ACCOUNT
10069
CITY NATIONAL BANK
Odgie Music
Fifteen Thousand and 00/100
DOLLARS
Bank of America
Cash Out - Credit
RIVIERA VILLAGE
COST CENTER 0456
TELLER NO. 003
8-28-00
Checking Deposit
Odgie Music
8-28-00
CHECKS
15000 00
5000 00
TOTAL DEPOSIT $ 20000 00
Bank of America


Bank of America
Cash Out - Credit

ODGIE MUSIC
108 S. Frontage Road West
Suite 306
Vail, CO 81657
Office: (970) 479-0392
Fax: (970) 477-2101

Invoice: 00100
Client: J. Perez & Associates, Inc.

Services: Consulting services for J. Perez & Associates, Inc. For consulting services rendered during July 2000 to in contract dated June 2000.

- Trip to Washington D.C.

Billable Amount: $5,000

Total Amount Payable to Odgie Music (Roger Clinton): $5,000

Thank you for your continued business.

Signed: Vicki A. Crawford 9/6/00
Vicki A. Crawford
Personal Manager to Roger Clinton

EXHIBIT
7

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 05/21/1997

To: CID Attn: Section Chief
Tron W. Brekke

Birmingham Attn: Personal Attn: SAC
Little Rock Attn: Personal Attn: SAC

From: Knoxville
Squad 3
Contact: Steed Walter G III

Approved By: Parker David E

Drafted By: Steed Walter G III:pjw

Case ID #: 194-0-46

Title: INFORMATION CONCERNING CONTRACT
FOR CONSTRUCTION OF BIRMINGHAM
REGIONAL AIRPORT

Synopsis: To provide updated information concerning interview of JOHN CATAPOTUS (protect identity).

Administrative: Re Knoxville telephone calls of SA WALTER G. STEED, III to Birmingham Supervisor JAMES BROWN and Little Rock Acting Supervisor GREGORY HALL on 5/16/1997.

Details: [redacted]

E-1 P

On 5/17/1997, Knoxville Special Agent WALTER G. STEED, III, was put in direct contact with JOHN CATAPOTUS, telephone number [redacted] Birmingham, Alabama. [redacted] (protect identity), an [redacted] The following is a summary of the information obtained from CATAPOTUS regarding above-captioned matter:

CATAPOTUS indicated that he has been in public service for approximately 20 years and was formerly an elected official in Birmingham, Alabama. For a number of months he has been working on a project to bring an international airport and a high speed rail system to the Birmingham area. In August of 1996, he was planning an international referendum on this airport project and invited then Secretary of Transportation FREDERICO PEÑA to be a speaker at this referendum. By that time PEÑA was on his way out as Secretary of Transportation and therefore he never responded to this request. In November of 1996, LARRY WALLACE, a self-proclaimed power broker connected to the CLINTONs contacted him from Little Rock, Arkansas, and invited him to a party in Little Rock. At that point in time, it was fairly certain that RODNEY SLATER would be the new Secretary of Transportation and would be attending [redacted] CATAPOTUS agreed to go to this

[redacted] MAY 24 1997

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EXHIBIT 8

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party with the intent of lobbying for SLATER to speak at the airport referendum.

After attending this party, LARRY WALLACE contacted CATAPOTUS on several occasions indicating that he (WALLACE) should represent CATAPOTUS' organization in Washington, D. C. WALLACE assured him that he could get this seminar done. In one of these conversations, WALLACE told him that President CLINTON, who he described as a close personal friend, was concerned about his brother, ROGER CLINTON, and ROGER CLINTON's lack of employment and income. According to WALLACE, President CLINTON tasked him with finding some type of job for ROGER CLINTON. WALLACE suggested to CATAPOTUS that maybe you could find something for ROGER CLINTON in your project. CATAPOTUS said that he agreed to try and find something as long as it was unrelated to any Government contracts. WALLACE had ROGER CLINTON call CATAPOTUS directly.

CATAPOTUS did receive several telephone calls from ROGER CLINTON and in these calls ROGER CLINTON indicated that through his contacts (ostensibly with the CLINTON White House), he had gotten some things done which he (ROGER CLINTON) had not gotten credit for having accomplished. ROGER CLINTON indicated that he did not want to discuss this over the telephone and wanted CATAPOTUS to meet him at his residence in Redondo Beach, California. CATAPOTUS stated that he was taken back at the dollar amount of the request and felt that this was considerably disapportional with what he was seeking to have done, that is, having RODNEY SLATER speak at a seminar regarding the regional airport concept. CATAPOTUS stated that through contacts that he has he checked LARRY WALLACE out and his contacts assured him that WALLACE was a "player." CATAPOTUS stated that shortly after the request from LARRY WALLACE, ROGER CLINTON called him again and told him that LARRY WALLACE has no influence that doesn't "drive directly through me." CATAPOTUS stated that he told CLINTON that he needed to come up with a list of tasks and a reasonable amount of money assigned to these tasks and to be certain that there would be no potential conflict of interest in this matter prior to making this type of financial commitment. A short time later, LARRY WALLACE called him and apparently in frustration over the difficulty in getting this deal done told CATAPOTUS that nothing was going to happen on his projects until CATAPOTUS "showed him the money." He again reiterated that he wanted him to come up with one month's payment to ROGER CLINTON.

CATAPOTUS stated that in his conversations with LARRY WALLACE, LARRY WALLACE offered to make arrangements for him to spend a night in the Lincoln bedroom. This was prior to this becoming a scandalous issue for the CLINTON White House. WALLACE also made references to his friendship with YSSAR ARAFAT and

other individuals who have since become known as significant financial contributors to the CLINTON re-election campaign.

CATAPOTUS stated that he personally kept pressing the Secretary of Transportation's office to try and get an answer on the Secretary of Transportation speaking at the regional airport seminar. Based on the number of months and his frustration in getting an answer in this matter, he is personally convinced that his project was being held in abeyance while LARRY WALLACE was negotiating the fee to be paid to ROGER CLINTON. In his frustration, he had a conversation with BONNIE ROBINSON, an employee of the Department of Transportation's office in Washington, D. C., in which he detailed to her his frustration and his belief that the delay in receiving an answer in this matter was tied to the LARRY WALLACE-ROGER CLINTON money request. A short time later, he received a rather caustic telephone call from CATHERINE GRUNDIG of Secretary SLATER's office who assured him that there was no connection to the LARRY WALLACE-ROGER CLINTON financial request. He also received a call from KEN MULLINEX (phonetic), an employee of Congressman HILLARD's office, concerning this matter. He had reached out to Congressman HILLARD's office and asked for advice on how to handle this particular problem. MULLINEX contacted him on 5/14/1997, and told him that they had received a call from the highest level, not further identified, concerning this matter. MULLINEX told CATAPOTUS that he had "been bad again" and that he should not make allegations concerning ROGER CLINTON and LARRY WALLACE. Furthermore, he assured him that both ROGER CLINTON and LARRY WALLACE had asked RODNEY SLATER to speak at this seminar.

CATAPOTUS stated that he is reluctant to get involved in this matter due to the fact that he feels that he has friends in both political parties and feels that most of these individuals would distance themselves from him if he cooperated with the FBI in some type of investigation relating to this matter. He admitted that he had taped some of these telephone calls from ROGER CLINTON and/or LARRY WALLACE, but has not decided if he would be willing to turn these tapes over to the FBI at this point. CATAPOTUS was informed by SA STEED that it would be helpful if he would talk directly to GREGORY HALL of the Little Rock Office concerning this matter and arrangements were made for a telephonic contact between HALL and CATAPOTUS on 5/16/1997. CATAPOTUS indicated that he is familiar with SA JIM KEIL of the Birmingham Office from a previous investigation several years ago.

In view of the fact that Knoxville has no venue in this matter and that CATAPOTUS is willing to talk directly to Agents assigned to similar investigative matters, Knoxville anticipates no additional investigation in this matter.♦♦

Moving Forward Through Cooperation

Working together in a spirit of cooperation to promote common interests was the main goal of four local governments who joined forces in 1993 to establish **The Council of Cooperating Governments.**

One of those common goals is to improve passenger rail for the Southeast, particularly in the development of a high speed rail corridor. Realizing that passenger rail service will eventually benefit the entire country, the Council's ultimate goal is to not only see this proposed Southeastern corridor become a reality, but to also see it linked with existing and proposed high speed rail corridors across the country.

At the urging of several governments across the country, The Council, which now has 25 member governments from five states, is expanding its membership nationwide in order to have an even greater voice in convincing the railroads, Amtrak, and state and federal officials to improve passenger rail service, safety and funding.

The Council of Cooperating Governments believes for high speed rail to be success, there needs to be a nation-wide coalition governments working toward the common interest of high speed rail advancement. In working together with our member governments and other organizations that share the same vision, the Council feels that high speed ground corridors throughout the nation can and will become a reality.

Purpose and Goals

The Council's purpose and goals are:

- To work for improved rail service, rail safety, and rail development, using the combined influence of our member governments.
- To coordinate our efforts with similar organizations who share our goals.
- To continue educating government officials and the public about multimodal transportation, which will allow waterways, highways, air and rail to work together.
- To increase awareness of economic and environmental benefits a true multimodal transportation system brings to the region, especially in luring new industry.
- To monitor and study efforts being made in other parts of the country concerning improved rail service.
- To coordinate communication between the member governments to keep them abreast of current developments concerning transportation issues that might affect them.

Demonstration Project Success

A goal The Council completed in October 1995 was a Southeast high speed rail demonstration project, which was co-sponsored by the Federal Railroad Administration, Amtrak and Turbomeca. The RTL II Turbo Train was developed by FRA and Amtrak to demonstrate the viability of turbine engines on non-electric tracks. The train, which can travel at 125 mph, is currently being operated along the Empire Corridor between Albany, N.Y. and New York City.

The Council of Cooperating Governments is a not-for-profit association of governments funded by its member fees. Its charter, established by its founding governments, allows for membership and equal voting privileges of governments, regardless of size. The organization is open to any local government for an annual fee of $1,000. Individuals and organizations may also join as non-voting members for an annual fee of $100.



FBI-RC-0000166

Office of the Independent C[redacted]el

Redding Building
1701 Centerview Drive, Suite 203
Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

September 30, 1997

Federal Bureau of Investigation
10825 Financial Center Parkway
Suite 200
Little Rock AR 72211

Attention: Mr. I. C. Smith
Special Agent In Charge

Dear Mr. Smith:

Enclosed for your information is a memorandum concerning President Bill Clinton from SA Sissy Stanton to SSA Steven D. Irons, dated 9/8/97. Also enclosed is a newspaper article titled "Friend of Clinton Aides Offered Help to Milosevic," which appeared in the Los Angeles Times on 9/18/97.

The enclosed memorandum notes similarities in information concerning President Clinton that was provided by two unrelated sources. The newspaper article concerns Larry Wallace, a Little Rock attorney and one of the individuals noted in the memorandum.

The information set forth in this memorandum is outside the mandate of the Office of the Independent Counsel, which has jurisdiction and authority to investigate matters relating to James McDougal or President or Mrs. Clinton's relationships with Madison Guaranty Savings & Loan Association, Whitewater Development Corporation or Capital Management Services, Inc. Accordingly, this matter is being forwarded to your office for whatever action you deem appropriate.

Sincerely,

KENNETH W. STARR,
Independent Counsel

By: SD
STEVEN D. IRONS
Supervisory Special Agent

Enc 1
SS/ss

1- Addressee F[redacted]

FBI-RC-0000014

EXHIBIT
10

Memorandum [redacted] Office of the Independent Counsel

To : SSA STEVEN D. IRONS [redacted] Date: 9/8/97

From : SA SISSY STANTON

Subject: BILL CLINTON

Re conversation between SSA Irons and SA Stanton on 9/5/97.

E-2 Enclosed is one copy each of an FBI-302 for JOHN CATAPOTUS (PROTECT IDENTITY), dated 5/16/97, [redacted]

M

Administrative

The purpose of this memorandum is to point out similarities in information provided by each of the above-named individuals. [redacted]

M, E-2 [redacted] has provided information to FBI/Little Rock regarding a high level CLINTON administration-connected attorney's attempts in 1996 to have ROGER CLINTON put on a $35,000 per month employment contract, with $30,000 of that amount coming from the AMTRAK railroad union.

In approximately June, 1997, writer heard a report on a local Little Rock radio station that ROGER CLINTON had recently begun paying monthly child support for an illegitimate child.

Similarities noted from information provided by two unrelated sources

I. 1994 - DICK MORRIS, political consultant

E-2 M A. [redacted]

3-SSA S. Irons (3 enc.)
1-SA S. Stanton
1-[redacted]
SS/ss
(5)

FBI-RC-0000015

B. Ostensibly involved with a railroad group's effort to privatize AMTRAK.

C. Discussed deal with BILL and HILLARY CLINTON.

D. Solicited $50,000, to be sent to BLACK, MANFORD, STONE & KELLY, a law firm located in the Washington, D.C. metropolitan area.

E. [redacted]

II. 1996 - LARRY WALLACE, Little Rock attorney

A. Telephonically contacted CATAPOTUS in Birmingham, Alabama on numerous occasions.

B. Ostensibly involved with helping CATAPOTUS get his Birmingham airport project going.

C. Said BILL CLINTON wanted WALLACE to watch over ROGER CLINTON's finances.

D. Pressed to have ROGER CLINTON put on $35,000 per month employment contract, with $30,000 of this amount coming from the AMTRAK railroad union.

E. CATAPOTUS described WALLACE as a "bag man."

Miscellaneous

[redacted]

At writer's request, SA GREG HALL, on 9/5/97, provided the following telephone numbers for ROGER CLINTON: ([redacted] - home; [redacted] - fax; and [redacted] - pager. SA HALL also provided a Farmers Branch, TX telephone number of [redacted] that ROGER CLINTON used on one occasion, which CATAPOTUS obtained through called identification. On 9/5/97, FBI/Dallas telephonically advised that Farmers Branch is a suburb

of Dallas, and that [redacted] has been listed since 1990 to ELMER D. and EMILIE J. MARTIN, [redacted] P

Recommendation

Based upon similarities in the above-described scenarios of two unrelated sources, writer recommends initiation of a preliminary investigation regarding the alleged involvement of BILL CLINTON in AMTRAK matters.

BATES STAMPS FBI-RC-0000018 and FBI-RC-0000019,

AN ATTACHMENT TO Letter DATED 9/30/97, FROM

Kenneth Star TO LR HAS BEEN DELETED FOR THE

FOLLOWING REASON(S): E-2, M, P.

FD-302 (Rev. 10-6-95)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/2/97

On May 16, 1997, JOHN CATAPOTUS (PROTECT IDENTITY) of Birmingham, Alabama, telephone numbers [redacted] and [redacted] was telephonically interviewed. CATAPOTUS was advised of the identity of the interviewing Agent and the purpose of the interview. He provided the following information:

CATAPOTUS has a friend in New Orleans, Louisiana, known as FRANK STEWART. They have known each other for a while, and CATAPOTUS described STEWART as a "good, straight guy." CATAPOTUS was discussing his Birmingham airport project with STEWART and the problems he had experienced trying to get the project going. CATAPOTUS was seeking a high profile, influential person to be a guest speaker at a seminar to promote the Birmingham airport project. The seminar would be attended by local and state political figures as well as representatives of certain Federal agencies.

During his discussion with STEWART, he (STEWART) said that he knew an individual in Little Rock, Arkansas, who could get the project going. This individual was supposed to be well connected, according to STEWART. Eventually, CATAPOTUS received an unsolicited telephone call from this person STEWART had mentioned. This individual identified himself as LARRY WALLACE.

WALLACE told CATAPOTUS that he was well connected to the CLINTON administration. He invited CATAPOTUS to Little Rock to attend an election party. CATAPOTUS accepted the invitation, and he and his friend, FRANK STEWART, attended an election night (November 1996) party honoring the reelection of President CLINTON. The party was held at the law office of WALLACE, located in the TCBY Building, downtown Little Rock.

CATAPOTUS thought the situation was somewhat humorous inasmuch as he is the secretary of the Republican Party of Alabama and was attending a Democrat function. He met WALLACE for the first time at this party. WALLACE identified those present to CATAPOTUS, most of whose names he did not recognize. He recalled WALLACE describing these individuals as "financial heavy hitters," "friends of BILL," a good crowd.

Investigation on 5/16/97 at Little Rock, Arkansas (telephonically)

File # LR 194-0 Date dictated 5/22/97

by SA GREGORY M. HALL/sso

FBI-RC-0000020

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

FD-302a (Rev 10-6-95)

LR 194-0

Continuation of FD-302 of JOHN CATAPOTUS, On 5/16/97, Page 2

CATAPOTUS and WALLACE continued having telephonic contacts, addressing the airport issue as well as a foundation for disaster relief with which CATAPOTUS is involved. WALLACE asked to meet CATAPOTUS in Washington, D. C., during his (CATAPOTUS) next business trip. WALLACE offered CATAPOTUS the opportunity to spend a night at the White House, an offer WALLACE claimed to be capable of arranging. (At this point during the interview, CATAPOTUS stated that he had been a guest at the White House during the FORD, CARTER, REAGAN, and BUSH administrations. Consequently, he was not impressed with WALLACE's offer.)

CATAPOTUS traveled to Washington, D. C., to meet with representatives of the union representing some AMTRAK railroad employees. He agreed to meet WALLACE at a restaurant on the Potomac River. WALLACE arrived by boat and had it docked near the restaurant. WALLACE was in the company of a woman, possibly a girlfriend. In attendance at the dinner, in addition to WALLACE, his girlfriend, and CATAPOTUS, was a member of the railroad union. After dinner, WALLACE insisted on picking up the tab. This made CATAPOTUS uncomfortable because he did not want to owe anything to WALLACE.

After this meeting in Washington, D. C., WALLACE continued telephoning CATAPOTUS. The calling kept intensifying to the point CATAPOTUS thought it was somewhat of a joke because WALLACE would seem to call every other day. During one of their conversations, WALLACE told CATAPOTUS that President CLINTON told him (WALLACE) that he (President CLINTON) was concerned about his "baby" brother ROGER. The President wanted WALLACE to watch over ROGER where his finances are concerned. WALLACE then talked to CATAPOTUS about CATAPOTUS meeting ROGER CLINTON. WALLACE dropped hints that it would be nice for ROGER CLINTON to get work. It was obvious to CATAPOTUS what was occurring. CATAPOTUS offered to consider having ROGER CLINTON work for the Disaster Relief Foundation in which CATAPOTUS was actually involved. CATAPOTUS sent WALLACE material on the foundation to pass to ROGER CLINTON.

WALLACE pressed CATAPOTUS to get ROGER CLINTON on a contract. CATAPOTUS asked WALLACE if he (WALLACE) was acting as an attorney representing ROGER CLINTON or as a lobbyist for him, to which WALLACE replied he was not. After this conversation, CATAPOTUS came to the conclusion that, if WALLACE was not ROGER CLINTON's attorney or lobbyist, then he was a "bag man."

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Continuation of FD-302 of JOHN CATAPOTUS, On 5/16/97, Page 3

During a later conversation, CATAPOTUS asked WALLACE to clearly define the tasks of what ROGER CLINTON should do for the foundation and to memorialize these tasks in a document. Additionally, CATAPOTUS told WALLACE these tasks had to pass moral and legal standards.

CATAPOTUS started having doubts regarding how "connected" WALLACE was to the CLINTON administration. He contacted Alabama Congressman HILLYARD's office in an attempt to determine if WALLACE was as connected as he portrayed himself being. CATAPOTUS talked to a staff member by the name of KEN MULLINAX (phonetic spelling). MULLINAX recontacted CATAPOTUS and confirmed that WALLACE was as "connected" as he said he was, and MULLINAX instructed CATAPOTUS to treat WALLACE nicely.

During another contact, WALLACE told CATAPOTUS that he wanted ROGER CLINTON on contract for $35,~~000 per month~~. CATAPOTUS stated the foundation could not possibly afford to pay ROGER CLINTON $35,000 per month. WALLACE then instructed CATAPOTUS on how he could obtain the money. CATAPOTUS can get $5,000 per month from the Council of Cooperating Governments and $30,000 per month from the railroad union. This would be ~~paid to~~ ROGER CLINTON through the foundation. CATAPOTUS, now trying to delicately get out of the situation, put things back into perspective. He reminded WALLACE that all he needed was a guest speaker for a seminar. CATAPOTUS then decided to try to get a guest speaker on his own.

CATAPOTUS decided to contact RODNEY SLATER in an effort to fill the guest speaker role. SLATER is a friend of FRANK STEWART, and CATAPOTUS later lobbied for SLATER's appointment with the Department of Transportation (DOT). CATAPOTUS' contacting of SLATER predated his DOT appointment.

ROGER CLINTON personally telephoned CATAPOTUS. The caller ID on CATAPOTUS' telephone indicated ROGER CLINTON was calling from Farmers Branch, Texas. It was apparent during the conversation that ROGER CLINTON had discussed the $35,000 per month contract with WALLACE and was aware of details WALLACE and CATAPOTUS discussed. ROGER CLINTON provided CATAPOTUS with his telephone numbers, including a pager number. CATAPOTUS did use these numbers on occasion to initiate later contacts.

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Continuation of FD-302 of JOHN CATAPOTUS, On 5/16/97, Page 4

CATAPOTUS had several conversations with ROGER CLINTON. CATAPOTUS told ROGER CLINTON that it was not worth $35,000 per month to have a guest speaker. ROGER CLINTON claimed that WALLACE did not have any influence that he (ROGER CLINTON) did not already have. In fact, ROGER CLINTON claimed that WALLACE had to go through him to get things handled. ROGER CLINTON stated that he would like to discuss this more, but not on the telephone, and invited CATAPOTUS to visit him in Redondo Beach, California. ROGER CLINTON then told CATAPOTUS that, "They had only four years to get things done, they didn't care about ethics or what appearances were." CATAPOTUS believed "they" referred to ROGER CLINTON and his brother, President CLINTON.

A few minutes after this telephone call, WALLACE contacted CATAPOTUS and told him that he would have to stay involved in this contract issue with ROGER CLINTON. WALLACE also told CATAPOTUS something to the effect that he (CATAPOTUS) would have to "show the money" before anything would happen regarding the airport.

CATAPOTUS told ROGER CLINTON that he (CATAPOTUS) would have to discuss the contract issue with the Foundation Board. ROGER CLINTON later said that he was tired of doing favors without being recognized or compensated, meaning to CATAPOTUS that ROGER CLINTON was expecting to be paid.

During the last five months, CATAPOTUS has written, faxed, and called the office of RODNEY SLATER to have him be the guest speaker. To date, there has not been a response, not even a "no." CATAPOTUS did ask a staff member why he could not get even a "no" answer. CATAPOTUS talked to a staff member by the name of BONNIE ROBINSON. He described her as sounding honest and decent. He expressed his suspicions that Mr. SLATER's office had not responded because of influence by ROGER CLINTON and/or LARRY WALLACE not to do so. Ms. ROBINSON assured him that his suspicions were not the case. She did acknowledge knowing who ROGER CLINTON and LARRY WALLACE were.

Later that day, CATAPOTUS received a telephone call. Upon his answering the telephone, the caller did not identify herself nor did she ask to speak to anyone. Instead, the caller immediately went into a dialogue stating that RODNEY SLATER's office disclaims any connection with ROGER CLINTON or

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Continuation of FD-302 of JOHN CATAPOTUS, On 5/16/97, Page 5

LARRY WALLACE. The caller did eventually identify herself as KATHERINE GRUNDIG of RODNEY SLATER's office. She told CATAPOTUS that, if he was not satisfied with her answer, he should contact the proper authorities. He responded, "OK," and hung up. Ms. GRUNDIG called back moments later asking if they had been cut off. CATAPOTUS replied they had not, that he had the information he needed and had hung up. CATAPOTUS described Ms. GRUNDIG's telephone demeanor as being short and curt.

CATAPOTUS followed up this telephone call with a letter to Ms. ROBINSON. Essentially, the letter stated that either the staff of RODNEY SLATER's office was incompetent in its handling of his request or he was a victim of an extortion. The letter was recently mailed, possibly last Friday (May 9, 1997). The purpose of sending the letter was to get some kind of response. He added that the airport project has a potential of adding 40,000 jobs to the area. He would like to see the airport project succeed even if he had to leave it.

CATAPOTUS has not heard from WALLACE in weeks. He believes that WALLACE and MACK MC LARTY, both attorneys, may have practiced law together.

CATAPOTUS has a friend who is a news reporter for AP. This friend, STEVE VISSER (phonetic spelling) works in Birmingham and was recently made aware of this situation. VISSER was eager to run a story on it, but CATAPOTUS has asked that it not be done at this time.

Los Angeles Times

DATE: 9/18/97
PAGE: A1

Friend of Clinton Aides Offered Help to Milosevic

Politics: Businessman secretly said he could act as contact between Serb leader, White House, officials say.

By JAMES RISEN
TIMES STAFF WRITER

WASHINGTON—A Little Rock, Ark., attorney and international businessman with close ties to senior advisors to President Clinton met secretly with Serbian President Slobodan Milosevic in 1994 and offered to act as an intermediary between Serbia and the United States, according to U.S. officials.

Larry C. Wallace, a 54-year-old Little Rock lawyer and friend and former business associate of longtime Clinton aide Thomas "Mack" McLarty, met with Milosevic in Belgrade, when civil war was raging in what had been Yugoslavia.

At the time, Wallace was attempting to gain entree to the Greek cable television market, and he said in an interview that his meeting with Milosevic was arranged by the Greek government, which has close relations with nearby Serbia.

Wallace's activities on the international stage put him in a category that includes several other Arkansas lawyers and businessmen who, as private citizens, apparently represented themselves abroad as friends of the president and who may have used their connections in Washington to advance their business interests.

In this group is Mark E. Middleton, a special assistant to McLarty when McLarty was White House chief of staff at the beginning of Clinton's presidency. Middleton, whom Wallace describes as a friend, became an international deal maker after leaving the White House in early 1993, and he is now a central figure in the campaign finance controversy.

But more broadly, Wallace's tangled tale suggests that, in pursuit of his business interests, he was willing to trade on his ties to the Clinton White House at the behest of a foreign country—namely, Greece, in the process, he seems to have become a player in a complex international drama of war and peace.

Wallace's meeting with the Serbian president, widely regarded in the West as one of the primary aggressors in the Yugoslav civil war, triggered a highly sensitive investigation by the Central Intelligence Agency, which learned of the meeting only when informed of it by Serbian intelligence, according to CIA sources. The CIA's inspector general is still examining how the matter was handled within the agency, CIA officials said.

Wallace confirmed in an interview that he met privately with Milosevic and discussed the Balkans crisis, but he insisted that he never told anyone at the White House about it.

Wallace said he told Milosevic during their private meeting in Belgrade that he could act as a messenger to the Clinton White House, but only if he sought permission from Washington first. He said that Milosevic did not give him any message to take back to Washington and that he never heard from the Serb president again.

In their meeting, Wallace said, Milosevic conducted a nearly hourlong monologue, insisting that he was working for peace and stability in the region, that he was tolerant of ethnic minorities and that he considered himself a friend of the United States. Above all, Wallace said, Milosevic expressed concern about the international economic sanctions imposed on his country.

"I hardly said five words," Wallace recalled.

At the end of the meeting, Wallace said, he pointedly asked Milosevic what he wanted from him.

"I said to Milosevic, 'I don't know if you are expecting me to deliver a message, but if you are, you have got to let me know. And if you do want me to take a message, I've first got to seek permission to do that.' So I did offer, but it was in the way of being polite," Wallace said that he has never had any business dealings in Serbia and did not discuss business opportunities in Serbia with Milosevic.

After their meeting, Wallace said: "I wrote the man a thank-you note and I never heard from him again. And I never discussed this with anybody at the White House."

Wallace's visit came to the CIA's attention after the Serb government contacted the agency's station in Belgrade to check up on Wallace, agency sources said.

"Somebody in the field sent this back to headquarters, about a meeting between Milosevic and a guy named Larry Wallace," said a former senior CIA official. "The question came up from the field: What is going on with Larry Wallace?"

Eventually, the CIA learned that Wallace's meeting with Milosevic had been arranged through the Serbian ambassador to Greece.

CIA officers were told by the Serbs that Wallace "was there to offer his services to attempt to solve the problems of Yugoslavia," said a former CIA official. The CIA was told by the Serbs that Wallace claimed that "he had all these high-powered connections, and could do all kinds of things to ease the [international] sanctions" that were then in place against Serbia, the former CIA official added.

Wallace offered a remarkable account of how an obscure Arkansas lawyer ended up in a secret meeting with one of the world's most notorious dictators.

Wallace is a lifelong friend of McLarty and more recently, a Clinton political ally, serving in 1992 as a member of the Clinton-Gore Arkansas Finance Council. Since 1992, Wallace has contributed a total of $47,000 to Clinton-Gore campaigns and the Democratic National Committee, according to Federal Election Commission records.

An Arkansas native with bachelor's and law degrees from the University of Arkansas, Wallace quickly became active in local and state political and community affairs. He and McLarty, a college classmate, maintained a lifelong friendship, and Wallace served on the board of directors of Little Rock-based Arkla Inc. when McLarty was running the gas utility firm.

Eventually, Wallace gained the attention of Gov. Bill Clinton, and in 1984 he chaired a petition drive backed by Clinton to amend the state constitution to lengthen the governor's term in office from two years to four.

15 Cont'd

Finance Council. Since 1992, Wallace himself has contributed a combined total of $47,000 to Clinton-Gore campaigns and the Democratic National Committee, according to Federal Election Commission records.

Wallace became involved in a wide variety of business ventures, including the acquisition of shopping centers and other real estate, a frozen yogurt franchise and a Little Rock television station. He also had his share of business setbacks, including the demise of the Little Rock law firm that he had helped found, and he suffered through a long-running financial dispute with his former partners in an ill-fated arms company.

Throughout, Wallace maintained his close friendship with McLarty and, after the 1992 presidential election, helped McLarty make the transition from running Arkla to running the White House staff.

A White House spokesman said records show that Wallace visited the White House at least a few dozen times from 1993 through 1997, primarily to see his friends from Arkansas, including McLarty and Middleton.

McLarty said through a White House spokesman that while he and Wallace "have been friends for over 20 years," he had "no knowledge of Mr. Wallace's activities in Serbia."

Robert Luskin, an attorney for Middleton, said Wallace's visits to Middleton were "primarily social. . . . Mr. Middleton was never asked by Wallace to do anything on a visit to Yugoslavia."

But it didn't take long after the 1992 presidential election for Wallace to realize the business value of his Arkansas political connections.

"You know, in 1993, I think there were a lot of people trying to figure out who was who from Little Rock," Wallace recalled. "That activity has died down now, but there for a while, people from Little Rock were getting calls from around the world from people trying to see who knew somebody. And I tried to be accommodating. . . . I didn't know who to make mad or who not to make mad."

In 1993, Wallace began to commute frequently to Washington to work as a lobbyist, operating out of the offices of the Washington law firm of Ackerson & Bishop. In an April 1993 Associated Press interview, Wallace was candid about how he took advantage of his White House ties on behalf of his clients.

would you be receptive to having a meeting in the office with the chairman of some company or having lunch with him?' And he says, 'Yeah.'" Wallace told AP.

"What I've done is find out through the chief of staff's office who is responsible in the administration" for specific policy decisions. "I set up an appointment and get an idea what the plans are—see what way they're leaning on policy and how we could assist them."

In 1993 he also began to take advantage of his White House connections to make international business and political contacts. "I was trying to get into the television business in Greece," Wallace said in the interview with The Times. "I did a lot of research on cable television there."

In the process, Wallace met then-Greek Prime Minister Andreas Papandreou, who soon began to ask Wallace for small favors in Washington.

Among other things, Wallace said, the ailing prime minister, who died in 1996, asked Wallace to help him gain access to experimental drugs in use in the United States and to try to arrange for him to receive care at Walter Reed Army Hospital in Washington. Wallace said he passed on Papandreou's requests to the State Department.

Before long, however, Wallace said he began to receive more difficult requests. Wallace said an official close to Papandreou asked him to go to Macedonia, a republic formed from the splintered Yugoslavia, to try to convince its leaders to change the name of their country and the design of their flag. Greece and Macedonia have battled over both issues for years, and the Greeks apparently hoped Wallace's White House connections would increase pressure on Macedonia.

Wallace said he refused to go to Macedonia. But in 1994, while he was in Athens trying to develop his cable television deal, he said a Greek government official asked him to visit the Greek Foreign Ministry.

He said he was escorted to the office of George Papandreou, the deputy foreign minister and the son of the prime minister.

But George Papandreou wasn't there. Papandreou said through a Greek government spokesman that he had never heard of Larry Wallace and knew nothing of his visit to Milosevic.

Instead, Wallace said, he found Greek government officials who did not identify themselves. "They said, 'Could you go to Serbia and visit with the president of Serbia?' I didn't know what they were talking about," Wallace said.

But Wallace, clearly hoping to please the Greek government at a time when he was hoping for a cable television deal, agreed. The next morning a Greek official took him to the Athens airport and put him on a plane to Serbia.

In Belgrade, Wallace said, a driver from the Greek Embassy took him to meet Milosevic and picked him up again afterward.

Wallace said that he never understood exactly why the Greeks arranged for his visit, and that he still does not know why Milosevic wanted to see him.

"I didn't get any instructions from the Greeks about what I was supposed to do when I saw Milosevic, and I didn't get any instructions from Milosevic on what he wanted, either," Wallace said.

"He just poured out his heart about his efforts to bring peace and stability, and what a friend his country had been to the U.S.," Wallace recalled of his meeting with Milosevic. "And I said thank you very much, and I never had one phone call to follow up. It beats me what I was doing there."

Yet as he left Serbia, Wallace recalled, he began to realize that the meeting with Milosevic might "not have been the right thing to do." And he began to wonder whether he had been caught up in some complex international game that he didn't understand.

And so Wallace kept the story to himself, unaware that the CIA investigated the matter until he was contacted by The Times.

"I never considered telling anyone at the White House," he said. "There was nothing that Milosevic said that I thought anybody really needed to hear. It was just self-serving talk."

Times staff writers Alan C. Miller and William C. Rempel and researcher D'Jamila Salem Fitzgerald contributed to this story.

FBI-RC-0000026

THE SOUTHEAST
AND AMERICA'S AVIATION FUTURE
A SYMPOSIUM SPONSORED BY THE COUNCIL OF COOPERATING GOVERNMENTS AND THE BIRMINGHAM AREA CHAMBER OF COMMERCE

June 27, 1997 — Harbert Center

8:30 a.m.

I. **Welcome**- Mayor Richard Arrington, Jr., Mayor, City of Birmingham
Commissioner B.R. Williams, Etowah Co., Acting Chairman - CCG

8:40 a.m.

II. **Overview of Seminar-Purpose**- Dr. John Katopodis, Ex. Dir. Council of Cooperating Governments; Don Newton, Birmingham Area Chamber of Commerce

8:50 a.m.

III. **Introduction of Speakers for Morning Session**-Mayor Steve Means, Gadsden

9:00 a.m.

IV. **Denver International**-America's Newest Airport- Ginger Evans, CH2MHill

10:00 a.m.

Break

10:20 a.m.

V. **Hartsfield International**- America's Busiest Airport- Angela Gittens, Dir. Hartsfield

11:30 a.m.

VI. **Lunch**-Introduction of Secretary Slater by Sidney Barthelemy, former mayor, New Orleans, La.
AMERICA'S AVIATION NEEDS IN THE 21ST CENTURY- **Secretary of Transportation Rodney Slater**

1:00 p.m.

VII. **Introduction of Speakers for Afternoon Session**- Hon. William Bell, Alabama International Airport Authority

1:10 p.m.

VIII. **The Atlanta-Birmingham Partnership**- A Model for Regional Cooperation- Mike Dobbins, Planning Dir. City of Atlanta

1:40 p.m.

IX. **Another Airport for Alabama** -Pipe Dreams and Wasted Money- Don Newton, Dir. Birmingham Area Chamber of Commerce, Jim Brough, Birmingham Airport Authority

2:10 p.m.

Break

2:25 p.m.

X. **Not in My Back Yard**- Community Opposition to Airports-Memory Gleason, Steele

3:00 p.m.

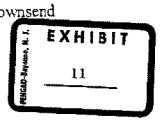
XI. **The Role of the FAA** in Airport Development- Rusty Chapman, Atlanta Region, FAA

3:30 p.m.

XIII. **The Airlines and Airports**- The San Diego Experience-Frank Stuart-Consoer-Townsend

4:00 p.m.

XIX. **Closing Thoughts**- All participants



LARRY C. WALLACE

425 WEST CAPITOL, SUITE 3801
LITTLE ROCK, ARKANSAS 72201
[redacted]
FAX [redacted]

Tuesday, September 24, 1996
3:59 PM

Confidential Fax Message

Dr. John Katopodis
Executive Director
Council of Cooperating Governments
2101 Sixth Avenue north-Suite 200
Birmingham, AL 35203

FAX [redacted]

Dear Dr. Katopodis,

I just received your fax together with a copy of your letter to Secretary Pena. I will be pleased to help you. I will be away from the study tomorrow morning but returning to my study on late Wednesday afternoon. When I return I will give you a call. If you need me this afternoon I am at [redacted].

I look forward to our visit.

Sincerely,

Larry C. Wallace [via computer]

EXHIBIT
12

LARRY C. WALLACE
ATTORNEY-AT-LAW
425 WEST CAPITOL, SUITE 3801
LITTLE ROCK, ARKANSAS 72201
FAX [redacted]

Tuesday, October 01, 1996
10:16 AM

FAX

Dr. John Katopodis
Council of Cooperating Governments
2101 Sixth Avenue North Suite 200
Birmingham, AL 35203

FAX [redacted]

Dear John,

I just visited with Bob Nash at the White House and he is going to do what he can. Please send him copies of your letters to Secretary Pena via fax and federal express.

Bob's address is as follows:

Bobby J. Nash
Assistant to the President
and
Director of Presidential
Personnel
The White House
153 Old Executive Office Building

EXHIBIT
13

LARRY C. WALLACE
October 1, 1996

Washington , D.C. 20500

FAX 202-[redacted]

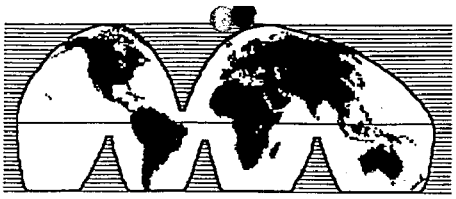
Telephone (202) [redacted]
Assistant - Ruth Eaglin (202) [redacted]

Please call me when you get a minute to visit.

Sincerely,

Larry C. Wallace

FBI-RC-0000201



FAX IN BRIEF

TO: John Katopodis, PhD., Council of Cooperating
FAX: [redacted]
FROM: Larry C. Wallace

PAGES (INCLUDING COVER): 1

Wednesday, October 2, 1996

Dear John,

After our visit this afternoon I gave some thought to the Amtrack problem. I have a suggestion regarding a resource that was right under my nose. If you are still in your office please call me tonight in my study. Thanks. Larry

EXHIBIT
14

FBI-RC-0000191

From the TelePort of: **Larry C. Wallace**

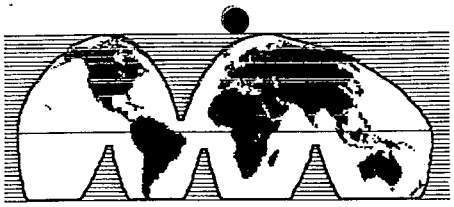
Date: October9, 1996 Number of Pages: 1

To: Dr. John Katopodis, Council of Cooperating Government
Fax Number: [redacted]

Memo: Dear John,
I will be in Washington next Thursday and Friday (17-18) and would like to see you if you should also be in town. I hope all is going well. You should be hearing something very shortly from the Secretary. Larry

EXHIBIT
15

FBI-RC-0000162



FAX IN BRIEF

TO: **John Katopodis, PhD., Council of Cooperating**
FAX: [redacted]
FROM: **Larry C. Wallace**

PAGES (INCLUDING COVER): **1**

October11, 1996

Dear John,

I just spoke to my friend at the White House. All White House liaison's report directly to him. The transportation liaison was to get the answer to you. He was surprised that we had not had a call. He is to follow up this afternoon and get back to me. I will call or send you a fax over the weekend. If you need me call [redacted]. I hope went well for you in Washington. Larry

EXHIBIT
16

FBI-RC-0000146

URGENT FAX

WISH TO: John Katopodis, Pi[redacted]Council of Cooperating

FAX: [redacted]

FROM: Larry C. Wallace

PAGES (INCLUDING THIS COVER): 1

Dear John,

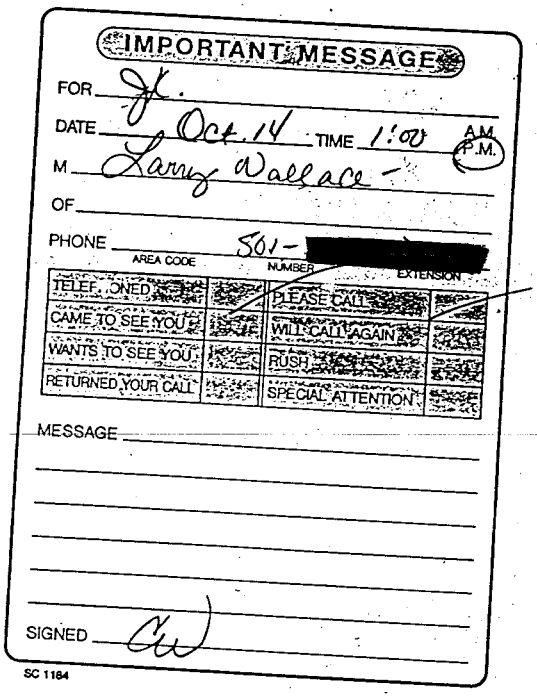
I just received a call from the White House. Short term bad news, long term good news. Please give me a call when you can visit. I will be at [redacted] all weekend. Larry

October12,1996

EXHIBIT

17

FBI-RC-0000169



IMPORTANT MESSAGE

FOR J.

DATE Oct. 14 TIME 1:00 A.M. P.M.

M Larry Wallace -

OF

PHONE AREA CODE 501- [redacted] NUMBER EXTENSION

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

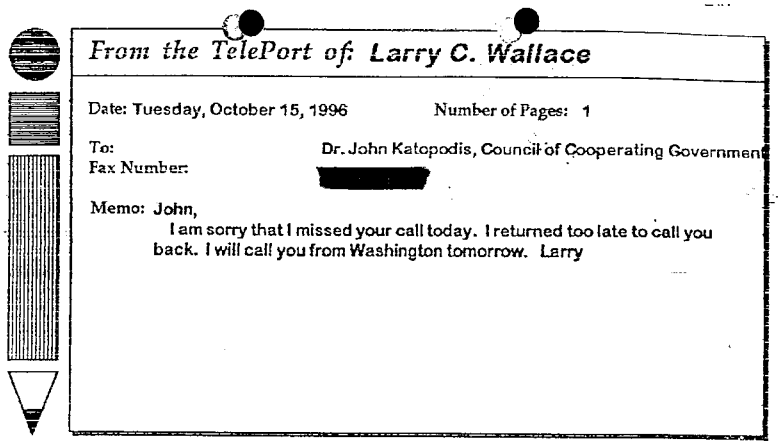
MESSAGE

SIGNED

SC 1184

EXHIBIT 18

FBI-RC-0000159



From the TelePort of: **Larry C. Wallace**

Date: Tuesday, October 15, 1996 Number of Pages: 1

To: Dr. John Katopodis, Council of Cooperating Governments
Fax Number: [redacted]

Memo: John,
I am sorry that I missed your call today. I returned too late to call you back. I will call you from Washington tomorrow. Larry

EXHIBIT
19

FBI-RC-0000168

MATONY INC.

北村隆司

Ryuji Kitamura

205 East 42nd Street, Suite 1312
New York, N.Y. 10017

Tel : (212) 973-0052
Fax : (212) 973-0054

Tel : (212) 681-0985
Fax : (212) 681-6276

united transportation union

GENERAL COMMITTEE OF ADJUSTMENT
CONRAIL (PLE-T)
AMTRAK - USA
SEPTA
D & H
CANTON

C. A. IANNONE
Secretary

1515 MARKET STREET, SUITE 515 PHILADELPHIA, PA 19102
PHONE: (215) 564-1750 HOME: (215) 363-0497

LARRY WALLACE
425 WEST CAPITAL STE. 3801
LITTLE ROCK, ARK. 72201

501-[redacted]
501-[redacted] FAX
501-[redacted]

501-[redacted] (C)
[redacted]
FAX

Wilbert F. Schwartz C.F.A. C.L.U.
TRUSTEE

Voice Mail (201) 402-8767
California (310) 479-4004
California Fax (310) 479-1204
New Jersey (908) 766-7509
New Jersey Fax (908) 766-9392

Executive Life Insurance Company Trusts
11400 West Olympic Boulevard, Third Floor
Los Angeles, California 90064

Home Address
199 Anderson Hill Road
Bernardsville, New Jersey 07924

ROGER CLINTON
(310)[redacted]
(310)[redacted] FAX
1-888-[redacted] PAGER
FARMER'S BRANCH
P [redacted]

EXHIBIT
20

FBI-RC-0000035

COUNCIL OF COOPERATING GOVERNMENTS

Founding Governments
City of Birmingham
City of Gadsden
Etowah County
St. Clair County

Mayor Steve Means
Chairman

2101 Sixth Avenue North • Suite 200
Birmingham, AL 35203
Telephone (205) 326-6768

Executive Director
Dr. John Katopodis

December 19, 1996

Hon. Rodney Slater, Administrator
Federal Highway Administration
United States Department of Transportation
400 7th Street S.W.
Washington, D. C. 20590

Dear Mr. Slater:

Congratulations on your pending appointment as Secretary of Transportation. We applaud your selection to this most important post and know your service to our country will be as outstanding as it has been in your current position.

This letter comes to ask your consideration in giving the keynote address at a symposium the Council of Cooperating Governments has planned on the status and future of air travel in the United States. A copy of the tentative agenda is attached. We have left the event date open to accommodate your schedule in hopes that you can join us. We would like to hold this conference mid-February or as soon thereafter as possible, but because your participation is so important to us, we are willing to move it to any date on which you might be able to speak.

The symposium is sponsored by the member cities of the Council of Cooperating Governments and the Birmingham Area Chamber of Commerce. A focus of the seminar is the proposed Alabama International Airport being discussed as a possible second airport for Hartsfield and a long term replacement for Birmingham International Airport. Mayors Arrington and Campbell have had this matter under consideration for several years and the planning process is moving forward, although implementation of the project may be as much as a decade away.

The meeting will be attended by many local and state elected officials from the region, as well as, by media and interested public. We do not expect it to be controversial in any way and are not looking for an endorsement or a position from you, USDOT, or the FAA in this matter. The purpose of your participation is to set a tone for discussion of our nation's long term aviation needs and provide our member governments and people of our area with information concerning the Clinton Administration's vision for the future of air transportation in America.

FBI-RC-0000076

EXHIBIT
21

We are anxious to assist you in any way we can to achieve the national goals you are setting for transportation improvement in our country. We believe we can be a valuable asset in helping to mobilize congressional support from our region to help achieve a vision which is clearly outlined and commonly held. In addition, this symposium offers a good opportunity and forum in which to present your vision and goals for the nation's transportation systems.

The attached proposed agenda and schedule can be changed in any way you deem appropriate to accommodate your plans. Please advise us of any changes you might desire or other conditions under which you might be willing to participate. We will greatly appreciate hearing from you as soon as possible so that we may send out invitations to invited speakers and guests and finalize the seminar plans. Thank you for your consideration in this matter.

Sincerely,

Dr. John Katopodis
Executive Director

JK/j

cc: Mayor Richard Arrington, Jr., City of Birmingham
Mayor Bill Campbell, City of Atlanta
Mayor Steve Means, City of Gadsden
Commissioner B.R. Williams, Acting Chair CCG
Congressman Earl Hillard
Don Wilson, Chairman SEA
Don Newton, President, Birmingham Area Chamber of Commerce
Larry Wallace
Frank Stuart
Robert Tannen

THE SOUTHEAST
AND AMERICA'S AVIATION FUTURE
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June 27, 1997 Harbert Center

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8:40 a.m.

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8:50 a.m.

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9:00 a.m.

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10:00 a.m.

Break

10:20 a.m.

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Break

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X. **Not in My Back Yard**- Community Opposition to Airports-Memory Gleason, Steele

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3:30 p.m.

XIII. **The Airlines and Airports**- The San Diego Experience-Frank Stuart-Consoer-Townsend

4:00 p.m.

XIX. **Closing Thoughts**- All participants

U.S. Department
of Transportation
Federal Highway
Administration

Office of the Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

January 22, 1997

Refer to: HOA-1

Dr. John Katopodis
Executive Director
Council of Cooperating Governments
2101 Sixth Avenue North, Suite 200
Birmingham, AL 35203

Dear John:

I am honored to know of your support of my nomination to become Secretary of Transportation. I am honored that President Clinton has given me this new opportunity, and if the Senate confirms my nomination, I will look forward to serving the American people. I also know that this Department and this Nation face many transportation challenges in the years ahead. For that reason, I am pleased to know I can count on your support.

Under Secretary Peña, this Department has significantly improved the intermodal transportation system the United States will need in the 21st century to sustain the strongest economy in the world, to increase our competitiveness in international markets, and to help each American realize his or her full potential. I look forward to building on the rich legacy of the President's first term. But much remains to be accomplished and, with your help and that of our partners throughout the Nation, I am confident we will enter the new century with a strong, safe, and efficient transportation system that will benefit all Americans.

Thanks again for your support.

Sincerely yours,

Rodney E. Slater
Administrator

EXHIBIT
22

FBI-RC-0000041

COUNCIL OF COOPERATING GOVERNMENTS

Founding Governments
City of Birmingham
City of Gadsden
Etowah County
St. Clair County
Mayor Steve Means
Chairman

2101 Sixth Avenue North • Suite 200
Birmingham, AL 35203
Telephone (205) 326-6768
Facsimile (205) 326-8819

Executive Director
Dr. John Katopodis

FACSIMILE TRANSMISSION DATE: 2/24/97 Time: _____

TO: Peg Weathers

PHONE: (202) 366-7952

NO.PAGES: _____

FROM: J.K.

FAX NO:205-326-8819 PHONE:205-326-6768

COMMENTS:
CAN YOU PLEASE TELL ME WHEN WE MIGHT HAVE AN ANSWER TO THIS INVITATION? WE HAVE MUCH PLANNING WHICH IS ON HOLD. THANKS.

EXHIBIT 23

COUNCIL OF
COOPERATING
GOVERNMENTS

Founding Governments

City of Birmingham
City of Gadsden
Etowah County
St. Clair County

Mayor Steve Means
Chairman

2101 Sixth Avenue North • Suite 200
Birmingham, AL 35203
Telephone (205) 326-6768

Executive Director

Dr. John Katopodis

April 11, 1997

To: Eddie Carazo
From: Dr. John Katopodis

It has been almost four months since I wrote the attached letter and to date have not had the courtesy of a response. I have spoken with your office on several other occasions concerning this matter. I spoke with you personally over a week ago to express my chagrin. Now, could you please have your attorney or political liaison officer call me at their earliest convenience to discuss details from my perspective as to why there may be a delay in getting an appropriate response?

If I do not hear from you by Wednesday, April 16, I will assume that no response will be forthcoming and act accordingly.

cc: Roger Clinton
Larry Wallace

EXHIBIT
24

FBI-RC-0000089

COUNCIL OF
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GOVERNMENTS

Founding Governments

City of Birmingham
City of Gadsden
Etowah County
St. Clair County

Mayor Steve Means
Chairman

2101 Sixth Avenue North • Suite 200
Birmingham, AL 35203
Telephone (205) 326-6768

Executive Director

Dr. John Katopodis

April 28, 1997

To: Vonnie Robinson
From: Dr. John Katopodis

Re: June 27, 1997 schedule

The Council of Cooperating Governments issued a request to Secretary Slater in December, 1996, prior to his appointment as Secretary, to keynote an aviation seminar we have been planning for many months. To date, we have not had the courtesy of a response to this request, despite several conversations with Eddie Carazo concerning it.

I understand that the Secretary has a request pending to speak in Birmingham on June 27th at the Urban Impact meeting and is also planning to meet with a number of prominent businessmen here at that time. Is it possible to include us in the Secretary's schedule on that day? We are flexible as to the hour. If not, is there any other time we might arrange for him to speak to our group of elected officials from around the Southeast?

I would greatly appreciate hearing from you in this matter. A copy of the proposed agenda is attached.

EXHIBIT
25
FENGO-Bayonne, N. J.

THE SOUTHEAST
AND AMERICA'S AVIATION FUTURE
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Break

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2101 Sixth Avenue North • Suite 200
Birmingham, AL 35203
Telephone (205) 326-6768

Executive Director
Dr. John Katopodis

May 8, 1997

To: Vonnie Robinson
From: John Katopodis

Thanks for taking the time to talk with me yesterday. After we spoke, Catherine Grundig called me on my digital phone at about 5:45p.m. CST. Without calling me by name, asking a single question, or clarifying a single point, she launched into a spiel about the situation I had described to you and suggested that I turn over any allegations of wrongdoing to the proper authorities for criminal investigation. Her demeanor and attitude were quite offensive and I told her I would do that, thanked her, and then hung up. She called back suggesting we must have been cut off. I told her that, in fact, I had hung up and did so again.

I can't begin to tell you how disgusted I am with this whole matter. If it is the normal policy of your office to not respond to written requests from established organizations, then perhaps I am wrong in my assumptions about the lack of response being tied to an attempt at extortion.

In any event, it is clear to me that some members of your staff, either by incompetence or intent, are not serving well the interests of the Secretary or this Administration. I wanted you to know, however, that I did not feel that way about you and your efforts to clarify this matter. I certainly appreciate the time and energy you devoted to the situation. The cavalier manner in which your colleagues operate, however, indicate to me that they do not take this matter seriously. I very much regret this.

FBI-RC-0000088

EXHIBIT
26

COUNCIL OF COOPERATING GOVERNMENTS

Founding Governments
City of Birmingham
City of Gadsden
Etowah County
St. Clair County
Mayor Steve Means
Chairman

2101 Sixth Avenue North • Suite 200
Birmingham, AL 35203
Telephone (205) 326-6768
Facsimile (205) 326-8819

Executive Director
Dr. John Katopodis

FACSIMILE TRANSMISSION DATE: 4/16/97 Time: _____

TO: KEN MULLINAX

PHONE: (202) 226-0772

NO.PAGES: 6

FROM: J. K

FAX NO:205-326-8819 PHONE:205-326-6768

COMMENTS:
Help! Help!

EXHIBIT 27

DISTRICT OF NEW JERSEY
PRESENTENCE REPORT

NAME (Last, First, Middle) GAMBINO, ROSARIO aka: "Saro";"Sarino"; "Saruzzo"; and "Shorty"

DICTATION DATE: November 20, 1984

ADDRESS: Metropolitan Correction Center, New York, New York

LEGAL RESIDENCE: [redacted]

SCHEDULED SENT. DATE: December 3, 1984

DOCKET NO.: 84-00098-001

CITIZENSHIP: Permanent resident

AGE	RACE	DATE OF BIRTH	PLACE OF BIRTH	SEX
42	White	[redacted]	Palermo, Italy	Male

EDUCATION: Fourth grade

SOC. SEC. NO.:

MARITAL STATUS: Married

DEPENDENTS: Wife and four children

OTHER IDENTIFYING NO.: N.J. SID# 840910 A

FBI NO.: 224 487 E

U.S. MARSHAL NO.: 06235-050

OFFENSE: See Offense Section

TO BE RELEASED FOR PAROLE PURPOSES IN ACCORDANCE WITH PUBLIC LAW 94-233 ONLY. INMATE NOT TO RETAIN COPY.

PENALTY: See Offense Section

CUSTODIAL STATUS: In custody in lieu of $900,000 surety

DATE OF ARREST: April 16, 1984

PLEA:

VERDICT: 10-23-84, found guilty by jury to counts 2, 11,12,13,17 & 18

DETAINERS OR CHARGES PENDING: District of New Jersey, Cr. #83-364, Conspiracy to Defraud U.S. Department of Treasury and False Statements - pending trial.

OTHER DEFENDANTS: See Offense Section

USPC/Gambino-00037

ASSISTANT U.S. ATTORNEY	DEFENSE COUNSEL
Maryanne Murphy 201-645-2357	Jacob R. Evseroff (retained) 186 Joralepin Street Brooklyn, N.Y. (212-875-0903)

DISPOSITION: CAG 15 yrs.,SPT 10 yrs. on Cts.11& 12(merged),stand comm.fine of $25,000;CAG 15 yrs.& SPT 10 yrs. on Cts.17&17(merged),stand comm.fine of $25,000 to be served consecutive to sent. imposed on cts.11&12,CAG 15 yrs.on Ct.2;Stand comm.fine of $25,000,to be served consecutively w/sentences imposed on merged Ct 17 & 18 & merged Cts.11 & 12. CAG 4 yrs.on Ct.13,stand comm.fine $30,000 to be served concurrently only as to sentences imposed on ct.2,merged Cts.17 & 18 & Cts. 11, 12. TOTAL SENT:CAG 45 yrs. SPT 20 yrs. Stand Committed fine of $105,000

SENTENCING JUDGE	DATE	PROBATION OFFICER
Frederick B. Lacey,Judge, Newark, N.J.	12-06-84	Michael G. C

EXHIBIT 28

COPY 1

U. S. DISTRICT COURT -1A- GAMBINO, Rosario

STATUS OF DEFENDANTS

NAME	COUNTS NAMED IN	PLEA/CONVICTION STATUS	DISPOSITION
Rosario GAMBINO 84-00098-001	1 through 4, 11 through 13, 17, 18.	10-23-84: Found guilty of Counts 2, 11, 12, 13, 17, 18.	
Erasmo GAMBINO 84-00098-002	2 through 5, 7, 11, 12, 15, 17, 18.	10-23-84: Found guilty of Counts 2, 3, 4, 5, 7, 11, 12.	
Giovanni BOSCO 84-00098-003	2 through 4, 11, 12, 14, 16 through 18.	Fugitive.	
Anthony SPATOLA 84-00098-004	2 through 4, 7, 8, 10 through 18.	10-23-84: Found guilty of Counts 2, 7, 8, 10, 11, 12, 13, 14, 16, 17, 18.	
Antonio GAMBINO 84-00098-005	2 through 6, 8 through 12, 17, 18.	10-23-84: Found guilty of Counts 2, 3, 4, 5, 8, 10, 11, 12, 17, 18.	
Mario GAMBINO 84-00098-006	2 through 4, 6, 9, 11, 12, 17, 18.	10-23-84: Acquitted on all Counts.	

USPC/Gambino-00038

Exh P 2

U. S. DISTRICT COURT -18- GAMBINO, Rosario

OFFENSE:

Indictment. Count 1 charges that between October 1, 1983 and March 16, 1984, Rosario Gambino knowingly and intentionally engaged in a continuing criminal enterprise, in that he committed a violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A), 843(b) and (c) and 846, which violations were part of a continuing series of felony violations of Subchapters I and II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, undertaken by Rosario Gambino in concert with at least five others, with respect to whom he occupied a position of organizer, supervisor, and manager, and from which continuing series of violations Rosario Gambino obtained substantial income and resources in violation of Title 21, U. S. C., Section 848.

Penalty. Inapplicable. Gambino was acquitted.

Count 2 charges that between October 1, 1983 and March 16, 1984, at Atlantic City and elsewhere, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally conspired to distribute heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A).

Penalty. 15 years imprisonment and/or $25,000 fine.

Count 3 charges that on December 27, 1983, at Marmora, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally possessed with intent to distribute a quantity of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2.

Penalty. 15 years imprisonment and/or $25,000 fine plus Special Parole Term of at least 3 years.

Count 4 charges that on December 27, 1983, at Marmora, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally distributed a quantity of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2.

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Penalty. 15 years imprisonment and/or $25,000 fine plus Special Parole Term of at least 3 years.

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FOI EXEMPT

Count 5 charges that on January 2, 1984, at Villas, Erasmo Gambino and Antonio Gambino knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty: 4 years imprisonment and/or $30,000 fine.

Count 6 charges that on January 3, 1984, at Villas, Antonio Gambino and Mario Gambino knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or $30,000 fine.

Count 7 charges that on January 17, 1984, at Cape May, Erasmo Gambino and Anthony Spatola knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or $30,000 fine.

Count 8 charges that on January 17, 1984, at Cape May, Anthony Spatola and Antonio Gambino knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or $30,000 fine.

Count 9 charges that on January 17, 1984, at Villas, Antonio Gambino and Mario Gambino knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or $30,000 fine.

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Ex A P 4

FOI EXEMPT

Count 10 charges that on January 18, 1984, at Cape May, Anthony Spatola and Antonio Gambino knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or $30,000 fine.

Count 11 charges that on January 18, 1984, at Atlantic City and elsewhere, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally possessed with intent to distribute approximately 1/2 kilogram of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2.

Penalty. 15 years imprisonment and/or $25,000 fine plus Special Parole Term of at least 3 years.

Count 12 charges that on January 18, 1984, at Atlantic City, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally distributed approximately 1/2 kilogram of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2.

Penalty. 15 years imprisonment and/or $25,000 fine plus Special Parole Term of at least 3 years.

Count 13 charges that on January 30, 1984, at Cape May, Rosario Gambino and Anthony Spatola knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or $30,000 fine.

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Count 14 charges that on January 30, 1984, at Cape May, Giovanni Bosco and Anthony Spatola knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

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FOR EVIDENCE

Penalty. 4 years imprisonment and/or $30,000 fine.

Count 15 charges that on February 17, 1984, at Cape May, Erasmo Gambino and Anthony Spatola knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or $30,000 fine.

Count 16 charges that on February 17, 1984, at Cape May, Giovanni Bosco and Anthony Spatola knowingly used and caused to be used a communication facility, i.e., a telephone, in facilitating a conspiracy to distribute heroin, a felony under Title 21, U. S. C., Section 846 in violation of Title 21, U. S. C., Sections 843(b) and (c) and Title 18, U. S. C., Section 2.

Penalty. 4 years imprisonment and/or $30,000 fine.

Count 17 charges that on February 20, 1984, at Somers Point, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally possessed with intent to distribute approximately 1/2 kilogram of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2.

Penalty. 15 years imprisonment and/or $25,000 fine plus Special Parole Term of at least 3 years.

Count 18 charges that on February 20, 1984, at Somers Point, Rosario Gambino, Erasmo Gambino, Giovanni Bosco, Anthony Spatola, Antonio Gambino and Mario Gambino knowingly and intentionally distributed approximately 1/2 kilogram of heroin, a Schedule I Narcotic Drug Controlled Substance in violation of Title 21, U. S. C., Sections 841(a)(1) and (b)(1)(A) and Title 18, U. S. C., Section 2.

Penalty. 15 years imprisonment and/or $25,000 fine plus Special Parole Term of at least 3 years.

Prepared by: Donald T. Inamorato

FOR EVIDENCE

GOVERNMENT'S VERSION OF THE OFFENSE

This case originated in October of 1983, with the introduction of an undercover agent of the Federal Bureau of Investigaton, Special Agent Michael J. Glass, to ANTONIO GAMBINO by a person known as "Hank." Prior to this meeting, Hank had made a number of ounce purchases of high level quality cocaine from ANTONIO GAMBINO, a native of Sicily residing in Cape May, New Jersey. During the course of those negotiations as indeed in the first meeting between ANTONIO GAMBINO and Special Agent Glass, ANTONIO GAMBINO stated that he had access to high quality heroin.

Beginning with this first meeting, ANTONIO GAMBINO consistently spoke of the dangers involved in heroin trafficking and in doing business with the persons who could and did provide him with heroin. He stressed the importance of exercising extreme caution and of doing everything perfectly. A mistake, such as introducing an undercover agent to conspirators, even if made innocently, would result in death. Although apparently not well versed in the details of heroin trafficking, ANTONIO GAMBINO continuously made it clear that the persons who would supply him were deeply entrenched in the heroin network, assuring Special Agent Glass that because of the people he was getting it from, the quality of the heroin

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Ex. A

would be the best. He also stated that his people would not consider any proposed deals of less than one kilogram of heroin. On another occasion, ANTONIO GAMBINO explained to Special Agent Glass that persons involved in heroin trafficking held his people in great respect and all wanted to buy heroin from them. Repeatedly, he referred to the persons supplying him with heroin as members of his family.

Throughout his conversations with Special Agent Glass, ANTONIO GAMBINO was obviously deeply committed to pursuing additional and larger heroin transactions with Special Agent Glass. On many occasions when a turn in events proved unsatisfactory to Special Agent Glass or to his superior, ANTONIO GAMBINO would encourage Special Agent Glass not to abandon the heroin deals by reminding him of the great deal of money to be made. Yet, once the heroin deals were under way, ANTONIO GAMBINO spoke openly to Special Agent Glass about the relatively small amount of money he was earning from the heroin sales. ANTONIO GAMBINO explained to Special Agent Glass the apparent inconsistency between his expressed desire to make a lot of money and continued desire to be involved in more heroin deals despite his small profits. He stated that he was involved in the heroin deals not for the immediate profits but for the future he hoped to secure through his involvement in the heroin deals. When viewed in the context of all his comments about the people from whom he would obtain the heroin,

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ANTONIO GAMBINO's explanation to Special Agent Glass about his motivation suggests that he believed that if his handling of the heroin deals proved satisfactory to the persons providing the heroin, the heroin deals could pave the way toward his acceptance within a criminal organization of which his suppliers were members.

Therefore, although ANTONIO GAMBINO and, later, ANTHONY SPATOLA, did not specifically identify the persons from whom they would receive heroin, they did provide Special Agent Glass with valuable information as to the identity of these persons. To summarize, these persons were dangerous, deeply entrenched in the heroin trafficking network and had a family relationship with ANTONIO GAMBINO and ANTHONY SPATOLA. In addition, the comments by ANTONIO GAMBINO as to his aspirations imply that the persons providing the heroin belonged to a structured criminal organization.

Early in the investigation, it became apparent that the supply of heroin was maintained in Brooklyn and that the Caffe Milano in Brooklyn was a recognized meeting place used by co-conspirators to discuss their transactions. When an agreement was finally reached between Special Agent Glass and ANTONIO GAMBINO that Special Agent Glass would purchase one kilogram of heroin for $235,000, ANTONIO GAMBINO indicated that he would obtain a sample of the heroin while in Brooklyn for the Christmas holiday. Upon his return, ANTONIO GAMBINO

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delivered the sample of heroin to Special Agent Glass on December 27, 1983. It was understood that Special Agent Glass would deliver this sample to his people in Las Vegas who would then decide, based upon the quality of the sample, if they wanted to purchase the kilogram of heroin. After providing the sample, ANTONIO GAMBINO called on a daily basis to ask if Special Agent Glass had received an answer from his people.

On Friday, December 30, 1983, Special Agent Glass called ANTONIO GAMBINO at Figaro's Pizzeria No. 2, his place of employment, and told him that the sample was good, although not as good as Gambino had promised. Special Agent Glass, who was ostensibly calling from Las Vegas, said that he would return on Tuesday and that they could plan on a sale of one kilogram of heroin the week thereafter. Immediately after this telephone call, ANTHONY SPATOLA used the Figaro's Pizzeria No. 2 telephone to make the first of six calls to reach ERASMO GAMBINO that day.

Telephone contact was finally made on the afternoon of January 2, 1984, in a conversation participated in by ERASMO GAMBINO, ANTHONY SPATOLA and ANTONIO GAMBINO. In this conversation, ANTONIO GAMBINO repeated to ERASMO GAMBINO the information he had received from Special Agent Glass on December 30, 1983 through a colloquial code which referred to the heroin deal as "getting married." The evidence at trial, including the harried efforts to reach ERASMO GAMBINO after

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Special Agent Glass' call on December 30, 1983, the substance of this conversation as well as one between Antonio Gambino and his brother Mario Gambino intercepted on January 4, 1984, demonstrated that ERASMO GAMBINO had supplied ANTONIO GAMBINO with the sample of heroin which had been provided to Special Agent Glass on December 27, 1983.

It was also apparent from the January 2, 1984 conversation among ERASMO GAMBINO, ANTHONY SPATOLA and ANTONIO GAMBINO that ERASMO GAMBINO's approval was a pre-requisite to the proposed heroin deal with Special Agent Glass. To this end, a meeting was arranged for the following evening at the Playboy Hotel Casino in Atlantic City, New Jersey. During the course of that meeting between ERASMO GAMBINO and ANTONIO SPATOLA, ERASMO GAMBINO was observed placing a telephone call which, telephone toll edits revealed, was to the Caffe Milano in Brooklyn. Following this meeting, ANTHONY SPATOLA and GIOVANNI BOSCO drove to Figaro's Pizzeria No. 2 in Villas, New Jersey, where ANTONIO GAMBINO was working. ANTHONY SPATOLA reported the results of the meeting to ANTONIO GAMBINO who subsequently related them to his brother, Mario, in a conversation intercepted that evening. As ANTONIO GAMBINO told his brother, everything was "all set;" ERASMO GAMBINO had been sent by "Sarino," ERASMO GAMBINO's brother-in-law, ROSARIO GABMINO. In addition to approving the deal, ROSARIO GAMBINO also exercised control over who would actively participate in

the heroin transactions. Through ERASMO GAMBINO, ROSARIO GAMBINO announced that GIOVANNI BOSCO, rather than Mario Gambino, was to be included in the deals.

The approval for the heroin deal having been obtained, Special Agent Glass met with ANTONIO GAMBINO and ANTHONY SPATOLA, who was introduced to him as "the Boss" from out of state." Without prior warning, the defendants insisted that the meeting take place in a Jacuzzi whirlpool and that Special Agent Glass wear a bathing suit so that they could be assured that Special Agent Glass was not wearing a recording device. At this meeting it was agreed that Special Agent Glass would purchase one kilogram of heroin for $235,000 from the defendants at one of the casino-hotels in Atlantic City during the week of January 16, 1984. At Special Agent Glass' suggestion it was further agreed that Special Agent Glass would inform his people that the price was $240,000 and that the additional $5,000 would be split among Special Agent Glass, ANTONIO GAMBINO and ANTHONY SPATOLA.

On Friday, January 13, 1984 Special Agent Glass called ANTONIO GAMBINO to tell him that he would return to Atlantic City on Monday, January 16, 1984 with the money and everyone necessary for the heroin deal and that the deal could be set for Tuesday. In this conversation, ANTONIO GAMBINO introduced Special Agent Glass to two colloquial codes, the marriage code mentioned above and one relating to the buying of a new car.

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and instructed him to use this "new language" in telephone conversations. Immediately after this telephone conversation, ANTONIO GAMBINO called ANTHONY SPATOLA to relay this information to him, using the same marriage code he had taught to Special Agent Glass. On the same day, ANTHONY SPATOLA called ERASMO GAMBINO and advised him, again using the same marriage code, that they would be asking to "have this marriage" on Tuesday. ERASMO GAMBINO advised ANTHONY SPATOLA that he would contact him.

On Monday, January 16, 1984, Special Agent Glass called Figaro's Pizzeria No. 2 to notify ANTONIO GAMBINO that he, his people and the money were all ready for the deal on Tuesday. ANTONIO GAMBINO attempted to postpone the transaction to Thursday. When Special Agent Glass indicated that they could not wait until Thursday, ANTONIO GAMBINO immediately called ANTHONY SPATOLA. In an effort to meet Special Agent Glass's requirement that the heroin sale be completed on Tuesday, ANTONIO GAMBINO and ANTHONY SPATOLA discussed the need to reach ERASMO GAMBINO and what should be said to him when contact was made. It was learned that ERASMO GAMBINO was in Brooklyn and would not return to his home in Cherry Hill until the following evening. SPATOLA made several attempts to reach ERASMO GAMBINO at his home and at the Caffee Milano in Brooklyn. In one of these calls to the Caffee Milano, ANTHONY SPATOLA unsuccessfully asked for ERASMO (ERASMO GAMBINO), Sarino (ROSARIO GAMBINO) and Giovanni (GIOVANNI BOSCO).

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Ex A P.13

In conversations intercepted that evening ANTHONY SPATOLA, ANTONIO GAMBINO and GIOVANNI BOSCO discussed their difficulties in trying to reach ERASMO GAMBINO so that the heroin sale could be made on the following day. They also discussed the possibility of having to go over ERASMO GAMBINO'S head, to "go directly to the short guy (ROSARIO GAMBINO)." GIOVANNI BOSCO advised ANTHONY SPATOLA that "the short guy (ROSARIO GAMBINO)" would be in Brooklyn the next morning. He assured ANTHONY SPATOLA that he would get involved and see the short guy (ROSARIO GAMBINO)" and that the deal would then go through.

At 12:30 a.m. on January 17, 1984, ERASMO GAMBINO placed a collect call to ANTHONY SPATOLA in response to ANTHONY SPATOLA's repeated efforts to reach him. ANTHONY SPATOLA urgently stated that he must see ERASMO GAMBINO and early. When ERASMO GAMBINO offered to see him the next evening or the following day, ANTHONY SPATOLA interrupted him, saying "No, ERASMO,... no, no...," there followed this exchange:

E. GAMBINO: I don't have, undertand?

A. SPATOLA: No, tomorrow!

E. GAMBINO: It's not like I have it in my pocket ...

A. SPATOLA: Then everything is spoiled.

E. GAMBINO: Understand?

A. SPATOLA: Erasmo ...

E. GAMBINO: Yea

A. SPATOLA: Everything is here ...

Thus, ANTHONY SPATOLA informed ERASMO GAMBINO that everything was ready for the deal and that it must take place the following day. ERASMO GAMBINO in turn advised ANTHONY SPATOLA that the heroin was not immediately available, that its availability was a "day by day" factor. In response to ANTHONY SPATOLA's urging, ERASMO GAMINO indicated he would call back in 15 to 20 minutes, presumably after attempting to secure the heroin for ANTHONY SPATOLA. When he called back, ERASMO GAMBINO used a code known to be used by the conspirators for heroin, telling ANTHONY SPATOLA," there's no pizzaiolo for tomorrow." ANTHONY SPATOLA's response was "We're in trouble." ERASMO GAMBINO explained the uncertainties of heroin availability, saying, "A quarter for one, a quarter for another." His comments demonstrate that the sources for the heroin sold to the undercover agents had numerous purchasers so that, upon obtaining a quantity of heroin, such supply was rapidly depleted by sales as small as a quarter-kilogram, a practice which apparently displeased ERASMO GAMBINO. ERASMO GAMBINO further told ANTHONY SPATOLA that some heroin was "guaranteed" for Thursday, saying "... the person I deal with, told me 'Thursday'". Immediately after this telephone call, ANTHONY SPATOLA called ANTONIO GAMBINO to advise him that "He said for Thursday." ANTONIO GAMBINO exclaimed, "No, it cannot be. We're ruined." ANTHONY SPATOLA told ANTONIO GAMBINO to see if Special Agent Glass would agree to Thursday when they

spoke the following morning. If not, ANTHONY SPATOLA said, they would "have to play [their] cards with Saruzzo (ROSARIO GAMBINO); he would go down and see Saruzzo (ROSARIO GAMBINO) in the morning.

On the following day, January 17, 1984, Special Agent Glass refused to wait until Thursday and ANTHONY SPATOLA went to Brooklyn, spending much of the day at the Caffe Milano. The evidence presented at trial, which included surveillances of ROSARIO GAMBINO's Mercedes Benz at the Caffe Milano, and contemporaneous and subsequent conversations between ANTHONY SPATOLA and ANTONIO GAMBINO describing ANTHONY SPATOLA's conversations with ROSARIO GAMBINO, conclusively demonstrated that while in Brooklyn SPATOLA met several times with ROSARIO GAMBINO; that in less than two hours, ROSARIO GAMBINO arranged to obtain a half-kilogram of heroin for ANTHONY SPATOLA as a favor and that ROSARIO GAMBINO attempted to secure the whole kilogram of heroin for them. Further, ROSARIO GAMBINO indicated that the whole kilogram would be available the next day or the day after. ROSARIO GAMBINO also increased the price of the heroin. He claimed to have obtained the heroin from someone else as a favor to ANTHONY SPATOLA, indicating to ANTHONY SPATOLA (although not persuading him) that he was making no profit on the deal. He further assured ANTHONY SPATOLA that he would take care of "them" the next week, that there would be heroin available for them at good prices with no problems.

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ANTHONY SPATOLA and GIOVANNI BOSCO finally received the heroin at approximately 1:00 a.m. on January 18, 1984 and drove to the Caesar's Boardwalk Regency Hotel in Atlantic City, New Jersey, where SPATOLA joined ANTHONY GAMBINO and the undercover agents. ANTHONY SPATOLA and ANTHONY GAMBINO then sold approximately 460 grams, just under one-half kilogram, of heroin to the undercover agents for $112,400. This heroin had a purity of 68.3%. When heroin is sold at the street level, a customary purchase would be approximately one-tenth of a gram of heroin having a purity of 2% and sold for $20. Therefore, the heroin sold to the undercover agents on January 18, 1984, if cut for street level distribution, would yield over 15 kilos having a value of more than $3 million.

The transaction and meeting among ANTHONY SPATOLA, ANTHONY GAMBINO and the undercover agents lasted approximately two hours, from 4:00 a.m. until about 6:00 a.m. During the course of this meeting ANTONIO GAMBINO repeatedly made reference to his source of supply as his family. He was very secretive about his family and his family name. However, he told the agents that after this and other deals, he might be able to disclose his last name. He stated that when the agents knew their last name, they would be proud to be dealing with them, that they would feel 100% secure in dealing with them. He boasted that his family was "really big, big" and that "we can give you all the guarantee you want." In fact, the

Ex. A
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defendants are all related to each other. For example, ROSARIO GAMBINO is the brother-in-law of ERASMO GAMBINO, the cousin of ANTHONY SPATOLA and the second cousin of ANTONIO GAMBINO. ERASMO GAMBINO is a cousin to ANTONIO GAMBINO and the godfather of his wife. ANTHONY SPATOLA and GIOVANNI BOSCO are also brothers-in-law.

During the course of this meeting, Special Agent Jack Short, who was posing as Special Agent Glass' boss in this operation, told ANTHONY SPATOLA and ANTONIO GAMBINO that he wanted to have a steady supply of heroin for a distribution network he was initiating on the west coast. He said he wanted a guarantee of a set amount of heroin for each month and asked for a guarantee of 10 kilograms per month, SPATOLA indicated that he was doubtful that they could guarantee such a large amount but told Special Agent Short that they would ask and let him know.

GIOVANNI BOSCO, ANTHONY SPATOLA and ANTONIO GAMBINO left the casino after their meeting with the undercover agents. Despite the facts that they had been up all night and that a snowstorm was threatening, they drove approximately 60 miles west, going out of their way, and going directly to ROSARIO GAMBINO's residence in Cherry Hill, New Jersey. They stayed there a short time and then drove approximately 80 miles to Cape May, New Jersey, where ANTHONY SPATOLA and ANTONIO GAMBINO resided. ERASMO GAMBINO, who resides in a house

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E.O. EXEMPT

adjacent to ROSARIO GAMBINO, was also observed making [illegible] visit at ROSARIO GAMBINO's house that morning. In light of the intercepted conversations between ANTONIO GAMBINO and ANTHONY SPATOLA, and the attendant circumstances, it is apparent that the purpose of the trip to ROSARIO GAMBINO's residence was to deliver the money received from the heroin transaction to ROSARIO GAMBINO, the man who had obtained the heroin for this deal.

The deal and this trip were both discussed at length in a conversation between ANTONIO GAMBINO AND ANTHONY SPATOLA intercepted on January 22, 1984. This conversation clearly demonstrates the supervisory roles of ROSARIO GAMBINO and ERASMO GAMBINO in the continuing conspiracy. ERASMO GAMBINO was to be paid $200,000 for each kilo of heroin sold to the agents. It was apparent from the conversation that ROSARIO GAMBINO had the authority to determine who would be actively involved in the heroin negotiations and transactions and how the profits could be divided among the participants.

On January 19, 1984, the day after the heroin deal, ANTHONY SPATOLA and GIOVANNI BOSCO were observed meeting with ERASMO GAMBINO in Philadelphia in the vicinity of Pennsylvania Hospital. After their meeting, ERASMO GAMBINO was observed entering Pennsylvania Hospital, where ROSARIO GAMBINO was a patient, having admitted himself on the previous afternoon. In a conversation intercepted that evening between ANTHONY SPATOLA

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and ANTONIO GAMBINO, SPATOLA indicated that there was "good word for [them]," that he had spoken to him (probably ERASMO GAMBINO) about "the ten pizzas," apparently referring to Special Agent Short's request for a guarantee of 10 kilograms of heroin per month. A meeting between Special Agent Glass and ANTONIO GAMBINO was scheduled for the following day. ANTHONY SPATOLA informed ANTONIO GAMBINO that he could tell Special Agent Glass that "3 pizzaroli" (3 kilos of heroin) were available this month for a price of $235,000 each.

On the next day Special Agent Glass met with ANTONIO GAMBINO as planned. They discussed the heroin deal and ANTONIO GAMBINO gave $500 as part of his share pursuant to the agreement reached by ANTONIO GAMBINO, ANTHONY SPATOLA and Special Agent Glass on January 4, 1984. In response to the offer of 3 kilos, Special Agent Glass told ANTONIO GAMBINO that he would have to check with his boss, who was interested in determining the quality of the heroin already purchased, and that he should have an answer by the following Tuesday. That evening, ANTONIO GAMBINO called ERASMO GAMBINO and advised him of this conversation with Special Agent Glass.

A meeting was planned for Tuesday, January 24, 1984, the date when Special Agent Glass would have an answer from his boss. Prior to this meeting, a telephone call was intercepted between ERASMO GAMBINO and ANTHONY SPATOLA in which ANTHONY SPATOLA discussed the meeting with ERASMO GAMBINO and ERASMO GAMBINO warned him to be cautious.

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F.O.I. EXEMPT

USPC/Gambino-00097

On January 24, 1984, Special Agent Glass met with FBI EXEMPT ANTONIO GAMBINO and ANTHONY SPATOLA. He reported to them that his boss was disappointed in the quality of the heroin purchased from them on January 18, 1984, as it was only 65% pure. ANTONIO GAMBINO and ANTHONY SPATOLA were dismayed by this news but nevertheless repeatedly urged Special Agent Glass to convince his boss to purchase more heroin. They explained that they now had "the guarantee" for 10 kilos of heroin per month. Apparently referring to ROSARIO GAMBINO and ERASMO GAMBINO, they said "the people at the top" now knew that Special Agent Glass and his boss were to be taken seriously. Prior to the January 18, 1984 sale, "the family" didn't know this; they thought there would only be one deal. When Special Agent Glass had refused to postpone the sale from January 18, 1984, despite ANTONIO GAMBINO's indication that the heroin was not available then, the person now giving the 10 kilo guarantee (ROSARIO GAMBINO) had had to resort to obtaining the heroin from someone else to complete the deal. Now that one deal had been completed to their satisfaction, "they" were happy; they did not want to lose the 10 kilo per month deal; and they gave a 90% guarantee. ANTHONY SPATOLA and ANTONIO GAMBINO stressed that "they" had the best quality heroin available and that Special Agent Glass should try another purchase. They also told Special Agent Glass that three kilos of heroin were now available. Special Agent Glass replied that he would have to

FBI EXEMPT

ask his boss if he wanted to purchase more heroin and get back to them.

Shortly after their meeting with Special Agent Glass on January 24, 1984, ANTHONY SPATOLA and ANTONIO GAMBINO called ERASMO GAMBINO, who advised them that he was leaving home (in Cherry Hill, New Jersey) for Brooklyn. ANTHONY SPATOLA indicated that he would see him there. Apparently referring to their meeting with Special Agent Glass, ANTONIO GAMBINO told ERASMO GAMBINO that it "seems to be running into a storm." ERASMO GAMBINO replied that it was a "nutty business," and that you have to expect such things. ANTONIO GAMBINO added that he would like to see ERASMO GAMBINO also but that ANTHONY SPATOLA and GIOVANNI BOSCO would see him and explain what was happening.

On the following day, Special Agent Glass called ANTONIO GAMBINO to tell him that his boss, "Jack," would buy another 1/2 kilogram of heoin to see if the quality was improved. He would know on Friday when the deal might occur. Special Agent Glass met with ANTONIO GAMBINO and ANTHONY SPATOLA on that Friday, January 27, 1984, in Marmora, New Jersey. He told them that Jack would arrive in Atlantic City on Monday and leave on Tuesday. He wished to purchase 1/2 kilo of heroin on the condition that it was of high quality. ANTONIO GAMBINO and ANTHONY SPATOLA assured Special Agent Glass that the quality would be high but stated that they could not guarantee that it would be available on Monday. During the

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course of the meeting, ANTONIO GAMBINO and ANTHONY SPATOLA spoke to each other in Sicilian. "Caffe Milano" was mentioned and ANTHONY SPATOLA placed two telephone calls for which he needed $2 in change. Special Agent Glass also confronted ANTONIO GAMBINO and ANTHONY SPATOLA with a newspaper article from the Philadelphia Daily News which detailed a seven-month long undercover heroin investigation that had culminated in the arrests of a number of Sicilian defendants. Special Agent Glass challenged ANTONIO GAMBINO and ANTHONY SPATOLA as to whether it would be safe to continue to deal with them and whether future deals would be affected by the arrests. ANTONIO GAMBINO and ANTHONY SPATOLA indicated that there was no connection between their people and those named in the article. In conversations intercepted that day, however, ERASMO GAMBINO spoke to persons close to those arrested and offered his assistance in securing bail money and attorneys.

In a conversation later that day, ANTHONY SPATOLA spoke to GIOVANNI BOSCO about the pending negotiations. GIOVANNI BOSCO advised ANTHONY SPATOLA that he had told RG that the heroin deal with Special Agent Glass had to be completed by Monday and that he had said, "okay." He also told ANTHONY SPATOLA that it was agreed that ROSARIO GAMBINO would call either at GIOVANNI BOSCO's house or at ANTHONY SPATOLA's house.

On January 28, 1984, ANTONIO GAMBINO met with ERASMO GAMBINO and ROSARIO GAMBINO at ERASMO GAMBINO's home. He

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called ANTHONY SPATOLA from ERASMO GAMBINO's home and told him that it was "all set" but that there were some new developments; that they indicated to him there might be some trouble, that the heroin might not be available. The context of his comments in this conversation as well as the obvious impact the Philadelphia heroin arrests had on the subsequent negotiations indicate that ROSARIO GAMBINO and ERASMO GAMBINO considered those arrests to provide good cause to re-examine the negotiations and take additional precautions. Although not openly advising ANTHONY SPATOLA and ANTONIO GAMBINO of their concerns, they stalled, essentially postponing the next scheduled heroin sale indefinitely until further information was obtained which would satisfy them.

When Special Agent Glass called on Monday, January 30, 1984, the scheduled date for the next heroin sale, ANTONIO GAMBINO admitted that the deal was not set, that a third person would have to meet Special Agent Glass. He later indicated that the deal could be consummated the following day and set up a meeting with Special Agent Glass and his boss for that evening at 9:00 p.m.

Prior to that meeting, there were a series of telephone calls intercepted which cemented the identification of ROSARIO GAMBINO as "Saruzzo" and "the short one," the person plainly in control of these heroin transaction. Among the calls was one between ANTHONY SPATOLA and ROSARIO GAMBINO, in

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which ROSARIO GAMBINO informed ANTHONY SPATOLA, in code, that the deal was "iffy" for the next day, but that there would be heroin available that week, that some would arrive on Wednesday. ROSARIO GAMBINO told ANTHONY SPATOLA that he would call him if it arrived sooner. This information was quickly repeated by ANTHONY SPATOLA to ANTONIO GAMBINO and GIOVANNI BOSCO and was conveyed to the undercover agents at the 9:00 p.m. meeting. On the following day, ANTONIO GAMBINO advised Special Agent Glass that they still had no news but that the deal could definitely be completed on Thursday. Later that evening, ANTHONY SPATOLA spoke to "Saro" (ROSARIO GAMBINO) at the Caffe Milano. "Saro" once again told ANTHONY SPATOLA that it (heroin) might arrive tomorrow and that if it did, he would call SPATOLA so that he could go and pick it up.

On that Thursday, February 2, 1984, ANTONIO GAMBINO called Special Agent Glass and set up a meeting for that afternoon, at which time Special Agent Glass would have to meet a third person. Prior to this meeting, ANTHONY SPATOLA and GIOVANNI BOSCO were observed meeting with ERASMO GAMBINO at the Caffe Milano in Brooklyn. The meeting that afternoon began with a preliminary meeting between Special Agent Glass and ANTONIO GAMBINO at which ANTONIO GAMBINO explained that everyone was very cautious as a result of the heroin arrests in Philadelphia and that Jack would have to meet a third individual before there could be any more deals. The meeting

proceeded with SPATOLA and GIOVANNI BOSCO, who was introduced to Special Agent Glass as "John." BOSCO was upset that Jack was not at the meeting and stated that there would be no heroin available until the weekend. There was a second meeting that evening attended by Special Agent Glass, Special Agent Jack Short, ANTONIO GAMBINO, ANTHONY SPATOLA and GIOVANNI BOSCO, at which ANTONIO GAMBINO indicated his annoyance that Special Agents Glass and Short were not purchasing the three kilos of heroin they had available. As the negotiations at this point were clearly hampered by the loss of confidence by ANTONIO GAMBINO's people following the Philadelphia arrests, it appears that the agents' unwillingness to purchase the three kilos of heroin that were available may have appeared questionable to them. The meeting was followed by two early morning calls in which ANTONIO GAMBINO at first indicated the 1/2 kilo was available prior to Jack's announced departure the following morning and then retreated, offering only a sample of heroin. These conversations, when viewed within the context of other intercepted conversations, appear to reflect an internal conflict among the defendants as to whether or not it was safe to proceed with further transactions with the agents. Despite this difference of opinion, it was clear that those who insisted upon exercising caution, apparently ROSARIO GAMBINO and ERASMO GAMBINO were in control.

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F.B.I. EXHIBIT

An additional condition was set before there could be any more sales. ANTONIO GAMBINO told Special Agent Glass that his people were still unsure, that he and ANTHONY SPATOLA would have to travel to California to learn more about "Jack" to reassure them, and added that he was "too young to die." In subsequent conversations, he continued to refer to the absolute necessity of the California trip as a result of the Philadelphia heroin arrests. Once Special Agent Glass called ANTONIO GAMBINO to tell him that he was able to set up the trip, ANTONIO GAMBINO told him, in the same conversation, that some "pizza" (heroin) might be available prior to the trip. Special Agent Glass met with ANTONIO GAMBINO on February 14, 1984, to discuss the trip. Again, ANTONIO GAMBINO emphasized the necessity of the trip. Special Agent Glass told ANTONIO GAMBINO that Jack had agreed to the trip but wanted GIOVANNI BOSCO to accompany ANTHONY SPATOLA and ANTONIO GAMBINO on the trip. ANTONIO GAMBINO told Special Agent Glass that he would have to let him know if this condition was acceptable. After this meeting, which introduced a new condition to the critical California trip, there were a number of intercepted conversations on that day which revealed concentrated efforts by ANTHONY SPATOLA to reach ROSARIO GAMBINO. Two days later, ANTONIO GAMBINO called Special Agent Glass to report that GIOVANNI BOSCO would be going along to California.

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On the following day, Friday, February 17, 1984, ERASMO GAMBINO met with ANTONIO GAMBINO and ANTHONY SPATOLA pursuant to their request. That evening, a telephone conversation was intercepted between ANTHONY SPATOLA and GIOVANNI BOSCO. BOSCO told ANTHONY SPATOLA that he had been with "the short one" (ROSARIO GAMBINO), who had contacted somebody else and that that person had said, "okay," there were two (kilos of heroin) available. Apparently as a result of Special Agent Glass' indication that the next purchase would only be for 1/2 kilo, SPATOLA asked if it could be "half" (kilo) and BOSCO replied that SPATOLA should try to get Special Agent Glass to purchase one (kilo). Within minutes of this telephone call, ANTONIO GAMBINO called Special Agent Glass and told him that there were "two fresh pizzas" (2 kilos of heroin) available immediately. That evening it was agreed that Special Agent Glass would purchase 1/2 kilo of heroin on Monday, February 20, 1984.

On Monday, ANTONIO GAMBINO insisted that the heroin deal be shifted from the Caesar's Boardwalk Regency Hotel, where he believed he was under surveillance, to another location. As a result, ANTONIO GAMBINO and ANTHONY SPATOLA met with Special Agent Glass and Special Agent Roy L. Clagg at approximately 5:45 p.m. at a motel in Somers Point, New Jersey. Despite their prior successful transaction, ANTHONY SPATOLA and ANTONIO GAMBINO demanded that the agents front 1/2

the purchase price prior to the transfer of the heroin. After receiving the money, ANTHONY SPATOLA brought it to a neighboring restaurant where he met with GIOVANNI BOSCO then proceeded to the parking lot where GIOVANNI BOSCO and gave ANTHONY SPATOLA the heroin. ANTHONY SPATOLA returned to the motel where he and ANTONIO GAMBINO sold approximately 1/2 kilo of heroin of 73.8% purity to the agents for $120,000. Again during this meeting, ANTONIO GAMBINO spoke of the need to satisfy his people that the agents were "good people" since they didn't know who they were. He spoke of their reluctance to deal under such circumstances and lack of motivation to do so since "the power is theirs."

Shortly after the heroin deal was completed, GIOVANNI BOSCO called ROSARIO GAMBINO's residence. ROSARIO GAMBINO's wife provided him with a message left for him by ROSARIO GAMBINO, indicating that ROSARIO GAMBINO would meet him in Brooklyn on the following day. GIOVANNI BOSCO then called the Caffe Milano, asked for "Sarino" and was seen at the Caffe Milano several times on the following day.

On March 16, 1984, ROSARIO GAMBINO, ERASMO GAMBINO, and ANTONIO GAMBINO were arrested. ANTHONY SPATOLA was already in federal custody on other charges. Search warrants were executed at the residences of ROSARIO GAMBINO and ERASMO GAMBINO. Two $100 bills that had been part of the buy money used by the undercover agents to purchase the heroin on

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GOVERNMENT EXHIBIT

February 20, 1984, were found in ROSARIO GAMBINO's bedroom. Also found in a secret compartment in his closet was over $20,000 in cash. At the time of his trial, ROSARIO GAMBINO testified that this money had been accumulated during the last few months of his business' operation so that he could pay off the business' bills after it closed on December 31, 1983. He indicated that he had been unemployed from December 31, 1983 until his arrest on March 16, 1984, but had not used any of the $20,000 to pay his living expenses or to pay any bills from his business. The search of his home also resulted in the seizure of confidential New York City police intelligence files relating to ROSARIO GAMBINO, including surveillance conducted at the Caffe Milano. These files were apparently illegally passed to ROSARIO GAMBINO by a detective of the New York City Police Department. The search of ERASMO GAMBINO's residence resulted in the recovery of an unregistered Smith & Wesson .38 caliber pistol and ammunition concealed in a hidden compartment of ERASMO GAMBINO's bedroom closet and a sample of heroin of 95.4% purity.

The Government's Version of the Offense was prepared by the prosecuting Assistant United States Attorney.

GAMBINO, ROSARIO November 20, 1984

Defendant's Version. Upon advice of counsel, the defendant declined to make a statement as he intends to appeal his case.

PRIOR RECORD:

Age	Charge	Place	Disposition
20	7-6-62: Violation of Immigration Laws	New York, N.Y. (Immigration & Naturalization Service)	7-27-63, deported to Italy (unverified).
	Numerous attempts were made to confirm the defendant's status with the Immigration and Naturalization Service and to obtain additional pertinent information with negative results.		
27	3-24-69: Petty Larceny, Resisting Arrest, Intoxicating Driving	New York, N.Y.	Not available at the time of this writing.
28	3-3-70: Assault & Criminal Trespass	New York, N.Y.	Not available at the time of this writing.
28	5-11-70: Extortion	New York, N.Y. (FBI)	9-24-73, dismissed.
37	7-23-79: Poss. of Dangerous Weapon, Contributing to the Delinquency of Minors	Cherry Hill, N.J.	1-4-80, dismissed by Camden County Prosecutor's Office.
38	3-18-80: Conspiracy to Import Heroin	Newark, N.J. (DEA)	Acquitted.

In this case, Rosario and his brother, Giuseppe Gambino, were arrested in their Cherry Hill Restaurant, Valentino's, for allegedly participating in an International heroin smuggling operation, after police in Milan, Italy, confiscated 41.5 kilograms (about 91 pounds) of heroin destined for the United States. The heroin had an estimated street value of about $60,000,000.00, making it one of the largest drug busts in the United States.

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GAMBINO, ROSARIO November 20, 1984

As a result of the above related arrest, Rosario Gambino was subsequently convicted in Italy. According to an official Court transcript, Rosario Gambino was found guilty and sentenced in absentia in the First Section of the Civil and Criminal Court of Palermo, Italy on June 6, 1983, to a term of 20 years imprisonment and a fine of $150 million lire for the participation in the Felony of Possession of Heroin for Export. It was also verified that the subject was represented by counsel while in absentia. According to a recent treaty with the Italian Government, Rosario Gambino is subject to extradition.

41	12-29-83: Conspiracy to Defraud U.S. Dept. of Treasury & False Statements	Camden, N.J. (U.S. Marshal)	Pending trial on Superseding Indictment, Cr. #83-364. acquitted

In this case, the subject and his brother, Giuseppe, are allegedly charged with a scheme, whereby, they created a fictitious person to front the sale of a Cherry Hill bar in New Jersey and to receive commissions from the said sale, which were then deducted as business expenses by the defendants.

Additional Criminal History Information:

According to the New Jersey State Crime Commission report and the Pennsylvania Organized Crime Commission Report of 1980, Rosario Gambino is described as a soldier and descendant in the Organized Crime Family of the late mob boss, Carlo Gambino. He, along with his brother, Giuseppe, own and operate pizza parlors in New York, Pennsylvania and Southern New Jersey to facilitate a continuing criminal enterprise. An agent from the U.S. Treasury Department, Alcohol, Tobacco and Firearms, advised of an investigation focusing on the defendant, who allegedly used a pattern of threats, coercion, violence and arson to facilitate illegal activities in Pennsylvania and New Jersey.

PERSONAL AND FAMILY DATA:

Rosario Gambino, now age 42 and the second eldest of four children, was born on [redacted] in Palermo, Italy to Tomasso Gambino and Salvastrici Spatola.

According to information provided by the defendant, he was raised by hard working and affectionate parents in Italy. He claims to have only received a fourth or fifth grade education prior to his illegal entry into the United States at the age of 17. Apparently, his parents, who immigrated to the United States in 1964, became permanent residents and established a successful butcher business. The subject claims to have worked in

the construction industry in New York but returned to Italy for an unexplained reason in approximately 1963. After serving in the Italian Army for the next three years, he returned to New York in August, 1966 and obtained permanent resident status. Although immigration information was not available, authorities have indicated that a conviction in the instant case would jeopardize his permanent resident status and subject him to deportation.

After returning to the United States, the defendant married Pina Romano, whom he had known as a child in Italy, in 1969 in Brooklyn, New York. Mrs. Gambino, now age 33, is not fluent in the english language and was unable to provide any confirming or enlightening information, other than that already provided by relatives. His children, Savanah, Anna, Thomas and Anthony, ages 9, 11, 13 and 14 respectively, are well-provided for and attend parochial school.

Although the defendant's memory became vague and faltered frequently when pressed for details during an interview, it is believed that the father purchased homes in Delran, N.J. in approximately 1972. Later, after the father had established a family business, Father and Son Pizza, Inc., which did business as King of Pizza in Philadelphia, Pa., he gave the family home to his daughter and returned to the New York area. The Delran home was subsequently sold and the defendant and siblings subsequently relocated to adjacent homes in Cherry Hill, N.J.

During an interview, Rosario Gambino only admitted that he worked in the pizza business until his father's death in approximately 1979 and later assisted his brother, Giuseppe, who subsequently inherited the family business. Although he denies a partnership or ownership in any business enterprise, the Pennsylvania Crime Commission Report indicates a partnership in the pizza business. Furthermore, in 1978, the defendant negotiated for a property on Walnut Street in Philadelphia and was aided by his wife who used her maiden name. The property was subsequently sub-leased to one of Rosario's employees. Furthermore, the report indicates that Giuseppe, the defendant and his older brother, formed Father and Son Pizza, Inc. which operates several pizza shops in the Philadelphia and Camden, N.J. areas. Father and Son, Inc. had pizza shops in buildings owned by the Falcone brothers of Brooklyn, N.Y. who are known to operate credit scams. When the Falcones sold their properties, the Gambinos continued operating the pizza businesses.

In approximately 1979, the defendant advised that his physical health prevented his further working and that he relied upon Giuseppe for total financial support. He related that Giuseppe pays all bills and provides him with approximately $2,000 per month in cash for personal expenses. Despite the fact that he claims great dependency upon relatives for services and transportation, the New Jersey Department

Ex A P 33

of Motor Vehicle records reflect numerous citations issued since May, 1975 for various Motor Vehicle Violations. Currently, his driving privileges have been suspended since July 4, 1984, due to persistent violations.

Reportedly, his brothers, Giuseppe (Joe) and Giovanni (John), currently reside in Brooklyn, N.Y. His only sister, Joanna, married Erasmo Gambino (no relation), a codefendant in this case. She resides with her family directly behind the defendant's residence, located on a neighboring street. The mother, now age 65, continues to reside in the defendant's fashionable Cherry Hill home.

HEALTH:

Physical. Mr. Gambino has a medium complexion, has brown eyes and black (partially transplanted) hair, is five feet seven inches tall and weighs 145 pounds. Although he presented a good physical appearance, he complained of poor physical health, as he states he suffers from frequent headaches, dizziness, sinuses, shortness of breath, chest pain and high blood pressure.

Medical records reflect that the defendant underwent laser surgery at First Pennsylvania Hospital in Philadelphia in 1979 for removal of non-malignant growths on the throat and subsequent removals in 1981, 1983 and 1984 for recurring growths. Occasionally, this condition has caused blood spitting. He was also hospitalized at Victory Memorial Hospital in Brooklyn, N.Y. in June, 1983 for polyps of the colon, requiring annual re-examination.

Mental and Emotional. Medical records at the Metropolitan Correction Center in New York City reflect the defendant was diagnosed while in custody as suffering from "situational anxiety with delusions." His memory, coping mechanisms and verbalization has improved greatly since the completion of the trial in this case. However, during an interview with this writer, the defendant expressed a concern that unspecified people were attempting to kill him and that he felt that if he were not killed, he would die of physical problems any way. Other than a competency examination ordered by the Court on May 16, 1984, the defendant has had no known psychological/psychiatric tests or treatment.

In general, the defendant conversed in broken english with the writer and seemed to understand the nature of the interview. Although he gave the impression of wanting to be cooperative, he frequently suffered memory loss when pressed for specific details regarding personal and financial activities.

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GAMBINO, ROSARIO November 20, 1984

FINANCIAL CONDITION:

Rosario Gambino's only physical asset is a large fashionable two-story, white stone residence, located on an 80 by 150 foot lot in a predominantly affluent residential area of Cherry Hill, N.J. The exterior appearance of the house, which was fronted by two large lighted fountains and surveyed by a video camera, gave the impression of interior spaciousness and elegance, even though the writer's access to the interior was not gained at the time of a direct visit. (Interviews with various family members were subsequently accomplished at the sister's residence for family convenience). Municipal records reflect that the lot is assessed in the amount of $8,850 and that the home is assessed in the amount of $85,450 for a total tax assessment of $94,300. A conservative market value for the structure is estimated in excess of $150,000.

The defendant denies ownership and/or partnerships in any other property or business enterprise despite the fact that the Pennsylvania Crime Commission Report states otherwise. He advised that his sole support since 1979 has been from his brother, Giuseppe, who neither confirmed nor denied the statements. Considering his proposed financial condition and income, the defendant's visible standard of living appears quite high and leaves much to speculation.

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EOIR EVIDENCE

202 PAROL TAPE II

HD The reason I called you in here, we've got I don't know how many people out there. I can't let everybody come in. So what I want you to do, now I'm going to let two people from USC Law School come in and I'm going to let one other person in, but that's all I'm going to let come in. So I want you to go back out there and sit with your family and your representatives right here and decide who's coming in. It's just too many people. Okay?

G No problem. Thank you.

HD Good morning. I want to introduce myself. I'm Harry Dwyer. I called Mr. Gambino in before I called the rest of you in. I did so for one specific purpose. That we had a large number of representatives present and I was not going to permit all those representatives. So I called him in, told him that I will allow law students from USC and the supervising attorney and I would allow one other person to be a representative. Otherwise I just wasn't going to allow all those people. So you've chosen one person and I'm going to get to him in a moment. Now, before we go any further, were you notified that you were going to have the hearing Mr. Rosato?

R Yes.

HD Did you get a disclosure packet?

R Friday we have, yea. Friday the 7th.

HD Did you guys get -- let me see what you got. Was it from the Commission in Kansas City?



-- Yes.

HD Was it about the probation office --

-- Like two reports from New Jersey and Pennsylvania. We got

four pages from the Pennsylvania report and a page from the New Jersey report.

HD I might say I do have the two page letter from you guys dated the 12th. That the most recent one you guys sent in?

-- We have not submitted anything in writing since then.

HD They didn't send that to you guys until last Friday?

R Right

-- I got it last Wednesday.

HD So it's been less than a week. You guys had sufficient time to discuss this and you're ready to respond to it?

-- Yes.

HD You sure? Because I'll give you guys a chance to confer if you're not.

R No, no.

HD Did you read your institution file? Or did you want to?

G No.

HD You had read it before. I'm going to go around the corner and I want for you to identify yourself.

-- I'm Daniel Brown.

HD Law student from USC, supervised by --

-- Charles Weiselberg.

HD Can I have your name please?

T Yes, my name is Tommy Gambino, the son.

HD Los Angeles?

T Correct.

HD You were here before, right?

T Yes.

HD When did you get a hearing, last year?

T February.

HD The Commission has ordered what they call a de novo hearing. I think you guys got a copy of the notice of action with primarily the emphasis on the reasons for exceeding the guidelines for more than 48 months to determine whether or not he was a member of organized crime. Thus, him not being a very good parole risk and also being a very serious parole risk. Because that's what they use to exceed the guidelines. I did in fact read the information that was presented. I think if there's any change in the guidelines -- say if I score anything like that, I came up with an additional point. Did you guys come up with an additional point on the salient factor scope?

-- I'd rate it as a 10.

HD A 10. That's what I came up with. It was a 9 before. He was 41 or older at the time of the commencement of the current offense.

-- I believe that's right. But even a 9 or a 10 would --

HD 9, 10, 11 are all in the same category, right. The only thing I counted was one conviction, that he lost one point on. Mr. Gambino, we've talked before about your involvement in the instant offense. I know you're saying that you're not guilty of anything. Right?

G No, that's not true.

HD What are you saying you're guilty of?

G Like I said last time, after the doctor found cancer in my throat and between the medication and my desperation, I throw myself in this. I did like ... I was wrong. Because like

Spatola, Boswick, Gambino, they got in. They says the price of the drug, it was .. and the parole board believed them because the parole board didn't believe them, I don't know how they got reason.

HD Let's go back a moment. Let's go back and look at the people that got convicted, got sentenced and what happen to them. Get that out of the way.

G I'm here to say the truth today.

HD Now, what did -- you're two relatives, actually three relatives, what did they get?

G One is my relative, Spatola.

HD Spatola, what did he get?

G He went home a couple of years ago.

HD How much time did he get?

G 34 years.

HD He got 34 years. Released how long ago? Two years ago?

G Little less than 2 years ago. At least a year.

HD One year ago. Who else got time?

G Boswick went home a couple years ago.

HD What did he get? He was a fugitive for a while.

G He was a fugitive. They give the judge --

HD How much time did he get?

G He got 15 and he did 5.

HD Served 5 and released. Who else?

G And Tony Gambino. He got two cases and he got 34 -- he's got 34 and 34. The judge put it together.

HD 68?

G Yea and he went home a couple of months ago.

-- He went home summer of '95.

HD How else?

G Me.

HD Mario?

G He was acquitted.

HD There's one other Gambino.

G Arozmo Gambino. 34 years.

HD He got 34. And where is he at?

G He's in New Jersey right now.

HD Has he got a release date?

G He's got to go through the parole board. Maybe not.

HD But he doesn't have a release date at this point. There were some pending charges. Whatever happened to those? District of New Jersey, conspiracy to defraud US Department of Treasury and false statements.

-- He was acquitted on all charges that are in there.

HD This was here. He was acquitted? Who had the heroine? Who owned the heroine?

G Dino Spatola. Spatola and -- he says Saita was the .. of the drug number one. Number two, when I went in trial, there was some paper, the FBI, they said they saw package to give it to Spatola by Mazala. So really I was just surprised at the drug because I wasn't talking about with my cousin Spatola because he was telling me, see if you can find it. But really, I never find any drug. Then they got this guy, they give him half a kilo one time. Another time you give him 400 for a gram.

HD But it didn't belong to you.

G Obviously no. Because what's the difference if I tell you I give it to him and if he's .. a kilo because I admit it, I was in a conspiracy. I admitted that. I wasn't in conspiracy, no. No question about it, I should have stopped. I make a mistake. I paid 12 years.

HD When did you first go to Court. The first time you went to court on anything. When was that?

G The first time? 1980 I had a trial for something they found in Milan.

HD You went to trial in '80 or '81 or when?

G 1980 and '79, yea.

HD You got acquitted of that.

G Yea, I got acquitted but I got sentenced in Italy, not no.

HD Did they try you in both places?

G I stand trial, yes.

HD They tried you in New Jersey but they tried you in absentia in Italy.

G Right. Please, I want to tell you another thing if I can. Sieteno, I got in New York and I got sentenced in Palermo in Sicily. After 3, 4 years, one it .. for the government. For the government, they never controlled. This guy takes a pizza connection. The drug that they find in Milano, there was for me a funeral for my brother. But they says he was ... other people. And he takes a flower, the pizza connection. They find, as a matter of fact, they charge on the pizza connection, this drug that they find in Milano. So is clear my name, there was --

HD When you speak of the pizza connection, I've heard some people

with the pizza connection. The ones I heard were from Chicago.

G There was a certain when I was originally, no. I don't know where they come from.

HD But you got convicted in Italy after you were acquitted in the United States.

G Right.

HD Is that conviction still valid over there?

G Yea, I got 20 years over there.

HD Do they have an extradition treaty between the US and Italy?

G I think so.

HD Has anybody talked to you about maybe extradited or anything?

G Not really, no.

HD I'm just wondering.

G Yes, there is a treaty. Yes.

HD They described you in these crime reports as being for organized crime. Do you want to respond to that?

G Okay. I read the report and I want the truth with my lawyer. I want the truth with myself. Really, the report, what did they say? They mentioned my name a few times like I tried to open a couple of pizza places. I tried to open a restaurant and disco. Really, they don't tie it up to any place. I wasn't 10 years before -- I never have any trouble. They says, they blame on my cousin Gambino family. I got to be honest with you. No. No because I don't want Gambino to be my cousin. He is no my cousin. No. I know Gambino.

HD What Gambino you talking about?

G Carlos. We no relative, no. What I tried to do before this,

I was try to make a living, to open a few places. And I did. I did open a couple of places. They mention a family over there. They never mention my name anyway. They mentioned a Gambino, they mentioned, but whatever.

HD You had ties back to him, right? You and Carlos -- Carlos's family had business connections?

G Not with us, no. We never was in business together and I know Mr. Gambino because see, like in New York, in Brooklyn, they say like Little Italy they call it. There's a lot of Italian --

HD I thought you guys, you leased some property from him.

G From Carlo? No. Never. We had a pizza place in Philadelphia.

HD Rojo wasn't -- or was that Giuseppi?

G This is my brother, Giuseppi.

HD Was he involved in that? In the pizza parlor that acts as the property -- not the pizza parlor, the property that belonged to Carlo?

G No, never. Philadelphia, it was a pizza place, it belonged to Pacona -- she's mozzarella people they hired. Anything you want, you can ask me anything.

HD I'm reading some of this stuff. I'm reading it and then I get to wondering about it. You were in business where?

G I was in business in Philadelphia.

HD And where else?

G Then I had a butcher shop in New York. Brooklyn. 48th Street and 5th Avenue. I had a butcher shop.

HD How about New Jersey?

G New Jersey, at one time I had a pizza place in Cherry Hill. They called it Rudy Pizza. Excuse, me the shop on -- that's the only pizza parlor in New Jersey. That's the only one.

HD Why do you think they keep mentioning your name so much?

G Because really no, when I was in Philadelphia, my brother, somebody come in, they want to put a cigarette machine in there in the pizza place. So we let them put the cigarette machine in the pizza place and then there was a big investigation because these people, they were going to Mr. Bruno, Angelo Bruno. So then after a little while they had a big investigation and me and my brother, as a matter of fact, we had a subpena about this in New Jersey. So we went to testify how we know Bruno, why, how. And at the time we know Bruno because the cigarette machine and I cleared up myself and I was in organized crime and anything like that. As a matter of fact, after that I never have any problem. You understand that the name of Gambino is like on each book and newspaper. But I'm not that one. I'm different. I'm a different one.

HD That's true, but as you say when they mention Gambino, everybody's ears perk up.

G I'm a Gambino, they think -- even over there they know. I do my time.

HD Besides being in the restaurant business, in the pizza business, beside being in a butcher shop and what was the other thing you were involved in? How about the business in New Jersey?

G Pizza place.

HD It was a pizza place in New Jersey? Were you involved in any other businesses?

G No. At one time I used to work on the construction. I used to be ... I was working, for a little while I was working in the construction business.

-- Can I clarify that? Mr. Gambino, we talked about this yesterday. Not -- you mentioned a butcher shop, but there was a butcher shop that your father established in the United States and then you owned your own butcher shop before you gave that up. Maybe you could explain what that is.

HD You ran your own butcher shop?

G I work for my father for five years. I opened one for myself, yes.

HD That's when you were younger?

G Right.

HD You read all this information they sent to you. What else would you like to see in that information?

G Number one, I wanted to say the information didn't have anything -- they incriminated me because they mentioned a few times my name, pizza place. They said I tried to get a license. Under my partner, I don't put it in my name. You've got to understand. It's my name, is very complicated name sometimes. If you make an application, I put the name -- it take two years before something would be done. So I had my partner. He processed the license.

HD So you applied under somebody else's name? Was he a partner or a friend?

G He was a friend and partner.

HD Was he a partner in the business that you were applyi license for?

G Yes. Right.

HD There was no really attempt --

G My lawyer advised me like that, no. I never had any problem before that time. Never, God rest, I was there every day. Taking care of my business and work on th pizza place. Every day, every day. I used to go there until 2:00, 3:00 in the morning. Because there was moving on -- Micter Street. There was a lot of movie -- after the movie, people they used to come in there for pizza. I used to be there.

HD Why would the Government describe you guys as being involved in kilo quantities of heroine? Why do you think that the Government describes you guys this way?

G Number one, the name of Gambino is like this. Number two, about the month of the drug that they find in Milano, the witness testified, testified they don't .. it from me. As a matter of fact, Mr. Bouchet -- I don' know if you know Mr. Bouchet, a big witness for the government. And when he testified on the pizza connection, they says I was ~~a brother~~ not a member to organized crime and I was working guy. I was working in a butcher shop. As a matter of fact, I was subpoenaed Mr. Boucheta to come in this hearing. I got the letter over here. I want to show you.

HD I'll look at it later on. I want you to answer me. Do you think that they're describing you and the people you were involved with as being involved in heroine traffic, it stems back to that trial which you were acquitted from?

G Yes. A hundred percent. That's why I mentioned it to you because this, this government witness and they claim he says the drug was from me. The drug was from Mizada. We have a paper to show it to you for that trial. That's when it started this trouble, for this drug they find in Milano and then they tie to the pizza connection. That's really why they thinking I was somebody connected over there -- I am not. I was a working guy like everybody else. I was trying to make a living the best possible way. I told you, the doctor found the cancer, I wasn't the same.

HD Talking about the pizza connection. Let's go back to that a minute. That interested me when you mentioned that. Now, that trial took place in New York, right? And during the course of that trial, where were you?

G I was in jail. In New York.

HD So you were right there when all that was happening.

G Right. I was there. I was on December 4 on the ...

HD With the pizza connection?

G Yea. I was over there ... this pizza connection because they never can rebel to get out. They get everybody there and they're out all over. That's the point.

HD The pizza connection?

G They got everybody bail.

HD Now, where did you start this? I know you at the MCC in New York. Where did you go from New York?

G I went to Springfield for my throat.

HD And then here?

G And then over here, right.

HD You still working the same job?

G Yes.

HD How you getting along?

G Very good. I did a lot of program over there. A lot of program. The drug program. I did a screen playwrite. I'm tell it go in the kitchen. I got a letter. Every time they got a special dinner, they call me. I go cook for them. Anything at all.

HD No shots except that one time.

G Right.

HD Some shoes or something?

G No, misuse of medication. I misused my medication.

HD I remember something about medication.

-- Do you want me to clarify?

HD What about those shoes?

-- There's no shoes.

HD Refusing program, lying, false statements. I thought I had read about --

-- I only know of one where he failed to take his medication at the pill line.

-- And he took the pills back. He was having surgery.

HD Was it just the pills?

G I used to take since college anyway, so I take medication for most of 12 years. The one time, because I got a polyps in my ... So they told me at the -- don't drink and don't take any tea. So I went to the medication, I take it myself. So they shake down and they find this medication. That's ...

HD That was in '88 or '89.

G 7, 8 years ago. My record is good in the institution. I won a lot of things.

HD All your family's out here now, right?

G In California.

HD How much you pay towards that fine now?

G There was --

HD Was it $105,000?

G I paid 70 some dollars --

HD $70,000 so you paid --

G $25,000, $26,000 there. I don't know exactly, but close. I give you --

HD No problem. You got a life special parole.

G No, I got a few --

HD 20 years.

G If you parole me, I --

HD We talked about all the family that lives out here, right? What kind of work would you do?

G If I get out? I did like for three years I went to school to creative write. To write things for the TV, but besides that -- I would like to do that if I can do it. But besides, that, my son he had a business. Tommy's got a business. So I could -- cook.

HD Is your cancer in remission?

G I still got it.

HD But it's in remission.

G I control it medicine. Through the medicine, I got this operation.

HD You may need to work for your son.

G I like working with my son. My son he's got a business. Is there anything else, you can ask me.

HD I'm going to get back to you. I'm going to ask your son for any kind of answers he's like to make in your behalf.

T First of all, I want to say that the response -- (Second Side) I want to say that when the response came back from the Commissioners to 27 years because they gave a reason of the organized crime and upon his release he would commit another crime. The first thing I said to myself is how do they know that he will commit another crime. I don't think that was very fair because I don't think they know what we have gone through here or what my father has gone through here for 12 years every day. I don't think they were here with him every day. Or in that case even with my family, to what we have gone through throughout all these years. For them to know what my father is most likely to do. I thought that wasn't right. I feel we're human just like the way they are. I don't think there's any way that he could serve all those years that in or even if maybe we can put up with coming here all those years. Because it gets harder and harder every day that we're in here. I think that I read most of my father's file. I read his trial. In my opinion, I didn't see where it was an organized crime case. And I feel like we're victims of our name. We didn't choose to have this name. We don't want this name. We don't want this whole organized crime thing. We don't want to go back to New York. We want to continue living here. All we want is just to start over and for someone to give us a chance to begin a new life here. We're

not interested in any organized crime and any going back to New York or to New Jersey. I hope that you believe in my family. You gave us a recommendation. That showed that you believed and had faith in us and I hope that you continue to do that because believe me, we won't let you down. We don't' want to come back here. All we want to do is start over. I have a business. My father would be working with me, helping me. And we're just going to start -- we want to be like any other normal family. If I may, my sister had a couple comments and my grandmother too because my grandmother couldn't be present because she's sick. Is it possible?

HD Very brief.

T Basically my grandmother wanted to say that she's sorry she couldn't make it here because she's suffering from arthritis. The last few months it's getting worse. So she couldn't be out here. She's waiting for my father to come home so she could come live with us here in California. The weather is good for her arthritis here. She wanted to thank for any decision that you would make and regrets that she couldn't be here with us today. My sister, she wanted to say that it's been a long journey for us. We all grew up in this prison and all the prisons around the country. We feel it's time now that my father comes home. We're a very close family. Like even just to give you an example of what type of family we are, real brief --

HD I think I know that. I don't want to cut you off --

T I just want you to know our feelings and I just want to make sure our feelings are very clear. How we feel about the

situation. Thank you.

HD Mr. Daniel what would you like to say?

-- My statement, I want to address three areas in particular. First of all, I want to talk about unsubstantiated allegations of organized crime with regard to Mr. Gambino. Then I would like to talk about the offense severity category which was given him regarding his offense. Last I'd like to point out a number of reasons why the Commission should parole and as soon as possible.

HD Before you get to that, I can read. I'm literate. I'm just saying that I've read that one in there. I want you to highlight. I've read this.

-- Guidelines? Okay, I'll stick to the organized crime.

HD You can -- I just don't want you to dwell on these things too much. I want you to give me what you want to say, but I have read what you have to say about the offense severity and all. OC allegation offense severity and what's the third one?

-- Reasons why -- his good record basically. Institutionally. Mr. Gambino has never been or had involvement with organized crime. This was his first conviction here in the United States. He was acquitted of a continuing criminal enterprise, conspiracy count in this offense. The Commission has disclosed, page 15 from the New Jersey Commission report and pages 72, 107, 110 and 224 of the 1980 Pennsylvania report as a basis for finding that Mr. Gambino was involved in organized crime. I'd like to go over these reports one by one. I'll start with the New Jersey report. There are two paragraphs in the New Jersey report. They really provide very little

information that pertains to Rosario Gambino. It provides information that he was indicted for the heroine conspiracy in Milan where they seized the 480 kilograms. Then it goes on to talk about a number of other persons in a disco in Atlantic City which doesn't connect Rosario Gambino to them in any way. The only other piece of information is a report that he received a dead fish in the mail. He never received a dead fish or a live fish. The claim was without any kind of substantiation. Now I'm going to turn to the Pennsylvania Crime Commission report which really has a lot more information. That report states that Mr. Gambino was indicted for conspiracy to import 40 kilograms of heroine which were seized in Milan, Italy. He had no involvement in that crime. He was acquitted on that case and the Government itself must now believe that because it has subsequently to tie those drugs which they charged him with in a number of other cases which had no connection to Mr. Gambino. The Pennsylvania and New Jersey report, they don't provide any information that a subsequently important Government informer in a number of organized crime cases, has pointed out that those 40 kilograms were destined for several individuals who are connected in the famous pizza connection trial in which Mr. Gambino had no connection or was ever involved with.

HD Run that by me again.

-- In subsequent trials, a government informer named Salator Contorno has indicated that the 40 kilograms of heroine had nothing to do with Mr. Gambino, that they were going to sent to several people that were convicted in the pizza connection

trial.

HD So it was a different group altogether.

-- Yes. There are a number of other pieces of information in the Pennsylvania report. The report states that Rosario Gambino is a cousin of Carlo Gambino and this simply is not true. They have the same last name and that's it. The Court also tries to make an unsubstantiated allegation of some tie on Mr. Gambino's part --

HD Is there any family connection between those people -- between he and Carlo Gambino?

-- There is none.

HD I just want it for the record.

-- The report tries to make an unsubstantiated allegation of some tie on Mr. Gambino's part to --

G Excuse me, there was a my grandfather, grandfather relative -- I don't know. Maybe, I don't know.

HD You said the Court?

-- No, the report. The report has made an unsubstantiated allegation. I'm talking about the Pennsylvania report now. Of some kind of tie on Mr. Gambino's part to Angelo Bruno who was an organized crime figure in Philadelphia. And Mr. Gambino has already explained -- his only connection to Mr. Bruno was the fact that Mr. Bruno owned cigarette machines in Mr. Gambino's pizzeria in Philadelphia and also his brother's restaurant in New Jersey. The only other information in the four pages of the Pennsylvania report which has any connection to Rosario Gambino in any way are details about Rosario's intent to get a liquor license for a restaurant that he wished

to open in Philadelphia. He had a partner who tried to get a liquor license in his own name. That doesn't mean he was in any way involved in organized crime. Because of his last name he would have difficulty getting any license. Now, the information in the Pennsylvania crime report doesn't -- can't really show by a preponderance of the evidence that Mr. Gambino was a member of organized crime. In fact, the commission itself has been terminated by the Pennsylvania legislature. According to the Philadelphia Inquirer of 5/23/95, law makers became increasingly angered by the Commission's reports which were filled, some argued with innuendo and questionable evidence. The Harrisberg Patriot, dated June 12, 1995, stated that the Commission had been criticized for years for naming names without having the evidence to back up its charges. In an editorial by the Harrisberg Patriot, on December 19, 1993, which argued that the Commission should be closed down, the report stated that those who could prosecute criminals rarely put enough stock in the Commission's reports to develop cases on their own.

HD What you're telling me is that the press and the legislature criticized them, right?

-- Yes. Also the courts as I'll get to. The Commission published a Stafford report to many people as ... In a recent case in the Commonwealth Court of Pennsylvania which was named Simon vs. Commonwealth, dated May 22, 1995, the court ruled that the Pennsylvania Commission's procedures for publishing reports in which many people were named as affiliated with organized crime were in fact unconstitutional. At this point

the commission's reports were turned over to this state police and the Commission is defunct and those reports are no longer disseminated to anyone. Mr. Gambino is also submitting two letters which, one is from a Dr. Ronald Bregman who was Councilman in the town in Delrand where Mr. Gambino used to live in New Jersey. The letter states that he had no knowledge of any organized crime tie in his official capacity regarding Mr. Gambino. I have another letter from New York attorney Edward Panzer who states that Tomaso Ucheta who was one of their biggest mafia informants for the government over the last several years and was a witness in th pizza connection trial, has stated in court that Rosario Gambino was not a member of organized crime. The parole guidelines, with regard to that, I believe his offense severity should be a 6 and at most a 7. All of his co-defendants received a 7 or a 6. There was never any evidence of any other drugs that Mr. Gambino was involved with that the other co-defendants were not which would allow a larger --

HD You say that based on a pre-sentence report, but based on what the Commission has --

-- There was a finite amount of drugs and there was no evidence of drugs that Mr. Gambino was involved with that the other co-defendants were not involved with. I think as you know from the past hearing and as I have submissions, he's had an excellent record while he's been in prison. He's got excellent reports from all the people he's worked for. He's accomplished a number of different programs. He's suffering poor health. He's taking medication for depression which he's

been doing throughout his term here. He has throat cancer for which he's received numerous operations. He's been here 140 months, approximately. For less than one kilogram of heroine. That's a serious offence, but I think the time he served as the guidelines would indicate, is more than enough.

HD Before we close this thing, I want you to comment and I want him to comment. The very damaging conviction by -- I read it, in fact I re-read it. He said he was represented by counsel.

-- That's incorrect. It stakes that, yes in the PSI. But it's incorrect.

HD But you say that's not correct. That he was --

-- This trial in Sicily. I don't know that much about it. I know there's like numerous people were convicted that were in the United States in different parts of Italy that weren't there. It was like a mass trial.

HD The reason I say that, when I read it I found that found in absentia. It says also verifies he was represented by counsel while in absentia. That's why I asked that.

-- It's in the PSI but that's not -- that's incorrect.

HD Do you want to add anything?

G Please. A couple of more minutes.

HD I don't want you to go back over stuff we've already covered. You tell me something new.

G Number one, they plan - Carlo Gambino - I wanted to say, like the son of Carlo Gambino, Tommy Gambino. Tommy Gambino, Carlo Gambino's got a son, Tommy Gambino. He got tried for organized crime for a number of things. They find him guilty and they give him just five years. He's the son. This is the

captain. We've got this paper over here. And they want me to do 27 years for me and my trial, it was not organized crime. It didn't involve anything. It was less than one kilo. You should have read it yourself.

HD Is this a US conviction?

G Yes.

HD I guess that's a New York Italian paper.

G Right. I get it every day. Number two, my father, when we wa in Sicily, we used to live a good, pretty good, because my father was a businessman. He had a butcher shop. We used to work with my father. But my father he told us all the time, we got to leave in Sicily because there's a lot of violence. My father, one has to be raised in Sicily, in Palermo. That's why we come in this country. But my father, he missed the point already, the name Gambino was tied up in organized crime. When we came in already, the name was -- and when we came in over here, we sell the butcher shop, we used to work hard with my father to live, to make a good living and we never was involved, me or my father, anybody in organized crime. That's the most point and this Bouchet, he knows me. He testified at so many trials and -- because he knows my father from Sicily, he knows me from New York. He testified I wasn't in organized crime. Now, the government, I understand that they don't want me over there because -- that's my feeling. Even if I got to leave the country, but against my wishes. Because I want to stay over here. I want to have a life with my family over here. I want you to get concentration. If you let me get out of here, I got 58

special parole. First mistake I make, I come back in jail. If I come back in jail, I'm not the same. So I want you to give me a chance, the opportunity to come back to my wife and my kids. Like you did last time.

HD Step out. I'll call you back in.

-- Let me just add one thing. I think the hardest thing in the room to prove is a negative. It really is. I don't know how to do it. We got the reports last week. We went through the disclosures last week. I was struck by the fact that most of the Pennsylvania report, for example, seemed to just talk about Mr. Gambino's establishing businesses such as a pizza parlor and working in pizza parlors without details of the activities that I tend to think of as organized crime. And I don't know how one rebuts allegations in a report that don't come from a source that's easy to identify. I don't know how one rebuts that. The hardest thing to prove is a negative. Mr. Gambino's explained he's not related to organized crime, not related to Carlo Gambino, unfortunately has the same last name. And I think that's the biggest thing against him now is the last name.

HD First of all, we went through the factor score. I did read it. It was a category 8, same reasons that the Commission previously rated it as an 8. 100+ months. The misconduct report doesn't change it. Now, your case was previously designated original jurisdiction. So I'm sending it back original jurisdiction because it was previously held that way. Second thing is, I have to go back and look at what the Commission reordered for rehearing, whether or not what should

be done in your particular case regarding whether or not there was sufficient reason to continue 48 months above, the guidelines because you were organized crime or not. I cannot determine that today. I'm not saying you are or you're not. I just don't know. So I can't use that against you. But I'll tell you what, you were doing some things that make somebody have some damn strong suspicions. You know, I think you'll call it taking advantage of the name, but yet when the heat gets on you don't want the heat, you know? I'm just telling you. I'm going to give you the same decision that the Commission previously gave you and I am going to exceed the guidelines, but I'm exceeding them for a different reason. I think that you are a more serious risk than indicated by the factor score because of that conviction in Italy. Now, the Commission may not agree with me with that. I don't know what they're going to do. I'm gonna set the date back to when it was, March, 2010. I'm not gonna go December 2010 because I think they gave you a denoble hearing. I think the Commission not only does not go back and give somebody a longer continuance, so I am just gonna keep that same routines that they gave you before. I am gonna ask that they carefully review the files of the code factors to see what they did with your codefendants. I do not have their files or the information regarding every one of them. I'm gonna ask you to take with you those files. See you again in two years. I don't have quarrels with the institutional adjustment. That's gonna be my recommendation.

G You're not gonna mention this like, for less than one kilo I

got to do 27 years? You know I just...

HD Well, let me put it this way. You're gonna do 27 years or more. That 27 years means that when you get to 2010, they'll determine when if they're gonna parole you.

G Yeah, that's what I mean. That's what I'm talking about. For less than one kilo, how do you normally do it?

HD Look. It is my recommendation. The hearing's over with. If you got any problems with my recommendation, wait until you hear back. It could come back different. I don't know what's gonna come back, then put your appeal in. I've carefully considered what you have had to say today, and I'm not gonna argue with you.

G No, no I'm not.

R Okay. Can I just ask the client, so our jurors will understand, and your finding is that you're not making a finding with respect to allegations of organized crime one way or the other, however, the decision is to reinstate the Commission's original date because of your view of a more serious poll risk based upon the Italian conviction?

HD Right, that's the bottom line.

G You know, I wasn't thinking of let's think I want to tell it, even if I can't say, even if I got to live in Country, I live at Country, I mean you know.

HD I'm not, you know, whether you do, you know, what happens between you and whether you're deported or whatever happens, I have nothing to do with that and I'm not going to get into it. Thank you very much.

BP-S187.058 PROGRESS REPORT CDFRM
JUN 98
U.S. DEPARTMENT OF JUSTICE FEDERAL BUREAU OF PRISONS

Institution Name, Address, & Telephone No.	Date
FCI, Terminal Island, 1299 Seaside Ave, Terminal Island, CA 90805, (310) 831-8961	January 4, 2001

Inmate Reviewed

Inmate's Signature	Date	Staff Signature
Gambino	1-4-2001	

1. Type of Progress Report

☐ Initial ☒ Statutory Interim ☐ Pre-Release
☐ Transfer ☒ Triennial ☐ Other (Specify)

2. Inmate's Name	3. Register Number	4. Age (DOB)
Gambino, Rosario	06235-050	58 [redacted]

5. Present Security/Custody Level

Low with an MSL of Medium/In

5. Offense/Violator Offense

Knowingly did Possess Heroin with Intent to Distribute; did Distribute Heroin; Conspiracy to Distribute Heroin; and Use of a Communication Facility to Distribute Heroin

7. Sentence

45 years with 20 years special parole plus $105,000 fine

8. Sentence Began	9. Months Served + Jail Credit	10. Days GCT/or EGT/SGT
12-06-1984	192 + 265	734 EGT

11. Days FSGT/WSGT/DGCT	12. Projected Release	13. Last USPC Action
NA	03-14-2007 via Presumptive Parole	01-20-1999 Continue to presumptive parole after service of 276 months on 03-14-2007

14. Detainers/Pending Charges

USINS for possible deportation

15. Co-defendants

NA

r continuation Pages, type on a blank sheet with the Inmate's Name Register No., and Date and attach to this form.

Record Copy - Inmate File; copy - U.S. Probation Office; copy - Parole Commission Regional Office (If applicable) Inmate

(This form may be replicated via WP) Replaces BP-S187.

EXHIBIT 30

USPC/Gambino-00075

U.S. Department of Justice
Bureau of Prisons

PROGRESS REPORT - CONTINUED

Committed Name: Gambino, Rosario Reg. No. 06235-050 Date: 01-04-2001

16. Institutional Adjustment: Mr. Gambino has demonstrated good adjustment during incarceration at this facility. A detailed description of his institutional adjustment is provided below.

a. Program Plan - During initial classification at this facility and subsequent program reviews, Mr. Gambino was encouraged to participate in educational and/or vocational classes, drug education, financial responsibility program, employment, counseling, and recreational programs.

b. Work Assignments - Mr. Gambino is currently assigned to the evening shift of the Recreation Department where he works as a maintenance orderly. His primary area of responsibility is the Bocce Ball Court located in the South Yard recreational area. In addition, he performs general janitorial work in the South Yard recreational areas. He works an average of about four to six hours per day, five days a week, and on an as-need basis. Previously, he has held work assignments in the Food Service Department, Visiting Room Orderly, and as a Housing Unit Orderly. Work evaluation reports indicate he performed satisfactory work; and gets along well with staff and other inmates in all of these work assignments.

c. Educational/Vocational Participation - Mr. Gambino completed about 180 classroom hours of GED in an effort to attain a High School Diploma equivalency. Currently, he is not formally enrolled in the GED program. However, education staff has confirmed Mr. Gambino's participation in a tutorial program in his pursuit to complete the GED. During incarceration, Mr. Gambino has completed the following classes: Basic Algebra, Wellness, Special Education Reading, Writing Television Scripts, Social Topics, and Adult Basic Education. Records indicate Mr. Gambino dropped out of formal enrollment in the GED program on November 22, 1996.

d. Counseling Programs - Mr. Gambino is not mandated to participate in drug education. However, he voluntarily completed the 40-hour drug education program on July 20, 1994. He also participated in Aids Awareness, and Personal Growth enhancement in Communication Skills. Furthermore, he participated in a counseling program entitled Insiders Group. This group provides counseling for criminally at risk young children.

e. Incident Reports -

Date:	Code/Offense	Disposition:
08-17-1999	406/Using phone or mail without authorization	UDC: change quarters

f. Institutional Movement -

Date:	Institution:	Rationale:
10-05-1998	FCI, Terminal Island, CA	Nearer Release
04-08-1998	FCI, Phoenix, AZ	Other
05-27-1994	FCI, Terminal Island, CA	Nearer Release
09-24-1993	FCI, Tucson, AZ	Nearer Release
09-22-1993	FCI, Safford, AZ	Lesser Security

U.S. Department of Justice
reau of Prisons

PROGRESS REPORT - CONTINUED

Committed Name: Gambino, Rosario Reg. No. 06235-050 Date: 01-04-2001

01-06-1993	FCI, Memphis, TN	Adjustment Purposes
01-21-1987	FCI, Terminal Island, CA	Treatment Complete
03-09-1985	FMC, Springfield, MO	Initial Designation

g. Physical and Mental Health - Mr. Gambino is listed as regular duty with a medical restriction for a lower bunk. There are no noted mental health concerns. He should be considered fully employable upon release.

h. Progress on Financial Responsibility Plan - Mr. Gambino is currently participating in the Inmate Financial Responsibility Program where he is making $100 quarterly payments toward his court-ordered fine. He has an outstanding balance of $75,958. The Cost of Incarceration Fee (COIF) was not imposed and there are no other court imposed financial obligations.

17. Release Planning: Mr. Gambino plans to live in the Los Angeles, California area where his family currently resides. A definite release plan is forthcoming as he nears his release date and when his immigration status is resolved.

a. Residence - Josephina Gambino
[redacted]

b. Employment - Telephone Installation with his son.

c. USPO - Joseph J. Napurano, Chief
District of New Jersey
Post Office Box 459
Newark, NY 07101-0459

Offender is subject to notification under 18 U.S.C. §4042(b), due to the offender's current conviction for a drug trafficking crime.

d. Release Preparation Program - Mr. Gambino can participate in the program on a voluntary basis when he is 18-24 months from release due to his immigration status. For the same reason, he is not eligible for halfway house placement at this time.

18. Dictated By: Semaia 1/4/01
Fereti Semaia, Case Manager Date

19. Date Typed: January 4, 2001

20. Reviewed By: 1/4/01
Sherrielyn K. Beauchamp, Unit Manager Date

12E. PAROLE TAPE 1ST HEARING

HD Good afternoon. For the record, are you Mr. Rosario Gambino?

RG Yes.

HD Okay, Mr. Gambino. I'm Harry Dwyer. I'm an examiner with the Parole Commission. I'm going to be doing your initial hearing this morning. I understand you have a little problem with English so if at any point you don't understand or you don't comprehend what's going on, say time out and then I'll be glad to explain. I'll give you an opportunity to speak to me and if you want to take your time when you speak, no problem. Just don't get excited where I don't understand you. Okay? All right. You were notified that you were going to have this hearing. Is that correct?

RG Yes.

HD And you do have a couple of representatives present. First of all, let's go through who we've got here. Young man, would you identify yourself for the record?

DB Daniel Brown.

HD You're a law student, right?

DB Yea.

HD USC?

DB Yea.

HD Daniel Brown?

DB Yea.

HD And you're supervised today by --

DC Dennis Curtis. Of the same institution.

HD We do have other persons present. Young man identify yourself, please.

TG Tommy Gambino.

EXHIBIT 31

RCC0050

HD Tommy? And you're the son?

TG Yes.

HD And what city are you from Mr. Gambino?

TG You know we were from California, we were living --

HD Yea, but I mean where are you living now?

TG California.

HD Los Angeles, San Diego?

TG Los Angeles.

HD All right. And who's sitting to your right?

TG That's my mother, Joseppa.

HD And that's the wife, right?

TG Correct.

HD Los Angeles too? Okay. And to your left?

TG That's my grandmother, Salvatrice.

HD Gambino?

TG Correct.

HD And that is mother, right? Los Angeles also?

TG No, she's living in New York.

HD What part of New York?

TG In Brooklyn.

HD Brooklyn. Okay. What I'm going to do today is -- by the way, you did read your file. Your institutional file. Best as you could?

RG Yes, best as I could.

HD Now, what's going to happen today is I'm going to interview you, then I'm going to hear from your representative, Mr. Brown, who's going to be supervised by Mr. Curtis. Then I'm going to let you choose one of the three in the back to say

whatever they'd like to say in your behalf. Now, if your son would like to speak for both your wife and your mother, no problem. But I don't want all three. Okay? So you're going to speak for both your mother and your grandmother, right? I would like for you to say what you'd like to say on behalf of your father. I don't want you going over material that we've already covered during the course of the hearing unless you believe that it's really important, but yet, feel free to say what you'd like to say in his behalf. Okay?

TG And then I will say for my mother and for my grandmother.

HD Yea. I want you to summarize it for all three of you. Okay?

TG Very good.

HD And would you please, during the course of the hearing, tell your mother and grandmother kind of what's going on. But try not -- do it in such a way that it doesn't disturb the hearing. Okay? All right. Now, we've got that out of the way. Now, let's talk a little bit about your sentence. You have a 45 year sentence. And you've served 131 months, just one month short of 12 years -- I mean 11 years, right? You have not been out since March the 16th, 1984.

RG Right.

HD Now, you have a special parole term besides the 45 year term. I want to deal with -- you had a fine of $105,000. Have you paid that?

RG Yes.

HD The entire amount?

RG No. I paid from --

HD About how much?

RG $27,000 of it.

HD About $27,000. Get that out of the way. Okay. Now, you went to Court. You got convicted of this. Did you appeal your case?

RG Yes.

HD And what happened? You got turned down? Did you appeal it to the Supreme Court or just to the --

RG Yes.

HD And they turned you down?

RG Right.

HD All right. So your sentence right now stands. Right?

RG Right.

HD Now, it indicates in the ... that you, I believe a relative, right, another Gambino, how do you pronounce his name? Erisno?

RG Arismo.

HD He's your relative.

RG He's my brother, no relative, no.

HD Brother?

RG Brother-in-law.

HD Okay. But you -- so you guys are brother-in-laws.

RG He's a different Gambino.

HD Different Gambino, okay. Anyhow, it's alleged that you guys were involved in heroin. Were you involved in heroin?

RG No, I wasn't really. I wasn't know little what happened. You know? And the one mistake I did, I should have stopped them. Like I should have stopped and I didn't and I should be guilted because I don't try my best to stop them. Because I

know what happened. For that I paid 11 years, you know, I think for that mistake I did, I paid 11 years from my life. I was guilty, yea, I was guilty.

HD What were you guilty of? What did you do to get you convicted? Let me explain something. I know what the government says. I know what went on at the court. That's not what I'm asking. I'm asking what did you do to get yourself convicted? How did you come to get involved in this thing?

RG Okay. See, my ... was talked to me about this -- he was talked to me. He was asking me for this. Really, at that time, I had an operation. I had a cancer in my throat and that was, I had a couple of operations. I was in depression. I was taking a lot of medication. I was looking for money really.

HD You were looking for money?

RG Yea, because I was ... the doctor he was telling me I got cancer. So, and that was, I talked to my cousin. He was talked to me about this. But really, I --

HD Who's your cousin?

RG Spatola. Really, I don't find no drugs. I can't find no drug to give to him. So this guy went to this guy Sahita and he find the drug. He was the guy who give him the drug. And the last thing I know, they was dealing with the agent. And I got busted.

HD Did you talk to the agent?

RG Never.

HD You had no contact with the agent?

RG None at all and no telephone call.

HD Did you get any of the money?

RG No. I didn t -- see, I had $200.00 because -- they found $200.00 --

HD Two one hundred dollar bills.

RG Right. And I don't know, my cousin in the casino, I was that night at the casino. I had $200.00.

HD You got that from some situation different than them giving it to you.

RG Yea. Right.

HD Back in '83, they charged you with fraud. You remember that? Fraud. Hold on a minute. Conspiracy to defraud U.S. Department of Treasury and false statements. This was regarding a home, a bar, Cherry Hill Bar. Did you go to Court on that?

RG Oh, yes, yes.

HD What did you get on that?

RG Okay, nothing. They charged me for tax evasion. And they didn't go in trial and we --

HD You got acquitted.

RG I got acquitted. I'm sorry, I don't --

HD No problem. That was indicated in here that it was pending trial and I wanted to clear it up for the record. Now, speaking of the clearing up for the record, what's happening with the Italian situation?

RG Okay, see I got tried in New York in 1980, I think, or 1979 on conspiracy for drug too, no? And in that trial I got acquitted and then he tell them take off and they try me in

absentee with no rule and nothing.

HD And gave you 20 years.

RG And gave me 20 years in jail. But they did in New York this trial already. They didn't ... I got free with the jury.

HD So now what's happened to that? Is it still a valid conviction as far as you know?

RG Yes. As far as I know, yea.

HD I'm trying to clear up all these details. I'm sure somebody's got to review this and say what happened to these things. All right. Now, were you involved in any changing of hands of heroin? Did you possess any heroin?

RG Not in my hand, no.

HD Did you facilitate, did you help somebody get some heroin?

RG No, I was trying, like I said before, --

HD How did they convict you if you didn't do it? I'm wondering why they convicted you if you'd never touched the heroin, you never talked people in touch with each other. Why do you think that they convicted you?

RG I can explain to this. My cousin, Spatola, he was do the talk on the phone and he was mentioning, I want to get up, I -- and they was talking with the other guy with ... Gambino, is another ... and they was talk like I was help them too. So they throw my name on the pot. So now, on the tape was my name like they was -- and that's why I got convicted in Court. But really, I was no talk to agent and nobody to testify against me. I got convicted, the jury was -- but I got acquitted, the ... jury charged me with the 848.

HD That's continual criminal --

RG But the jury acquitted me of that. What can I say? I think, you know, I punish myself. I punish my family. Of the mistake I make. What can you -- what I say to you? What can I say?

HD That's one other thing I wanted to talk about. About your prior record. You had a DUI, driving while intoxicated. Did that ever go to court?

RG No.

HD They dropped that?

RG Yea that never went to court.

HD You never went to court on that or anything? The only time that you've been to court is --

RG Is this time.

HD Was this time and when you went when the jury held ... That's the only two times that you've been to court.

RG Right.

HD Now, what the government writes is that you were involved in a large scale heroin distribution ring. You've told me that you didn't have anything to do with this whatsoever. What do you think caused the jury to believe that you were involved with the other guys. What do you think would cause the jury to convict you?

RG Because number one is my name. Because see, they billed this name like big building it. I'm not, I'm not the name they're looking for.

HD Who they looking for?

RG I don't know. They looking for some big name.

HD Let's put the cards on the table.

RG Go ahead.

HD Carlo Gambino. What relationship are you to Carlo Gambino?

RG No relationship. No because I refuse him to be my cousin or something like that.

HD You're not related to him in any way?

RG No.

HD Did they think that you were related to him?

RG Yes, cousin.

HD And you think that's the reason they brought the people down on you.

RG Yes. And they think I'm smuggle drug, I'm this and that because of my name. I'm -- they want to punish my name. Like somebody like you now. I hope you punish my crime, because -- see, my name, they did like a building. I don't know why they did so.

HD Do you think if I was going to punish you by your name I'd be asking you all these questions?

RG That's what I say, I'm sorry. Because you're now the only one really can give me justice. You're the only one.

HD Now, the people -- who got the most time of all the people that went to court? You did.

RG Yes.

HD Who got the least time?

RG The guy did all of this mess. He's got the less time.

HD Who's that?

RG Antonio, Gambino, Espatola.

HD What did they get?

RG 34.

HD They got 34 years.

RG And they're home already.

HD And they're home. How much time did they do?

RG Espatola did 10 years. Bosko did 6 years.

HD Well, if they got 34 years and got it regular adult like you did, they'd have to do 10.

RG Okay, because me. Spatola did 10 years. Bosko got 15.

HD He got 15. So he got much less than you.

RG Yes because he pled guilty. He pled guilty.

HD Now, you've been around the horn since you've been locked up. Didn't you start out here at one point and --

RG No, Springfield because I was sick and my throat.

HD But didn't you come from Springfield out here?

RG Yes.

HD Then you've been at Tucson -- where else you been besides Tucson?

RG In Tennessee.

HD Memphis?

RG Memphis.

HD Before you came this last time out here, where were you?

RG Tucson.

HD Looking through the record, you've only had one misconduct report and I believe that was for a pill that you had.

RG My medication, right.

HD Was that given to you?

RG Yes. ... take medication.

HD Were you supposed to take it at the pill ... like this? And you put it in your pocket?

RG Right.

HD That's the only shot.

RG Yes. If I can explain --

HD It's not that serious a shot. You finally worked in food service.

RG Yes.

HD There's a lot of people right in here that you're a good cook but you don't eat the food that you fix.

RG I try to do my best.

HD I'm trying to compliment you. There's some good memos in your behalf. Why did they move you to these other places?

RG See, the time I had a cancer in my throat and I still got it.

HD I know you would go to Springfield for a medical.

RG Now, they're supposed to give me because they was a growth in my throat. Okay? So the doctor told me he was supposed to give me an operation. So I got scared. I called my family and I called my doctor from Philadelphia because he gave me two operations outside, when I was outside. I wanted to my doctor to do the operation. And my wife called. And the doctor don't want to give no information about this.

HD What doctor?

RG The doctor outside doctor, Dr. Kane I think they call him.

HD From Philadelphia?

RG No, in California.

HD So the one that the Bureau had looking at you?

RG Right. So there was a misunderstanding because they think my lawyer, he ask a lot of questions anyway.

HD So that's the reason they transferred you?

RG Yes.

HD And then when did you get back here to TI?

RG About 10 months ago.

HD That was the only shot you had that we talked about the pill. You've been going to school.

RG I go to school. I did a lot of program in --

HD Did you get your GED?

RG I still go to school.

HD When do you go to school?

RG Every day.

HD Morning or the afternoons?

RG I go 10:00.

HD Then when do you work, in the afternoons?

RG Yea, I work at the night time, yes.

HD You're on the night shift.

RG Yes.

HD What are you doing in food service now? What's your job over there?

RG No, I am now an orderly on the unit.

HD I thought you were still in food service.

RG I was until a month ago. See, I went -- I did a program to creative write. And the time I been ... I had a lot of education, learned a lot of things. I want the chance to come back my family.

HD I'm sure we're going to hear from your family in a little bit. When you're released, are you planning to live here in Los Angeles?

RG Yes.

HD What kind of work will you do?

RG I'm involved, I'm creative writing. I make a movie, whatever. My son has got a company, no?

HD So you'll be doing some writing.

RG Right. That's what I like to do.

HD I want you to sit back and think about what we might have missed that you wanted to say this morning. I know that you -- we've been going around you and I for quite a bit, but I'm going to start hearing from your representatives, give you a chance to think about what you wanted to say what we might have missed and I'll come back to you. All right? Now, who I'm going to talk to next is Tommy. Mr. Gambino, what would you like to say in behalf of your father today?

TG I wanted to say that it's been 11 years now that he's been in jail. We moved from New Jersey to Los Angeles 8 years ago. The reason why we moved here is because my father suffered from depression from being separated with his family. We're a very close family. We've always been a close family. And that's the reason why we moved here. I also want you to know that once my father's released, we're going to live in Los Angeles. We're based in Los Angeles now. And I have a business in Los Angeles that he could help me run. We have no intentions of moving back to New Jersey or New York.

HD What kind of company you have?

TG It's a telephone company. A pay phone company.

HD This a family business or your business?

TG Me and my family. My sisters help me and my brother. All we want now is to start a new life here in Los Angeles. If you

could give us the chance to once again be a family here in California. I also would like if you could take into consideration that we grew up in this prison. We've been coming here for years now. Every one in this prison knows us, how long we've been coming in here. I think that we definitely put in our share to the system, my family and my father's been here a long time. I think we'd love to be a family again after all these years. I was 10 years old when he went to jail. Now I'm 21 years old. We've gone from jail to jail, Tennessee, Arizona.

HD I'm well aware of that.

TG It's been tough on my mother, my sister. On the family.

HD This pretty much what your mother and your grandmother would say in your father's behalf?

TG My mother would like me to translate what she would like to --

HD I would like you to summarize. I usually don't allow this many people in a room. I don't want to mistreat your family because I know your father's been locked up a long time, but by the same token, I can't let everybody talk and then the next guy I bring in, not let people in. Just summarize briefly what they would say.

TG They would like to say that my Grandmother is very sick. She's got arthritis and she's got heart problems. She came here from New York just for this hearing because she thought that my father would be released.

HD For support.

TG Yes. She would like to come live with us here in California. The doctor recommended that she needs to be in warm weather

because of her arthritis. If not in California, she needs to be somewhere very warm. She took the opportunity to come here. My mother, it's time now that she needs her husband back and that her kids need a father. They've been apart for 11 years. We feel that it's time now that we ought to become a family again.

HD Very good. Thank you. Okay, we're getting to Mr. Brown. Mr. Brown, what would you like to say on behalf of Mr. Gambino?

DB I think first of all, --

HD Let me explain something to you. I've read what you submitted so don't make me read it and then tell me all about it again, long winded because I'll forget it all. All right?

C Don't you think I tell these people that Harry?

HD What would you like to say?

DB First of all, Mr. Gambino, he's already served well in excess of the appropriate guideline range. He's never been involved in any kind of organized criminal conspiracy. He was convicted of the continuing criminal enterprise count -- was acquitted, excuse me. His guideline range is 40 to 52 months based on less than kilogram of heroine and he's been in here 131, I think for a crime that serious it's probably more than enough time to serve. He has health problems which he needs to get out and get taken care of. He is suffering from depression for which he's been taking medication here which has definitely helped him out a lot. There's a lot of allegations in his file of organized like a widespread criminal enterprise are really not substantiated. If you look at the actual events that happened in the crime itself, kind

of would lead you to question that as well. The government's own ... shows the various co-defendants scrambling around just to come up with less than half a kilogram of drugs. It doesn't really seem like there's some powerful international cartel going on here. There was one error in the pre-hearing assessment report that I wanted to draw your attention. In there they said when his house was searched they found a sample of heroin and a gun.

HD That was not his house.

DB Yes. Perhaps you have a new -- this was an old assessment report. Then the government, the phone conversations they had between the various other co-defendants establish that he is not really -- he wasn't even the leader of this whole affair anyway. In there they're talking about making decisions and that was between Spatola and Antonio Gambino and they're saying we're the boss. We'll decide. Beyond that his institutional record has been excellent.

HD Real good. Dennis, did you want to add?

DC Two things really. One of the questions that you asked is I think the most important question and that is how did he get convicted. He got convicted through references by the two people who actually sold the drugs and telephone conversations and that was it. That's how he got convicted. I think that there was a lot of what we talked about a little bit earlier.

HD You talking about the wire taps?

DC I'm talking about the wire taps, yes. That's how he got convicted and he never handled any of the drugs. He never -- none of it was ever found in his house. He was not -- as Dan

said, these guys, far from being a big ring, scrambled like crazy to come up with half a kilogram after the government tried to get them to give two kilograms so you're not talking about guys they have out here in the compound of 100 kilograms, 200 kilograms, etc., etc. I think what happened in that, unfortunately in that trial was that the name Gambino was used against him and the name Gambino has caused him, I think a lot of grief. I wish he could have changed it a long time ago but he didn't.

RG When I get out. When I get out I got plans to do that.

DC I guess you know about his co-defendants, what they -- I think one of them was a salient factor -- one of them was severity of -- I think 6 or 7 different -- I think at the max it was 6 or 7.

HD You guys did see the purview where they rated as an 8. I'm not saying, but I just want to make sure that you guys did in fact see that.

DC We saw that but we also know that his co-defendants were rated as 6 and 7 or whatever they were rated at. Basically that's all I have.

HD Your guidelines, if it stays as category 8 your guidelines are 100 plus months. Now, the shot that you got for the pill, 0 to 2 months. You understand that? But if it stays a category 8, 0 to 2 months because you can't add to something that's not there. I indicated to you that I would give you a chance to say whatever you'd like to say on your behalf that we might have missed.

RG Number one, you know, I want you to consider it like the drug

was less than a kilo. 11 years I did and like I said, the time I've been here, I've learned a lot of things in life. I know my family was punished for this. I punished my family. I punished myself. I want the chance to get out and take care of my mother, my family, my wife and my kids. Because now they need me. I want to build a new life in California. I want to be father for everybody. I want to be with my family and build a new life.

HD Let me tell you something, if we parole you, you can't be associating with these kinds of people any more. Because you know you lost 45 years and we can bring you back.

RG Right. That's exactly what I mean. If I do something wrong, they can get me --

HD That's what I'm telling you.

RG That's why I bring my family in California. I wanted to be out for everybody.

HD Step out a moment and I'll call you back in.

(Second Side)

HD Mr. Gambino, when you got arrested, your case hit the newspapers pretty heavily back there. I'm not making you a case of original jurisdiction. If I did that, all the commissioners would -- the national commissioners would have to vote on it. However, I'm going to tell them that your case got a lot of publicity and they may make your case what they call original jurisdiction. That means more than one commissioner voting on your case. You understand?

DC I'll tell him.

HD It may be -- that would be because of the publicity behind

your arrest and everything.

RG I think the institution, they take off for this.

HD This is different. Different. So now, what I'm going to give you is my recommendation. It could come back different. There's been things done with co-defendants all other the spectrum. I do know that one guy, they gave him 272 months or something like that, I think. Best as I can figure out. But anyhow, I've listened carefully to what you've had to say about your involvement in this offense. I've carefully reviewed what you've had to say and the material that you guys presented right here. I did in fact go over that. I'm not going to change the category. I'm going to leave it as a category 8. Guidelines of 100+ months. You had one shot but that doesn't effect your guidelines. 100+ months means the commission would anticipate that you would do not less than 100 months. There's no top. But I'm going to take it to 148 months, recommend that you get a date of July 15, that right? July 15, 1996, that's 148 months -- July 16, 1996. You've been in custody since March 16 of '84. Twelve years and four months 148 months, that would be -- July 15. I'm going to tell you, I do not believe it's going to come back any less than that. It could come back more. They could disagree with me and push you way down the road. So don't pack your bags. Now, whatever comes back if you feel that you've been treated unfairly, an error's been made, exercise your appeal rights. Thank you very much for coming in. You understand everything that went on?

DANIAL BROWN, USC.

PRE-HEARING ASSESSMENT

INSTITUTION: FCI TUCSON

NAME: GAMBINO, Rosario REG. NO.: 06235-050

DATE OF BIRTH: [redacted] MONTHS IN CUSTODY 179 AS OF 2-15-94

SENTENCE(S)LENGTH/TYPE: 45 yrs RA PAROLE ELIGIBILITY DATE: 3-15-94
2/3rds DATE: 3-15-14

DETAINER: (NO) (YES)

FINES/RESTITUTION: (NO)(X YES) REVIEWER: KRICK DATE: 2-3-94

****

I. PRESENT OFFENSE:

A. The prisoner was convicted by trial of: Conspiracy to distribute, distribution, Possession with intent to distribute heroin and use of a communication facility.

B. The following information indicates that Gambino is a descendant of the late mob boss, Carlo Gambino, and is said to be by law enforcement authorities involved in extensive criminal activities which are under investigation in the Philadelphia, Pennsylvania and southern New Jersey areas. According to the New Jersey state crime commission report and the Pennsylvania organized crime commission report of 1980, Gambino is described as the soldier and descendant in the organized crime family. He, along with his brother, Giuseppe, a codefendant in the instant case, own and operate pizza parlors in New York, Pennsylvania and southern New Jersey to facilitate a continuing criminal interprod which is described by one ATF agent as using a pattern of threats, coercion, violence and arson to facilitate illegal activities in the states of Pennsylvania and New Jersey.

Gambino has six prior arrests commencing at the age 20 which include violation of immigration law; petty larceny, resisting arrest, intoxicating driving; assault and criminal trespass; extortion; possession of dangerous weapon; and contributing to the delinquency of minors; and most recently during March of 1980 conspiracy to import Heroin.

This latter arrest involved the case with he and his brother being arrested in their Cherry Hill restaurant, Valentino's, for allegedly participating in that international Heroin smuggling operation, after police in Milan, Italy confiscated 41.5 kilograms destined for the United States with an estimated street value of about 60 million dollars making it one of the largest drug busts at that time in the United States. As a result of the above incident Gambino was subsequently convicted in Italy as set forth under item A of the SFS. According to a recent treaty with Italian government, Gambino is subject to extradition and his permanent U.S. residence status is jeopardized by the instant conviction making him subject to deportation.

EXHIBIT 32

The instant offense is described as having incurred between October 1, 1983 and March 16 of 1984. According to the government the focus of the scheme focused centered around six individuals, all of whom are related. Gambino was described as having a high managerial role and being the most culpable.

Specifically the information indicates undercover FBI agent in October 1983 made a number of ounce purchases of high level quality cocaine from Antonio Gambino, a native of Sicily, residing in Cape May, New Jersey who during the course of the negotiations indicated that he had access to high quality heroin. Throughout his conversations with the undercover agent it was obvious he was deeply committed to pursuing additional and larger transactions. Early in the investigation it became apparent that the supply of heroin was maintained in Brooklyn, New York and that the Cafe Milano in Brooklyn, New York was a recognized meeting place used by co-conspirators to discuss their transactions. When a agreement was finally reached between the undercover agent and Antonio Gambino for the purchase of 1 kilogram of heroin for $235,000 the latter indicated that he would obtain a sample while in Brooklyn, New York for the Christmas holidays. Upon his return he delivered a sample to the undercover agent on 12-27-83 subsequently intercepted telephone conversations indicated that Gambino's approval was a prerequisite to the proposed heroin deal with the undercover agent and in addition to approving the deal, Rosario Gambino (The subject) also exercised control over who would actively participate in the heroin transaction. At the time of the scheduled transaction, the subject in less than two hours arranged to obtain a half kilogram of heroin as a favor and attempted to secure the whole kilogram of heroin for them indicating that the whole kilogram would be available the next day or the day after while increasing the price of the heroin. The heroin was finally received on 1-18-84 and Anthony Spitola and Anthony Gambino sold approximately 460 grams of heroin to the undercover agents for $112,400 at the Cesars' Boardwalk regency hotel in Atlantic City, New Jersey, the heroin had a purity of 68.3 percent and a street value of more than $3 million dollars. At the meeting, reference was repeatedly made to the source of supply as being family while being very secretive about family and the family name. The undercover agents were told that after this and the other deal the last name might be disclosed and once they knew they would be proud and would feel 100% secure in dealing with them. It was boasted that the family was "Really Big" and "We can give you all of the guarantee you want." All were related to each other and during the conversation the undercover agents indicated wanting a guarantee of a set amount of heroin for each month and they asked for a guarantee of 10 kilograms per month, indicated he was doubtful that they could guarantee such a large amount, he indicated that they would ask, the money was then delivered to the subject at his residence.

Intercepted, conversations on 1-22-84 clearly demonstrated the supervisory roles of Rosario Gambino and Irasmus Gambino in the continuing conspiracy. It was apparent from the conversation that the subject had the authority to determine who would be actively involved in the heroin negotiations and transactions and how the profits would be divided among the participants.

On or about 1-20-84, Antonio Gambino informed the undercover agent 3 kilos were available for a price of $235,000 each. During a meeting of 1-24-84, when the agent reported his bosses disappointment in the quality of the heroin previously purchased, Antonio Gambino and Anthony Spitola repeatedly urged the undercover agent to convince his boss to purchase more heroin and explain that they now had the "Guarantee" for 10 kilos of heroin per month. Rosario Gambino and Irasmus Gambino. They further indicated that 3 kilos of heroin were now available, however, Rosario Gambino had to resort to obtaining the heroin from someone else to complete the deal.

Subsequently, the conspirators became very cautious as a result of the heroin arrest in Philadelphia, Pennsylvania of a number of Sicilian defendants. The conspirator indicted that there was no connection between their people and those named in the Philadelphia daily news, however, intercepted conversations that they reflected Irasmus Gambino spoke to persons close to those arrested and offered his assistance in securing bail money and attorneys. Clearly the arrest pampered the negotiations by the loss of confidence by Gambinos' people and the undercover agents and willingness to purchase the three kilos of heroin that were available appearing questionable to the Gambinos. After significant delay, the offer that two kilos were available immediately changes in the place of transaction and a demand for a front of 1/2 purchase price on 2-20-84 Spitola and Antonia Gambino sold approximately 1/2 kilo of heroin of 73.8% purity to agents for $120,000.00 at a motel in Summers Point, New Jersey.

On March 16, 1984, Rosario Gambino was arrested and search warrants executed at his residence revealed two $100.00 bills that had been part of the buy money used by undercover agents to purchase the heroin on 2-20-84. Also this search resulted in seizure of $20,000.00 cash found in a secret compartment in his bedroom closet and confidential New York City Intelligence files relating to the subject including surveillance conducted at Cafe Milano. A search of arrest was Gambinos residence revealed an unregistered Smith and Wesson .38 caliber pistol and the ammunition and a sample of heroin of 95.4% purity.

In summary, Rosario Gambino, a descendant of the late Mob boss Carlo Gambino, had the authority to determine who would be actively involved in the heroin negotiations and transactions and how the profits could be divided among the participants in the Philadelphia, Pennsylvania and south New Jersey areas from his supervisory role overseeing the mobs' extensive activities. The intercepted conversations clearly demonstrated the subjects involvement in continuing conspiracy and he has capacity to supply whatever amount of heroin his underlings and distributors require. As reflected above, specifically Gambino was involved in the arrangement

NAME: GAMBINO, Rosario
REG. NO. 06235-050
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to deliver 1/2 kilogram of heroin on January 18th and February 20, 1984, respectively, for a total of 1 kilogram of heroin to undercover agents. It is further indicated 3 kilograms and later 2 kilograms of heroin were available during the negotiation and subject and co-conspirator offered guarantees of 10 kilos of heroin for a month which the information obtained during the negotiations and intercepted conversations surrounding the criminal activity, as well as subject's previous arrest March 18, 1980, would indicate the capacity to provide such an extremely large scale amount of heroin.

C. The offense behavior is rated as Category ^ severity because ^

II. **SALIENT FACTOR SCORE:**

A = ^ Subject has ^ convictions.

B = ^ Subject has ^ commitments of more than 30 days that were imposed prior to the last overt act of the current offense.

C = ^ Subject was ^ years old at the commencement of the current offense.

D = ^ Subject <bb><b>has no prior commitments,<e> <b>was last released from a countable commitment,<e> <b>less than three years prior to the current offense.<e> <b>three or more years prior to the current offense.<e><ee> Date of last release is ^

E = ^ Subject is a <bb><b>probation<e> <b>parole<e> <b>confinement<e> <b>escape<e><ee> status violator.

F = ^ Subject <bb><b>has<e> <b>does not have<e><ee> a history of Opiate Dependence.

^ **TOTAL SCORE**

III. **The guideline range is ^ months.**

IV. **OTHER SIGNIFICANT PRIOR RECORD/STABILITY FACTORS:** ^

V. **CO-DEFENDANTS:** ^

VI. **FORM USA-792, AO-235, AO-337:** ^

VII. **PAROLE ON THE RECORD:** ^

TLK/kjt/sl 2-8, 2-9-94

EDWARD S. PANZER
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(212) 349-6128
FAX (212) 406-6890

September 25, 1995

Hearing Examiner
Parole Board
FCI Terminal Island
1299 Seaside Avenue
Post Office Box 3244
San Pedro, California 90731

Re: Rosario Gambino
Register No. 06235-050

Dear Sir/Madam:

Please be advised that I was one of the attorneys that participated in United States v. Gambino, a trial that lasted over six months in the Southern District of New York before the Honorable Peter K. Leisure. The actual investigation with respect to the above referenced case ran from 1988 to 1994.

During said period, I became acquainted with the testimony of Tomasso Buscetta, a government witness who was and remains in protective custody. Mr. Buscetta was an important government witness in the Pizza Connection trial in 1982. The minutes of that trial reflect that Mr. Buscetta knew the Gambinos' and testified that they were not part of Organized Crime and that they were not part of any drug transactions.

I personally spoke with Mr. Buscetta in 1993. He indicated to me that he knew the Gambinos, Joe, John and Rosario Gambino. He knew them to be in the meat business, that they were hard working people and that they were not involved in any criminal organizations.

Mr. Buscetta testified as a defense witness in the Gambino trial in 1993 and my recollection is that he again testified under oath that the Gambinos' were not involved in any drug or criminal activities.



I hope this letter is helpful in making a fair and just determination with respect to Rosario Gambino's Parole Status.

If you have any questions, please feel free to contact me.

Thank you for your courtesy in this matter.

Very truly yours,

Edward S. Panzer

ESP:ls

Memorandum

FYI

Subject

GAMBINO, Rosario
Reg.No. 06236-050

Date

December 30, 1997

To

Marie Ragghianti
Chief of Staff
U.S. Parole Commission

From

Thomas C. Kowalski
Manager
Case Operations
U.S. Parole Commission

Rosario Gambino was sentenced to a 45 year Regular Adult sentence plus a 20 year special parole term on 12/6/84 for Conspiracy and Possession With Intent to Distribute Heroin. A $105,000 fine was also imposed. The jury in this case found that Rosario Gambino, Anthony Spatola and Antonio Gambino were members of a heroin trafficking conspiracy apparently able to supply 10 kilos of uncut heroin on a monthly basis. The facts showed that Rosario Gambino and Erasmo Gambino were not merely independent contractors but rather were key links between the distribution level and the supply level in an international heroin trafficking organization. These defendants guaranteed the undercover agents 10 kilos of over 90% pure heroin each month! The government produced evidence that Rosario Gambino was the person who supervised the activities of the remaining defendants. This current conviction was not the first time the subject was accused of serious criminal activities. In 1979, 6 kilos of heroin were seized at JFK Airport after an unsuccessful attempt which made use of Alitalia airline employees. After the seizure, there was no publicity so the purchasers here suspected that the airline employees had stolen the heroin. Employees were threatened with death and in one case, physically tortured. During this time, Rosario Gambino surfaced allegedly to settle the matter. One of the airline employees met with Rosario Gambino and was finally able to convince him that the heroin was seized. Rosario Gambino was indicted and eventually tried. The trial resulted in a hung jury and when retried, he was acquitted.

Following the seizure of the 6 kilos mentioned above, the airline employee met with a Gambino associate (Emanuel Adamita) in another effort to smuggle heroin from Italy. The airline employee negotiated his financial arrangement with Rosario Gambino's brother Guiseppe. The employee and Adamita travelled to Italy. The DEA and Italian authorities agreed that the heroin would be permitted to leave Italy so that prosecution could occur in the USA. When Italian authorities discovered that the group intended to smuggle 40 kilos, the Italian authorities declined to permit such a massive amount of heroin to leave the country, Adamita and others were arrested. Rosario Gambino was tried in absentia

USPC/Gambino--00924

EXHIBIT
34

and convicted of criminal association with the purpose of trafficking in narcotics. He was sentenced on 6/6/83 to 20 years imprisonment.

Rosario Gambino's criminal activities also extend to arson and extortion. In 1980, the ATF presented a report of its investigation into a series of arsons which included incriminating evidence against Rosario Gambino. Notable among these arsons were two which appear related to efforts by Rosario and his brother Guiseppe Gambino to take over a pizza franchise in Cherry Hill, NJ. Rosario and his brother were observed at the scene of a pizza restaurant following the arson and shortly thereafter, the manager received a call and told to close the store and return to New York. Two days later, the manager's automobile was destroyed by a firebomb. Two days later, the manager received a telephone call and threatened with death.

There is also evidence that Rosario Gambino participated in the harboring of Michele Sindona while he was a fugitive. Sindona was charged in 1979 with bank fraud and embezzlement in conjunction with the collapse of the Franklin National Bank, a fraud involving $400 million.

In addition, during a search of Rosario Gambino's residence in 3/84, agents seized photocopies of intelligence files of the NY City Police Department. The investigation revealed that a NY City detective provided these intelligence files to Gambino.

Subject had his initial parole hearing at the FCI Terminal Island on 2/16/95 after having served 148 months in custody. At the hearing, he denied involvement in any narcotic trafficking but acknowledged that he was having financial problems and in need of money. He says that the $100 bills found in his possession (part of the bait money used during the sale of heroin) was received from gambling rather than any involvement in the drug deal. The offense severity was rated as Category Eight because it involved conspiracy to distribute 6 kilos or more of heroin. The SFS was 9 and the guidelines were 100+ months to be served. He was provided a 15 year reconsideration hearing in 3/2010. A decision more than 48 months above the minimum guidelines was warranted because of his status as a member of organized crime. Mr. Rosario was represented by the U.S.C. Law Center who prepared an appeal to the initial decision. The National Appeals Board remanded the case back for re-hearing to obtain information relating to the allegation that the subject was a member of organized crime.

A rehearing was conducted on 12/12/95 at the FCI Terminal Island. Copies of the 1980 Pennsylvania Crime Commission Report and the New Jersey Report from the Commission of Investigation were included to support his involvement with organized crime. The examiner however, concluded that there was not sufficient information available to conclude that Rosario Gambino is a member of organized crime. The examiner did recommend that the 15 year reconsideration hearing be maintained and new reasons were provided to support a decision more than 48 months above the minimum guidelines. The National Appeals Board issued a Notice dated 2/2/96 which provided for a 15 year recon

hearing in 3/2010. The U.S.C. Law Center again represented the subject on appeal. The NAB denied reconsideration of the decision of 2/2/96 (the 15 year recon hearing).

The subject was scheduled for a SIH hearing in 11/97 at the FCI Terminal Island but waived.

The Sentencing Memorandum and documents in the file clearly depict the subject as an individual deeply involved in organized criminal activity.

USPC/Gambino--00926

3-9-95

INITIAL HEARING SUMMARY

NAME: Rosario GAMBINO DATE: 02/16/1995

REG NO: 06235-050 CASSETTE NO: 91680

GUIDELINE: 100+ months INSTITUTION: FCI Terminal Island

SFS: 9 SEVERITY CATEGORY: Eight

RECOMMENDED RELEASE presumptive parole 07/15/96 AFTER 148 MONTHS OF SERVICE

PANEL: ~~Samuel R. Robertson,~~ ? Harry Dwyer, Jr. DWyer 3/31/95

****

I. The panel has discussed the prisoner's severity rating, salient factor score and guidelines with the prisoner. The prisoner contested the description of the offense behavior, salient factor score items and/or guideline range.

Subject adamantly denies involvement in any narcotic trafficking, however, he acknowledges that he was having financial difficulty during the period time of the alleged offense and that he was in need of money. Subject states that he was involved on a much small scale than alleged in the pre-sentence report and he firmly believes that he was convicted on the basis of wire-taps and his name. Subject adamantly denies that he was related to the organized crime boss known as Carlo Gambino. Subject states that two $100 bills found in his possession were not given to him by someone else who was involved in the offense but rather as a result of his being involved in gambling. Subject believes that he was treated unfairly and pointed out that he was acquitted of the serious charge of continuing criminal enterprise (848).

After careful consideration of subject's statements and information contained in the pre-sentence report this examiner believes that there is more credible evidence that subject did in fact engage in the activities as described in the pre-sentence report and that subject's statements are self-serving. Thus, this examiner has concluded by the preponderance of evidence that subject did in fact engage in a Category eight offense behavior regarding the extremely large scale heroin distribution.

II. MODIFICATIONS, ADDITIONS, CORRECTIONS: None

USPC/Gambino-00486

Ex. D

EXHIBIT 35

III. INSTITUTIONAL FACTORS:

a. Discipline: Subject has received one misconduct report regarding medication. This incident occurred on May 18, 1989 when subject was found to have a number of green pills within his property which were unauthorized to retain within his property or on his person. The DHO found him to have possessing unauthorized pills and that subject was supposed to take the pills at pill line and not leave the hospital area and return to another area without taking the pills. The DHO sanction was 21 days displinary segregation and forfeit 50 days statutory good time.

b. Program Achievement: Subject has been on Terminal Island on two separate occasions, Springfield, Memphis, Safford and Tucson. Subject has primarily worked in food service and there are numerous memos in the file attesting subject's excellent work performance in food service. For the past month subject has worked as a unit orderly and he continues to receive excellent work reports. Subject has been involved in the GED program for an extended period of time and subject also has been involved in counseling because of the depression which he has suffered through this period of confinement. Overall subject has adjusted in a very favorable fashion.

IV. FINES, RESTITUTION: Subject has paid part of his $105,000.00 fine but still has $77, 765.00 remaining.

Subject's future plans are to reunite with his wife and children in Los Angeles, California and he hopes to be a writer. Subject's son and other family members own a telephone company and he could work for the family business when he is released. There does not appear to be a need for any special conditions other than the special mental health condition.

V. RELEASE PLANS:

VI. REPRESENTATIVE: Subject was represented by USC law student Dennis Brown who was supervised by Dennis Curtis, professor, USC Law School. Also present was subject's son, Tommy, his wife and mother. Tommy Gambino spoke in behalf of his mother and grandmother indicating that subject has excellent family support and the family is most anxious to have subject returned to the community. Subject has served 11 years and the family has moved from New Jersey to California to be near him because of his depression. Subject will live with the family in Los Angeles and the father could help with the family business with is a telephone company. Subject's mother is ill and came out to the hearing from New York to support her son and once her son is released she will move out to Los Angeles to live with the family. Subject's wife was present and according to the son is most anxious to have her husband return and it is quite evident that subject has excellent family support. It is noted that subject's wife and mother have a very limited command of the english language.

Ex. D
P. 2

Dennis Brown presented material in subject's behalf and written and also stated at today's hearing that he believes that subject should be released. Subject has served in excess of the guideline range which he believes should 40-52 months based on category six and a salient factor score in the very good range. Subject has medical problems and suffers from depression. There are a lot of statements regarding organized crime in the presentence report but there is no concrete evidence of such activity. It should be noted that the heroin and gun mentioned found in subject's house was not actually subject's house but someone else's. He was not the leader in the instant offense and subject has been an outstanding inmate through his period of confinement.

Dennis curtis believes that the major evidence that convicted subject was the wire tap an he was not the prime mover nor was there a great deal of heroin involved in the instant offense.

VII. EVALUATION: The applicable guideline range is 100+ months.

Subject is serving a term of 45 years plus 20 years SPT for an extremely large scale heroin offense. The presentence report indicates that subject is a descendant of Crime family boss Carlo Gambino, however, subject states that he is not related to that person in any manner. In addition to the federal conviction, subject was convicted in absentia in Italy and has been sentenced to a term of 20 years. Of all of the co-defendants, subject received the longest sentence and several other co-defendants received a term of 30 years or more. By subject's own admission at today's hearing his arrest resulted in considerable publicity in the New York/New Jersey area at the time of his arrest, however, this examiner does not believe subject's case should be designated original jurisdiction. The reason the Commissioner may wish to consider original jurisdiction consideration based on the unusual publicity in this case. Subject has now served 131 months with subject's minimum guideline being 100 months and there being no maximum. During the almost 11 years that subject has been confined he has only received one misconduct report and that report is not considered an extremely serious misconduct report. He has had a good institutional record as evidenced by the numerous letters of commendation and subject has participated in the academic and counseling program.

This examiner suggests that there be a careful review of all the co-defendants, the severity established and the number of months they were required to serve before release. With limited information regarding the co-defendants, this examiner is concluding that subject should serve 148 months before he is returned to the community. This would have subject serving 48 months above the minimum and this examiner believes that this is sufficient sanction based on the behavior described in the presentence report.

VIII. PANEL RECOMMENDATION: Continue to presumptive parole after the service of 148 months, July 15, 1996 with the special mental health aftercare condition.

Ex D
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GAMBINO, Rosario 06235-050
Initial Summary
Page 4

pld
March 1, 1995

Ex. D
p. 4

<*BOPCODE-TRM>

ORIGINAL JURISDICTION APPEAL SUMMARY

NAME: Gambino, Rosario **REG. NO.** 06235-050 **INST:** Terminal Island FCI

OFFENSE: Conspiracy to distribute heroin, use of a communication facility to distribute heroin, possession with intent to distribute heroin.

TERM:	45 year RA	**DOB:**	[redacted]
BEGAN:	12/6/1984	**MOS AT APPEAL:**	181
MOS AT REL:	276	**DAYS JT:**	265
DAYS INOP:	0	**PE DATE:**	03/15/1994
MR DATE:	06/12/2014	**2/3 DATE:**	3/15/2014
FT DATE:	03/15/2029	**G/L:**	100+
OFS SEV:	Category Eight	**SFS:**	9

RKP 4/9/98 - - -

affirmation of the previous decision.

RECOMMENDED REASONS:

The Full Commission has reviewed the grounds you raise in your appeal and affirms the prior Commission decision.

Your first claim on appeal is that it was a violation of your due process rights for the Commission not to adopt the recommendation of the hearing examiner. You argue that since the hearing examiner that conducted the hearing recommended that the offense should be rated Category Six and that you should be paroled, that the Commission was required to adopt this recommendation or else order another hearing. You cite the district court opinion of Flores v. Stock, 715 F. Supp. 1468 (C.D. Cal. 1989). First, your case is clearly distinguishable from the circumstances in Flores. Flores involved a parole revocation case where the credibility of the testimony of a witness was central to a finding of whether or not the alleged parole violator had violated the conditions of parole. The due process rights afforded a parolee at a revocation hearing are greater than the due process rights afforded a prisoner applying for release on parole since a person on parole has a greater liberty interest in maintaining that status. When a prisoner seeks parole, due process requires only that he be apprised of the information on which the Commission may rely and have an opportunity to refute that information, either at the parole hearing or upon administrative appeal. Roberts v. Corrothers, 812 F.2d 1173, 1179 (9th Cir. 1987). In your case, you are not on parole and the issue is not your credibility but a hearing examiner's assessment of the record and recommendation to the Commission. Applying procedural requirement found necessary in Flores to the parole release decision-making process would transfer the parole decision-making authority to the hearing examiners at the expense of the Commissioners. The parole statute clearly vested the parole decision-making authority in the Commissioners and not the examiners and the statute was created in the context of hearing examiners conducting hearings and making recommendations to the Commissioners. See Reynolds v. McCall, 701 F.2d 810 (9th Cir. 1983); Lynch v. United States Parole Comm'n, 768 F.2d 491, 496 (2d Cir. 1985); Liberatore v. Story, 854 F.2d 830, 837-38 (6th Cir. 1988).

Second, the Commission believes that Flores was incorrectly decided and notes that Flores conflicts with the circuit court opinion of Moore v. DuBois, 848 F.2d 1115 (10th Cir. 1988), and appears to conflict with the Ninth Circuit's decision in Standlee v. Rhay, 557 F.2d 1303 (9th Cir. 1977). In Rhay, the Ninth Circuit found that a parolee was not denied due process where a key alibi witness was not present at a final revocation hearing. The Ninth Circuit stated that "parole revocation proceedings are not part of the criminal process and are not protected by the full panoply of due process rights." 557 F.2d at 1307. The Ninth Circuit went on to conclude that the examiner's reliance on transcripts in lieu of live testimony was appropriate and had been expressly approved by the Supreme Court citing Gagnon v. Scarpelli, 411 U.S. at 783 n. 5. The Ninth Circuit in Rhay stated that "[a]t the very least, . . . [petitioner] would have to show prejudice resulting from the use of the transcript." Id. (citations omitted). You have alleged no prejudice from your claimed deprivation of your due process right to another hearing and there is none evident in the record. The issue of whether your offense should be rated Category Six or Category Seven is based on written information in the record that has been available to you prior to the most recent special reconsideration

hearing. You were clearly on notice that the Commission might rate your offense Category Eight as the Commission had done so in the past and you had every opportunity to present your arguments to the Commission.

Finally, it is clear to the Full Commission that the hearing examiner was applying a clear and convincing evidence standard to the information in the record rather than a preponderance of the evidence standard to determine the appropriate offense severity rating. The question to be resolved did involve witness credibility. Rather, it was a question of the weight of the information in the record. The Full Commission can identify no substantive due process right under the circumstances of this case that would preclude additional examiners and the Commissioners from assessing the weight of the record information without requiring a pro forma additional hearing.

Your second claim on appeal challenges the Commission's finding that your offense behavior should be rated Category Eight. You argue, in addition to the argument that the hearing examiner that conducted the hearing made a contrary finding, that the decision in your case resulted in unwarranted codefendant disparity. The Full Commission has reviewed information in your file and concludes your offense was properly rated Category Eight. Assuming that the same information was presented in your codefendant's cases, then it appears that there may have been an error in their cases if they were not also rated Category Eight. The Commission may reconsider the decision in the case of Erasmo Gambino since he has not been released. (In fact, even if the appearance of disparity exists in the rating of the offense, there is no actual disparity since Erasmo Gambino has been denied parole). The Commission will not compound an error made in the cases of your codefendants by incorrectly rating your offense behavior as well. Moreover, the Full Commission is aware that your challenge to the rating of your offense in a habeas corpus petition was recently rejected by the United States District Court for the Central District of California.

The Full Commission finds that you were the most culpable of all the offenders in this conspiracy and notes that the information in your file supports the conclusions of the Commission. The information supports the conclusion that it was you that provided the assurance that 10 kilograms of heroin could be delivered.

Your claim that you did not have the ability to distribute 10 kilograms of heroin has been reviewed. You argued that the other codefendants, Anthony Spatola and Antonio Gambino, told the FBI that they could not provide that much heroin. However, the Full Commission finds that your role was significantly more culpable than these two codefendants and that you had the ability to make good on your assurances.

Your claim that the Third Circuit on direct appeal from the conviction noted that the issue of whether or not the conspirators could provide additional amounts of heroin was never resolved. However, the Commission could, and has, resolved this issue.

The Full Commission has reviewed the grounds you raise for a more lenient decision. The Full Commission has reviewed your institutional record including your participation in a group that counsels youthful offenders. The Full Commission concludes that the seriousness of the offense and the risk to the community outweigh the mitigating factors you present.

Regarding the issues you raise in your supplement to the appeal, the Full Commission agrees with you that your rescission behavior should be rated as an administrative violation rather than an illicit drug-related infraction, but notes that it does not affect your parole guideline range and the Full Commission finds that an earlier release date is not warranted.

Your claim of a disparate presumptive release date with codefendant Erasmo Gambino is disingenuous. The Commission has not set a presumptive parole in Erasmo Gambino's case. The Commission has ordered him to continue to expiration and any release from his sentence earlier than your presumptive parole date is the result of the fact that Erasmo Gambino's sentence is shorter than yours.

The Full Commission finds no merit to your claim that the decision in your case was the result of discrimination based upon national origin. A review of the record reveals that it was an error for you to have received a special reconsideration hearing. Your hearing should have been a statutory interim hearing where the question of the offense severity rating should not have been an issue. Nevertheless, the Full Commission notes that this resulted in a more favorable decision and affirms the prior commission decision.

NOTES:

Rosario Gambino, is currently an inmate at the Federal Correctional Institution, Terminal Island, California. He is serving a 45-year regular adult sentence to be followed by a 20-year special parole term imposed by the United States District Court for the District of New Jersey for possession with intent to distribute heroin and conspiracy to distribute heroin on December 6, 1984.

According to information contained in the presentence investigation report and the government's version of the offense, subject was the most culpable offender in a large heroin distribution conspiracy whose conduct during the negotiations with codefendants reflected an unusual amount of sophistication in the business. Subject is related to codefendant Erasmo Gambino, not only as a cousin but a brother-in-law as Erasmo Gambino married subject's sister. Subject is related to codefendant Anthony Spatola as a cousin and Anthony Spatola is a cousin to codefendant Antonio Gambino. (See PSI at p. 18).

According to the government version of the offense, codefendants Antonio Gambino and Anthony Spatola had numerous contacts with an undercover agent with regard to the sale of heroin to this undercover agent. Antonio Gambino expressed caution to the undercover agent that he had to be careful about who he introduced to his organization because if he introduced an undercover agent to one of his coconspirators it could result in his death. (PSI at p. 7). These comments to the undercover agent made it clear that persons who would be supplying the heroin were deeply entrenched in the heroin network and suggested that the people from whom Antonio Gambino would be getting the heroin from would provide high quality heroin. (PSI at pps. 7-8). Antonio Gambino suggested that no heroin deals would be any less than one kilogram and repeatedly referred to the persons who supplied the heroin as being members of his family. (PSI at p. 8).

The wiretap suggested that Antonio Gambino was trying to impress his suppliers (including subject, Rosario Gambino) so that he could be accepted within the criminal organization. (PSI at p. 9). The apparent clearing house for large heroin transactions was the Caffe Milano in Brooklyn where subject, Rosario

USPC/Gambino-00549

Gambino, and Erasmo Gambino were frequently found. (See PSI at p. 11). The government viewed the evidence that the coconspirator's use of code words in reference to petitioner indicated that petitioner was the most culpable codefendant. (PSI at pps. 12-14). The comments of Erasmo Gambino clearly suggest that there were other customers in an organized distribution network that involved more than just the deal that Anthony Spatola and Antonio Gambino were attempting to conclude with the undercover agent. (See PSI at p. 15). Subject was the source of the heroin that was ultimately provided to Anthony Spatola and Antonio Gambino as part of their deal with the undercover agent. (PSI at p. 16).

Subject's coconspirator, Antonio Gambino, repeatedly made reference to the source of his supply as heroin as his "family" and that he was very secretive about his family name. (PSI at p. 17). Antonio Gambino suggested to the agents that if they knew their (the coconspirators') last name they would be proud to be dealing with them and they could feel 100% secure in their transactions, and boasted that his family was "really big, big" and that "we can give you all the guarantee you want." (PSI at p. 17). It is clear from the information provided by the government that subject is connected by family or marriage to all of his coconspirators. (PSI at p. 18).

During the course of the negotiations, the undercover agents indicated to Anthony Spatola and Antonio Gambino that they were interested in up to ten kilograms of heroin per month to which Anthony Spatola stated that he would find out and drove to subject's house. (PSI at p. 18). At a later recorded conversation between Antonio Gambino and Anthony Spatola, it was revealed that subject had the authority to determine who would be actively involved in the heroin negotiations and how the profits would be divided among the participants. (PSI at p. 19). On January 19, 1984, Anthony Spatola and Giovanni Bosco met with Erasmo Gambino who subsequently met with subject. (PSI at p. 19). In a conversation intercepted that evening between Anthony Spatola and Antonio Gambino, it was clear that they received an affirmative response that they would be able to proceed with the request for a guarantee of ten kilograms of heroin per month. (PSI at p. 20). It was this guarantee to Antonio Gambino and Anthony Spatola that the Commission determined that petitioner's offense behavior involved a conspiracy to distribute in excess of six kilograms of heroin of unknown purity.

Although Anthony Spatola and Antonio Gambino would ultimately tell the special agent that three kilograms of heroin were immediately available that month (PSI at p. 20), this did not mean that subject had not authorized Antonio Gambino and Anthony Spatola to proceed with the larger conspiracy to distribute ten kilograms of heroin. In a later meeting with the undercover agent, Antonio Gambino indicated that although there was some trouble in providing the heroin immediately, he had received a ten kilogram guarantee from subject. (PSI at p. 21).

As further indication that subject and his coconspirators were experienced heroin traffickers, Erasmo Gambino told Antonio Gambino that this was a "nutty business" and that snags in the delivery of heroin should be expected. (PSI at p. 22). This comment supports the conclusion that it was not a "one time" event as claimed by subject in a later habeas petition that he lost. Furthermore, Erasmo Gambino's offer of assistance in securing bail money and attorneys for others who were arrested in a heroin transaction unrelated to this offense

further supports the notion that subject and Erasmo Gambino were experienced and [redacted] drug traffickers. (See PSI at p. 23). Finally, subject's and Erasmo Gambino's concern about the impact of the arrest in the unrelated conspiracy prompting them to be more cautious in the dealings with the undercover agents suggests trafficking savvy. (PSI at p. 24).

Finally, the government's information indicated that on March 16, 1984, subject was arrested and a search warrant of his home was executed. (PSI at p. 29). In that search, two-$100 bills that had been part of the prerecorded buy money were found in subject's bedroom. (PSI, pps. 29-30). Additionally, the search revealed a secret compartment in the closet in which $20,000 in cash was discovered. (PSI at p. 30). Finally, and most revealing, the search also resulted in the seizure of confidential New York City Police Intelligence files regarding subject, including surveillance notes relating to the Caffe Milano. (PSI A at p. 30). The fact that these surveillance files were illegally passed onto subject by a detective of the New York City Police Department support the conclusion that subject was a sophisticated narcotics trafficker who was capable of conducting counter-surveillance. (PSI at p. 30). (Subject denies that he had obtained these files illegally.)

Subject's presentence investigation report also indicates that subject had been arrested in March of 1980, along with his brother Giuseppe Gambino, for participating in an international heroin smuggling operation wherein 41.5 kilograms of heroin were seized in Italy that was destined for the United States. (PSI at p. 31). Subject was apparently acquitted of this charge.

Since subject was serving a 45-year regular adult sentence, he would not become [redacted]igible for parole until after he had served ten years of that sentence. During that time, subject received one incident report for institutional misconduct relating to prescription pills that he was not authorized to have in his possession. Aside from this incident report, subject's conduct has been clear.

Subject received an initial parole hearing on February 16, 1995. At that hearing, subject denied any involvement in narcotic trafficking, however, he admitted that he was having financial difficulty during that period of time and was in need of some money. In view of this denial of guilt, there was little discussion of the offense behavior at the hearing. The hearing examiner (Mr. Dwyer) focussed on subject's eventual release plans to California as subject had brought his son, wife, and mother to the hearing. Following that hearing, the hearing examiner recommended that subject's offense be rated Category Eight because it involved a conspiracy to distribute more than six kilograms of heroin, and recommended that subject continue to a presumptive parole after the service of 148 months. This recommendation was never made a panel recommendation (two concurring hearing examiners) and was later repudiated by hearing examiner Dwyer at a later reconsideration hearing. Of the three examiners and six commissioners that have reviewed subject's case following the initial hearing, none supported this parole date.

The recommendation of the examiner was reviewed by the Regional Administrator (Mr. Sicoli) who concurred with the offense severity rating of Category Eight, however, believed that petitioner was criminally oriented and likely to violate [redacted]he law when released and recommended that subject continue to expiration. The [redacted]ase was refereed to a third hearing examiner (Mr. Robertson) who concurred with

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the Regional Administrator forming a panel recommendation to the Commission. (It is interesting to note that Mr. Robertson now advocates an offense severity rating of Category Six, a position clearly inconsistent with his earlier vote in March of 1995 supporting the Category Eight finding.)

The third examiner also concurred with the referral for original jurisdiction consideration. Subject's case was referred by the Acting Regional Commissioner to the National Commissioners on March 13, 1995, with a recommendation that subject's offense be rated Category Eight because subject had offered guarantees to his coconspirators to supply ten kilograms of heroin per month.

After review by three additional Commissioners, all concurred in the recommendation to continue subject to expiration after rating his offense Category Eight. Although Category Eight offenses have no upper limit to their guidelines, the Commission's practice is to provide relevant case factors for any decisions that could result in the service of more than 48 months above the minimum of that guideline range. These pertinent case factors are distinct from reasons for departures from the guideline range. For the pertinent case factors indicated by the Commission in subject's case, the Notice of Action stated that a decision "more than 48 months above the minimum guideline range is found to be warranted because you are a member of an organized criminal group, criminally oriented and likely to violate the law upon your release from custody."

After the Notice of Action was issued, Commission staff realized that the Commission should have ordered subject to continue to a 15-year reconsideration hearing rather than to expiration, pursuant to 28 C.F.R. § 2.14(c)(1). A corrected Notice of Action continuing subject for a 15-year reconsideration hearing was issued on April 24, 1995. Subject appealed this decision to the Commission's National Appeals Board arguing, among other things, that it was improper for him to receive a one person hearing, that his offense was incorrectly rated Category Eight, and that the Commission incorrectly concluded that he was a member of organized crime.

While reviewing this appeal, the full Commission decided it was appropriate to remand subject's case for a de novo hearing to consider, in particular, whether there was any available evidence to support a finding that he was a member of organized crime. In returning subject's file to the Regional Commissioner for a new hearing, a Commission attorney (Mr. Chickinell) indicated that the Commission wanted further information to determine if subject was a member of organized crime.

In response to a Commission request, the U.S. Probation Office forwarded to the Commission a copy of a State of New Jersey Commission of Investigation regarding subject as well as a 1980 report of the Pennsylvania Crime Commission that suggested subject was a member of organized crime in a letter dated October 23, 1995. These documents were disclosed to subject prior to his reconsideration hearing.

Subject received a de novo initial hearing on December 12, 1995. At that hearing, subject admitted a minor role in the offense but indicated that he was being treated unfairly by the Commission and the courts and argued that the Commission should not consider his in absentia conviction in Italy. Subject also argued that his other codefendants were treated much more leniently. The hearing examiner noted that the presentence report did not contain any

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information that subject was involved in organized crime.

[Subject's codefendant, Erasmo Gambino, challenged the Commission's finding that he was a member of an identified LCN family in the United States District Court for the District of New Jersey. The District Court denied the petition and Erasmo Gambino appealed to the Third Circuit which reversed the district court finding. Erasmo Gambino has since had another hearing where significant information relating to his ties to organized crime were considered. After reviewing the files of subject's codefendants in response to the codefendant disparity issue subject raised in earlier litigation in 1997, it became clear that the government's sentencing memorandum was not part of the record in subject's file even though it was available in the case of his codefendant Erasmo Gambino. This sentencing memorandum gives significantly more detail of the government's assessment of subject's involvement in criminal conduct. (See Sentencing Memorandum dated November 27, 1984). This memorandum was prepared after subject's presentence investigation report was prepared on November 20, 1984. This sentencing memorandum has not yet been considered by the Commission until the most recent reconsideration hearing in 1998].

At the first reconsideration hearing in December 1995, the examiner noted that there was insufficient evidence in the Pennsylvania Crime Commission report to indicate that subject was a member of an unidentified organized crime family based upon the information then available to the Commission. The examiner (Mr. Dwyer), however, recommended that subject's offense be rated Category Eight. The examiner found subject's conviction in absentia in Italy for a large-scale heroin offense involving 40 kilograms of heroin to be significant and recommended that subject receive the maximum continuance. The Regional Administrator concurred with the recommendation to continue subject to a 15-year reconsideration hearing on December 26, 1995, forming a panel recommendation to the Commission. The Regional Commissioner, Carol Getty, adopted the recommendation on December 26, 1995. The Regional Commissioner then referred the case to the National Commissioners for original jurisdiction consideration and the Regional Commissioner noted that subject's involvement in the instant heroin offense along with his conviction in absentia in Italy for distribution of 40 kilograms of heroin are strong indicators that subject was criminally oriented and likely to violate the law if released.

Meanwhile, subject's representative forwarded a memorandum to the Commission objecting to the Commission's consideration of the conviction in absentia in Italy. This prompted one of the National Commissioners (Mr. Clay) to refer the case to the Commission's general counsel for an opinion regarding the Regional Commissioner's consideration of the in absentia conviction in Italy in a memorandum dated January 31, 1996. Three National Commissioners (Gaines, Clay and Fechtel) concurred with the recommended statement of reasons suggested by the general counsel, and the Commission issued a Notice of Action ordering subject to continue to a 15-year reconsideration hearing in a Notice of Action dated February 2, 1996.

Subject appealed this decision raising numerous issues including the issue of codefendant disparity. Subject attached to his appeal copies of the Commission decisions in his codefendants' cases. The full Commission reviewed the grounds subject raised in his appeal and affirmed the prior Commission decision in a Notice of Action on Appeal dated July 12, 1996. Although two of the same Commissioners (Clay and Gaines) voted to affirm the prior Commission decision,

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the decision to affirm the prior Commission decision was voted on by two additional Commissioners that had not participated in the decision on appeal, (Reilly and Simpson).

IMPORTANT RECENT PROCEDURAL HISTORY

Subject was scheduled for a statutory interim hearing in 1998, NOT a special reconsideration hearing. A prehearing assessment was prepared by hearing examiner Chait who reviewed the sentencing memorandum that had not yet been considered and specifically noted that the sentencing memorandum had not been disclosed. (Subject and his representative had actually received a copy of the sentencing memorandum in October 1997 when the United States responded to the habeas corpus petition subject had filed in the Central District of California. Subject recently lost this habeas petition and the Court's decision is attached.)

The first attempt to conduct the SIH was on February 18, 1998. At that time, examiner Dwyer noted that subject claimed that had only a brief time to review the sentencing memorandum and that his representative had not had time to review it. Examiner Dwyer then recommended a continuance to the May 1998 docket so that subject would have ample time to review the material. There is no information in the file to explain why subject did not receive a hearing on the May docket. Nevertheless, subject was heard on the June 1998 docket.

An SIH was conducted by hearing examiner Robertson on June 1, 1998. It appears that subject again claimed that he did not receive disclosure of the sentencing memorandum (which is contradicted by the record). Mr. Robertson reviewed the sentencing memorandum and concluded that it shed little new light on subject's case. Subject's attorney informed Mr. Robertson of a recent Third Circuit decision in Erasmo Gambino's case. Subject's attorney also stated that the information found in subject's house that suggested that he had contacts with the police was information subject had obtained from his attorney. In the typewritten hearing summary, examiner Robertson complained that the case was "simply not ready for a hearing," and that a comprehensive prehearing assessment needed to be prepared. The typewritten summary does not call for a special reconsideration hearing under § 2.28(f). In an undated, handwritten addendum (see flag), Examiner Robertson states:

> In as much as there appears to be significant information that has never been formally considered at any of the Prisoners hearings and considering there appears to be other new information in the form of a Circuit Court Decision, this examiner is recommending the case be reopened for a special reconsideration hearing.

In a discussion with Mr. Robertson, he indicated that he wrote the addendum within a week or so after the hearing. The file contains no order forms from examiner Robertson to this effect. However, in a discussion on April 9, 1999, with Mr. Robertson, he stated that he had prepared an order form and does not know what became of it. A search of the computer records in "View" indicates that there was no Notice of Action issued ordering a special reconsideration hearing and there is no order in the file suggesting that the Commission agreed that a special reconsideration hearing be conducted.

Nevertheless, a special reconsideration hearing was conducted. After the "new

adverse information" was considered, examiner Robertson recommended that the offense severity rating be lowered from Category Eight to Category Six and that subject be released on parole in April 1999. The original order forms from this unauthorized "special reconsideration hearing" are missing. It appears that the order forms were recreated by Administrative Hearing Examiner Raymond Essex. (I did not have an opportunity to speak with Mr. Essex as he has been on leave this past week). Mr. Essex disagreed with the recommendation of Mr. Robertson and recommended that subject's offense be rated Category Eight and recommended a presumptive parole date of March 14, 2007, after the service of 276 months (rather than "no change in 15-year reconsideration hearing" as would have been the likely result from an SIH).

A second examiner (Shoquist) agreed with the recommendation of Mr. Essex as did Commissioners Simpson and Reilly. A Notice of Action dated January 20, 1999, resulted and it is from this decision that subject appeals.

Subject's appeal raises several issues.

The first issue is that the overruling of the hearing examiner's recommendation violated his due process rights. He argues that since the hearing examiner that conducted the hearing (Robertson) found that the offense should be rated Category Six and that subject should be paroled, that it was a violation of his due process rights if the Commission rejected this finding without another in-person hearing. Subject bases this argument on a district court opinion of Flores v. Stock, 715 F. Supp. 1468 (C.D. Cal. 1989). Although there is a serious question of whether Flores was correctly decided and it should not go unnoticed that it conflicts with a circuit court opinion of Moore v. DuBois, 848 F.2d 1115 (10th Cir. 1988). Additionally, the Ninth Circuit's decision in Scandlee v. Rhay, 557 F.2d 1303 (9th Cir. 1977), also suggests that Flores was wrongly decided.

This case is clearly distinguishable from the circumstances in Flores. First, Flores involved a parole revocation case where the credibility of the testimony of a witness was central to a finding of whether or not the alleged parole violator had violated the conditions of parole. The due process rights afforded a parolee at a revocation hearing are greater than the due process rights afforded a prisoner applying for release on parole. In this case, subject is not on parole and the issue is not subject's credibility but a hearing examiner's assessment of the record. Second, applying the dubious procedural requirement found necessary in Flores to the parole release decision-making process would give undue decision-making authority to the hearing examiners to make parole release decisions at the expense of the Commissioners. The parole statute clearly vested the parole decision-making authority in the Commissioners and not the examiners and the statute was created in the context of hearing examiners conducting hearings and making recommendations to the Commissioners. Finally, petitioner has not demonstrated any prejudice from the claimed deprivation of his procedural due process rights to an additional hearing and there is none evident in the record. The issue of whether the offense should be rated Category Six or Category Seven is based on written information in the record that was available to subject prior to the most recent special reconsideration hearing. Subject was clearly on notice that the Commission might rate his offense Category Eight as the Commission had done so in the past and subject had every opportunity to present his arguments to the Commission.

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Moreover, it is clear to this analyst that the hearing examiner (Robertson) was applying a clear and convincing evidence standard to the information in the record rather than a preponderance of the evidence standard to determine the appropriate offense severity rating. It was not a question of witness credibility, but a question of the weight of the information in the record. I can identify no substantive due process right under the circumstances of this case that would preclude additional examiners and the Commissioners from assessing the weight of the record information without requiring some sort of pro forma additional hearing.

Next, subject challenges the finding that the offense should be rated Category Eight. He argues, in addition to the argument that the hearing examiner that conducted the hearing made a contrary finding, that the decision results in unwarranted codefendant disparity. I believe that Erasmo Gambino's offense was incorrectly rated Category Six and that the Commission should not compound that error my rating subject's offense incorrectly as well. Subject was clearly the most culpable of all the offenders in this conspiracy.

Subject disputes the conclusion that he had an ability to distribute 10 kilograms of heroin. He argues that the other codefendants, Anthony Spatola and Antonio Gambino, told the FBI that they could not provide that much heroin.

Subject notes that the Third Circuit on direct appeal from the conviction noted that the issue of whether or not the conspirators could provide additional amounts of heroin was never resolved. The Commission could, and has, resolved this issue with regard to subject. I believe that the Commission properly concluded that subject was willing and able to provide additional amounts of heroin and that the offense was properly rated Category Eight.

While it is true that the Commission did not dispute the offense severity rating of Category Six for Erasmo Gambino, it should be noted that the history of the case is different. The prehearing assessment prepared by examiner Rogers preassessed the offense Category Eight based on the record information. At the initial hearing, the examiner, Rogers, apparently agreed with the argument of Erasmo Gambino's attorney that the additional amounts was nothing more than a boast. Once the Commission agreed with this conclusion with regard to Erasmo Gambino, there never was an occasion to challenge the rating. I believe that the rating for Erasmo Gambino was an error and that the additional amounts were not mere boasting and that the Commission should consider reopening Erasmo Gambino's case and conduct a hearing to determine if Category Eight would be more appropriate. I realize that this is not a pressing issue since Erasmo Gambino was continued to expiration based on his unacceptable risk for parole finding that Erasmo Gambino was a sophisticated career criminal with a high degree of dependency on organized crime.

Next, subject objects to the conclusion that he should be held accountable for incomplete and unsuccessful negotiations of Antonio Gambino and Anthony Spatola claiming that he was not present during these negotiations and that there is no evidence that he had knowledge of these negotiations. Subject emphasizes the "no evidence" in his appeal. However, the Commission could make a reasonable inference that subject had knowledge of the negotiations of his codefendants since the information in the record clearly establishes his salient role in the offense and there was little, if any, room for the less culpable codefendants operate outside of subject's purview. I view subject as an unrepentant,

serious, sophisticated criminal with close ties to organized crime.

Subject argues that there are compelling reasons for an earlier release decision. He argues that he has an outstanding institutional record and has participated in a group that counsels youthful offenders. He also notes that he has not continued any criminal activity and criminal associations while he has been incarcerated. I believe the seriousness of the offense and the risk to the community outweigh the claimed superior programming.

Subject argues that his strong family ties warrant an earlier release date. I do not believe that he has demonstrated that he is closer to his family than most other prisoners or than this ground warrants an earlier release date.

In an addendum, subject argues that he should not have been sanction for a drug related infraction. I agree but it makes no difference to his guidelines since he is a Category Eight. I do not believe that the information is significant enough to warrant an earlier release date.

Subject also complains that Erasmo will be released earlier. Since Erasmo has been continued to expiration, his release is a function of his shorter sentence, not a result of Commission action.

Finally, subject complains about the reference to his immigrant status by Mr. Stover in a prior OJ appeal summary. This reference does not indicate any prejudice to subject as a result of national origin. Moreover, the decision currently on appeal is a more lenient decision and is completely unrelated to the prior OJ appeal. Moreover, this claim was rejected by the district court in subject's habeas petition noting that the "discrimination claim. . . is utterly contrived." And that subject's attempt to "play the bias card" was belied by his own codefendant disparity argument. (See Final Report and Recommendation dated March 12, 1999, at page 4).

I recommend that the prior decision be affirmed.

rkp RKP 4/9/99

USPC/Gambino-00557

Memorandum

Subject

GAMBINO, Rosario
Reg. No. 06235-050

Date

March 13, 1995

To

National Commissioners
U.S. Parole Commission

From

Jasper R. Clay
Acting Regional Commissioner
North Central Regional Office
U.S. Parole Commission

A. This case is referred pursuant to 28 CFR 2.17(b)(3) & (b)(4) - Designated *Original Jurisdiction* due to the unusual attention drawn to the case and the long-term sentence imposed.

B. Regional Commissioner's Evaluation, Order and Vote:

Mr. Gambino is serving a 45 year term with 20 years SPT to follow for Conspiracy and Possession with Intent to Distribute Heroin.

Although he was not convicted of racketeering or continuing criminal enterprise, the New Jersey and Pennsylvania crime commission reports indicate that Mr. Gambino is a soldier and descendant in the Organized Crime Family of the late mob boss, Carlo Gambino. The PSI further indicates that he, along with his brother, Giuseppe, owned and operated pizza parlors in New York, Pennsylvania and Southern New Jersey to facilitate a continuing criminal enterprise which is described by one ATF agent as using a pattern of threats, coercion, violence and arson to facilitate illegal activities in the states of Pennsylvania and New Jersey.

The current conviction surrounds Mr. Gambino's heroin distribution activities between October 1983 and March 1984. The PSI indicates that our subject was the most culpable, holding a high managerial role in this scheme which centered around six individuals, all of whom were related. Mr. Gambino had the authority to determine who would be actively involved in the heroin negotiations and transactions and how the profits would be divided among the participants.

Specifically, he was involved in the arrangements to deliver 1/2 kilogram of heroin to undercover agents on two occasions. Also, 3 kilograms and later 2 kilograms of heroin were made available during negotiations and subject and his co-conspirators offered guarantees to supply 10 kilograms of heroin per month to the agents.

Ex F

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Mr. Gambino has a previous conviction for heroin trafficking in 1980. He and his brother, Giuseppe, were arrested in their Cherry Hill Restaurant for allegedly participating in an International heroin smuggling operation after police in Milan, Italy confiscated 41.5 kilograms of heroin destined for the United States. He was acquitted in the U.S. but convicted in absentia in Italy with a term of 20 years imposed and a fine of $150 million lire imposed. According to a treaty with the Italian Government, Mr. Gambino is subject to extradition.

Mr. Gambino has now served 131 months and the panel is recommending that he be continued to expiration, which will require service of 30 years. I agree with the panel's recommendation. Subject's involvement with organized crime and his repetitive involvement in the sale of heroin, are strong indicators that he is criminally oriented and likely to violate the law when he is released. Therefore, I vote as follows:

1. Refer to the National Commissioners for Original Jurisdiction consideration.

2. Continue to Expiration.

REASONS:

Your offense behavior has been rated as Category EIGHT severity because it involved Conspiracy to Distribute, Distribution, and Possession with Intent to Distribute 6 kilograms of heroin or more. Your salient factor score (SFS-81) is 9. You have been in Federal custody as a result of your behavior for a total of 131 months. Guidelines established by the Commission indicate a range of 100+ months to be served for cases with a good institutional adjustment and program achievement. In addition, you have committed rescission behavior classified as administrative. Guidelines established by the Commission indicate a range of 0-8 months per drug-related infraction. You have committed 1 drug-related infraction. Your aggregate guideline range is 100+ months to be served. After review of all relevant factors and information presented, a decision more than 48 months above the minimum guideline range is found warranted because you are a member of an organized criminal group, criminally oriented and likely to violate the law upon your release from custody.

As required by law, you have also been scheduled for a statutory interim hearing during March 1997.

tys

U.S. Department of Justice
U.S. Parole Commission

ORDER

Name Gambino, Rosario

Register Number 06235-050 Institution FCI II

In the case of the above-named, the Commission has carefully examined all the information at its disposal and the following action with regard to parole, parole status, or mandatory release status is hereby ordered:

Continue for 15-year reconsideration hearing in March, 2010.

Case Panel Action 4-5-95
Jasper R. Clay, Jr. 4/18/95
Scott Fichtel 4-19-95
Michael J. Grimes 4-21-95

Date

Date

(Date Notice sent) (Region-specify)

National Appeals Board (check)

National Commissioners (check)

Full Commission (check)

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*BOPCODE-TRM>

ORIGINAL JURISDICTION APPEAL SUMMARY
(On Petition for Reconsideration)

NAME: Gambino, RosarioREG. NO. 06235-050INST: Terminal Island FCI

OFFENSE:	Conspiracy to Distribute Heroin		
TERM:	45 years (+20 SPT)	DOB:	[redacted]
BEGAN:	12/6/84	MOS AT APPEAL:	148
MOS AT REL:	N/A	DAYS JT:	265
DAYS INOP:	0	PE DATE:	3/15/94
MR DATE:	6/2/2014	2/3 DATE:	3/15/2014
FT DATE:	3/15/2029	G/L:	108+
SFS SEV:	Category Eight	SFS:	9

LAST COMMISSION ACTION:

Continue to a 15-year reconsideration hearing in March 2010.

RESPONSE:

After thorough consideration of your case, the Commission has reached the conclusion that, although there is insufficient evidence to support a finding that you were a member of an international heroin importation conspiracy run by organized crime, you are nonetheless a sophisticated professional criminal who clearly played a leadership role in an organized heroin distribution conspiracy in the New York-New Jersey area. Following your most recent parole hearing, the Commission rejected the allegations of the Pennsylvania Crime Commission with regard to your alleged membership in the Carlo Gambino/Lucchese Crime Organization, as well as the significance of your conviction in absentia in Italy. However, the Commission cannot ignore the evidence in your record that you are a career offender who operated a local heroin distribution conspiracy in the manner of an organized crime family boss, and had been doing so for an extended period of time. The presentence report gives clear evidence that Antonio Gambino and Anthony Spatola were subordinates in a conspiracy headed by you and Erasmo Gambino, and that the description of this organization and its heroin supply capability provided by these individuals was a truthful reflection of that operation. Moreover, the presentence report describes serious negotiations, both with the undercover agents and among the members of your organization, sufficient to warrant a finding that you and your subordinates conspired to distribute 10 kilograms of heroin. Your leadership role in this operation is clear from the description of events (specifically the wire-tapped telephone conversations) provided in the presentence report. As a co-conspirator, you cannot disassociate yourself from the statements and actions of Antonio Gambino and Anthony Spatola.

The Commission has not relied upon any undisclosed information. The presentence report provides the information that, at the time of your arrest, you had in your possession recent police surveillance documents relating to your case. Although you are correct that there is no evidence as to how you have these records, the Commission may reasonably view these rec

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circumstantial evidence that you had a sophisticated ability to penetrate police operations. Your extreme caution in dealing with the undercover agents supports this inference.

In sum, the record in your case, limited to the circumstances of your local criminal operation, persuades the Commission that you are a professional criminal who would be unlikely to abandon a career in the organized narcotics trade if released on parole. You maintained a high standard of living despite lacking legitimate employment or business since 1979, and displayed all the characteristics of a career crime boss. In particular, the Commission is most concerned about the reputation for violence deliberately cultivated by your subordinate Antonio Gambino in dealing with the police undercover agents. Given the high degree of direction Antonio Gambino needed from you during the course of this offense, the Commission declines to interpret these statements as coming from Antonio Gambino's imagination.

Finally, the Commission rejects your argument that its decision in your case reflects unjustified codefendant disparity. The fact that Antonio Gambino and Anthony Spatola have been released from prison reflects their subordinate role. Erasmo Gambino, also in a leadership position, has been continued to the expiration of his 34-year sentence, which will require him to serve 272 months in prison. Although Erasmo Gambino was rated as Category Six severity (based upon the actual heroin distributed) the Commission did not see fit to grant him a parole, citing in particular the fact that the body of an execution murder victim was found in the trunk of his automobile on November 15, 1982. It is appropriate for the Commission to rate the offense of the leader of the organization in question according to the total amount of heroin that the organization conspired to distribute. Thus, it is not unjust that your offense behavior should be rated as Category Eight to reflect the full distribution capability of the operation you controlled.

In this respect, the Commission agrees with the sentencing court, which gave you the longest sentence of all the codefendants who were convicted in this case. Denial of parole at this time is found necessary to prevent the probable resumption of the criminal career of an offender who cultivated the methods and lifestyle of a crime boss for too long for the Commission to assume his conversion to a law-abiding lifestyle if paroled.

RECOMMENDATION:

Deny reconsideration of decision dated February 2, 1996.

REASONS:

Approved.

NOTES:

The Commission's consideration of this case has been difficult because of the distraction posed by a report from the Pennsylvania Crime Commission linking Rosario Gambino to the larger Carlo Gambino/Lucchese Crime Family. It would appear that Rosario Gambino certainly has more extensive ties to organized criminals than his own circle of codefendants, but his status as a member of "organized crime" is not sufficiently clear to support a finding by the Parole

Commission. His conviction in absentia in Italy in connection with a 41.5 kilogram heroin importation conspiracy suggests a great deal, but does not supply the Commission with a solid basis in fact. Thus, the Commission remanded this case for a de novo hearing to redetermine Rosario Gambino's case.

The outcome was that the Commission was persuaded that Rosario Gambino was, within his own circle, a traditional organized crime boss who operated through a reputation for violence, through evident corruption of local police, and through subordinates with close family ties of loyalty. He clearly must have had good connections with wholesale heroin importers to negotiate seriously for a 10-kilogram sale to the undercover agents.

As to whether Gambino should be confined for 312 months (at least) based upon the Commission's finding that he is unlikely to abandon a career in crime if released on parole, this is close question. Gambino certainly has the background and behavioral characteristics of the career organized criminal, and it is reasonable to suppose that he knows no other way to succeed in life than through his "family business". His connections within the world of organized crime would probably still be extensive upon release, and Gambino shows nothing in his makeup that would distinguish him from the familiar type of Mafioso who is not deterred even by long imprisonment from continuing the only career he knows. In particular, as long as Gambino continues to file appeals in which he denies his leadership role, and portrays himself as a simple first offender, it will be difficult for the Commission to find any basis for deciding that Gambino has the capacity to shake off his past, and discover a law-abiding way to make a living. He has an offer of employment with his son's company in Los Angeles, California upon release. The premise that a "crime boss" father would completely break with his extensive criminal background, and become a fully rehabilitated citizen by working for his own son is a doubtful one, from a psychological point of view. Gambino appears to come from an immigrant background in which family connections are simply exploited (as in the current offense) to get around the law.

DMJ

Memorandum

FYI

Subject: GAMBINO, Rosario
Reg.No. 06236-050

Date: December 30, 1997

To:
Marie Ragghianti
Chief of Staff
U.S. Parole Commission

From:
Thomas C. Kowalski
Manager
Case Operations
U.S. Parole Commission

Rosario Gambino was sentenced to a 45 year Regular Adult sentence plus a 20 year special parole term on 12/6/84 for Conspiracy and Possession With Intent to Distribute Heroin. A $105,000 fine was also imposed. The jury in this case found that Rosario Gambino, Anthony Spatola and Antonio Gambino were members of a heroin trafficking conspiracy apparently able to supply 10 kilos of uncut heroin on a monthly basis. The facts showed that Rosario Gambino and Erasmo Gambino were not merely independent contractors but rather were key links between the distribution level and the supply level in an international heroin trafficking organization. These defendants guaranteed the undercover agents 10 kilos of over 90% pure heroin each month! The government produced evidence that Rosario Gambino was the person who supervised the activities of the remaining defendants. This current conviction was not the first time the subject was accused of serious criminal activities. In 1979, 6 kilos of heroin were seized at JFK Airport after an unsuccessful attempt which made use of Alitalia airline employees. After the seizure, there was no publicity so the purchasers here suspected that the airline employees had stolen the heroin. Employees were threatened with death and in one case, physically tortured. During this time, Rosario Gambino surfaced allegedly to settle the matter. One of the airline employees met with Rosario Gambino and was finally able to convince him that the heroin was seized. Rosario Gambino was indicted and eventually tried. The trial resulted in a hung jury and when retried, he was acquitted.

Following the seizure of the 6 kilos mentioned above, the airline employee met with a Gambino associate (Emanuel Adamita) in another effort to smuggle heroin from Italy. The airline employee negotiated his financial arrangement with Rosario Gambino's brother Guiseppe. The employee and Adamita travelled to Italy. The DEA and Italian authorities agreed that the heroin would be permitted to leave Italy so that prosecution could occur in the USA. When Italian authorities discovered that the group intended to smuggle 40 kilos, the Italian authorities declined to permit such a massive amount of heroin to leave the country, Adamita and others were arrested. Rosario Gambino was tried in absentia

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and convicted of criminal association with the purpose of trafficking in narcotics. He was sentenced on 6/6/83 to 20 years imprisonment.

Rosario Gambino's criminal activities also extend to arson and extortion. In 1980, the ATF presented a report of its investigation into a series of arsons which included incriminating evidence against Rosario Gambino. Notable among these arsons were two which appear related to efforts by Rosario and his brother Guiseppe Gambino to take over a pizza franchise in Cherry Hill, NJ. Rosario and his brother were observed at the scene of a pizza restaurant following the arson and shortly thereafter, the manager received a call and told to close the store and return to New York. Two days later, the manager's automobile was destroyed by a firebomb. Two days later, the manager received a telephone call and threatened with death.

There is also evidence that Rosario Gambino participated in the harboring of Michele Sindona while he was a fugitive. Sindona was charged in 1979 with bank fraud and embezzlement in conjunction with the collapse of the Franklin National Bank, a fraud involving $400 million.

In addition, during a search of Rosario Gambino's residence in 3/84, agents seized photocopies of intelligence files of the NY City Police Department. The investigation revealed that a NY City detective provided these intelligence files to Gambino.

Subject had his initial parole hearing at the FCI Terminal Island on 2/16/95 after having served 148 months in custody. At the hearing, he denied involvement in any narcotic trafficking but acknowledged that he was having financial problems and in need of money. He says that the $100 bills found in his possession (part of the bait money used during the sale of heroin) was received from gambling rather than any involvement in the drug deal. The offense severity was rated as Category Eight because it involved conspiracy to distribute 6 kilos or more of heroin. The SFS was 9 and the guidelines were 100+ months to be served. He was provided a 15 year reconsideration hearing in 3/2010. A decision more than 48 months above the minimum guidelines was warranted because of his status as a member of organized crime. Mr. Rosario was represented by the U.S.C. Law Center who prepared an appeal to the initial decision. The National Appeals Board remanded the case back for re-hearing to obtain information relating to the allegation that the subject was a member of organized crime.

A rehearing was conducted on 12/12/95 at the FCI Terminal Island. Copies of the 1980 Pennsylvania Crime Commission Report and the New Jersey Report from the Commission of Investigation were included to support his involvement with organized crime. The examiner however, concluded that there was not sufficient information available to conclude that Rosario Gambino is a member of organized crime. The examiner did recommend that the 15 year reconsideration hearing be maintained and new reasons were provided to support a decision more than 48 months above the minimum guidelines. The National Appeals Board issued a Notice dated 2/2/96 which provided for a 15 year recon

USPC/Gambino--00887

hearing in 3/2010. The U.S.C. Law Center again represented the subject on appeal. The NAB denied reconsideration of the decision of 2/2/96 (the 15 year recon hearing).

The subject was scheduled for a SIH hearing in 11/97 at the FCI Terminal Island but waived.

The Sentencing Memorandum and documents in the file clearly depict the subject as an individual deeply involved in organized criminal activity.

MEMORANDUM

TO: SHARON GERVASONI
DESIGNATED AGENCY ETHICS OFFICER

FROM: MICHAEL J. GAINES

DATE: JANUARY 30, 1996

SUBJECT: ROSARIO GAMBINO

On January 16, 1996, I was contacted by Commissioner Getty regarding Rosario Gambino, an original jurisdiction case. She said NCRO had received calls from Roger Clinton concerning Mr. Gambino's parole. She said he was in Kansas City and planned to come to the NCRO office either January 17, or 18, to voice his support of Mr. Gambino's parole.

Commissioner Getty said Mr. Clinton knew the office was closing and that she might not remain as commissioner much longer. She expressed concern that he had this information, and asked if I had been in contact with Mr. Clinton and given this information to him. I advised Ms. Getty that to my knowledge I have never spoken with Roger Clinton.

She said she was not going to meet with him, but would have him meet with staff to give a statement that could be typed up and included in the file. It was my understanding from our conversation that Mr. Clinton was not acting as Mr. Gambino's representative.

Following the conversation, I called, as a matter of courtesy, the Office of Counsel at the White House and advised that Mr. Clinton had been in contact with NCRO on behalf of an inmate.

On January 17, 1996, I received another call from Comm. Getty. She said Mr. Clinton called again and spoke to Hearing Examiner Sam Robertson. She said Mr. Clinton told him he would not be coming in, but would instead be in contact with the USPC office in Maryland. She said the OJ file was being sent here.

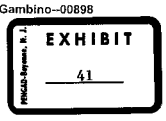
Prior to taking any action, I request an opinion as to whether I should recuse.

I would note the following:

1. I do not know Roger Clinton, and I have not spoken to him about this matter;

2. I am aware of Roger Clinton's attempt to speak with me on January 30, 1996. Because of my understanding of legal prohibitions in my discussing a pending

USPC/Gambino--00898



case, I referred the call to the Office of General Counsel. I am aware of the conversation subsequently held between Mr. Clinton and General Counsel Stover, and I agree with the advice given by Mr. Stover that Mr. Clinton should submit his views in writing;

3. I have reviewed the case file and I am prepared to follow the hearing examiner's recommendation; and

4. My decision would be based solely on the contents of the file.

Memorandum

Subject	Date
Gambino, Rosario Reg. No. 06235-050	January 31, 1996

To	From
The File	Michael A. Stover General Counsel U.S. Parole Commission

On January 30, 1996, I was asked by Commissioner Gaines for advice as to how to proceed with regard to a telephone message that had been taken down for him by the NAB secretary. The message purported to be from Roger Clinton, brother of the President. The message was that Roger Clinton had a "very important" matter to discuss, and that his brother had recommended meeting with Commissioner Gaines. Commissioner Gaines was reluctant to return this telephone call because the case was pending a decision by the National Commissioners under 28 C.F.R. § 2.17. Given the ethical and legal implications of this telephone message, and the impropriety of a National Commissioner accepting telephone calls about a case pending review, I volunteered to return the call for Commissioner Gaines, and to advise his caller as to the Commission's procedures.

With Deputy DAEO Sharon Gervasoni present, I thereupon returned Roger Clinton's telephone call at [redacted]. I spoke with a man who introduced himself as Roger Clinton, and who began the conversation by informing me that his brother "...is completely aware of my involvement." Roger Clinton stated that his brother had recommended to him that he not meet with Commissioner Getty (as Roger Clinton had originally sought to do) because Commissioner Getty's Kansas City Regional Office was about to be closed. Roger Clinton informed me that his brother suggested that he contact Commissioner Gaines instead. (I knew about the previous contact with Commissioner Getty's office, and that Roger Clinton is apparently a friend of Rosario Gambino's son Thomas, who also lives in California.)

I informed Roger Clinton that I was returning the telephone call on behalf of Commissioner Gaines, and that the Privacy Act of 1974 prohibited Commissioners and staff of the U.S. Parole Commission from discussing any case with a member of the public without a signed waiver from the inmate in question authorizing disclosure of file material. I further informed Roger Clinton that Commissioner Gaines could not meet with him because, even if Roger Clinton were an authorized representative of the inmate, he would have to appear before the hearing examiners at a regularly-scheduled parole hearing. (Roger Clinton had a copy of the hearing summary in this case, and was aware that a

EXHIBIT 42

USPC/Gambino--00894

hearing had just been held in December.) I explained the Commission's procedures whereby hearing examiners make recommended decisions after hearing presentations on the record, and that Commissioners vote and make their decisions without meeting with prisoners' representatives. I explained that, in this respect, the Commission operates like a court of law.

Roger Clinton evinced his strong disappointment upon learning that he could not meet with Commissioner Gaines about this case. He complained that he had been given inconsistent advice, because he had already set up a meeting with Hearing Examiner Sam Robertson in the Kansas City office, who allegedly promised him that Commissioner Getty would be there. I informed him that such a meeting would not have been appropriate. Roger Clinton then asked me how it could be that the President would be misinformed as to the law, and emphasized that the President had suggested that he should meet with Commissioner Gaines, "...a friend of ours from Arkansas." Roger Clinton professed his bewilderment as to how the President would not be knowledgeable as to the law with regard to the propriety of this suggested meeting. He stated that he would have to inform his brother that his brother had been wrong. I replied that it would be an honor for me to be advising the President of the United States, directly or indirectly, as to the law. Roger Clinton again stated that he would have to report this information to his brother, who would be "glad to know" what I had said. During this colloquy, however, Roger Clinton's voice rose, and betrayed the fact that he was upset with what I was saying.

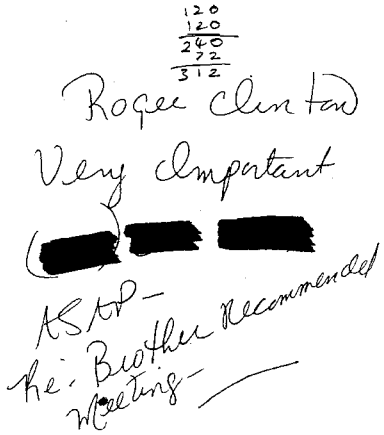
I concluded the conversation by informing Roger Clinton that the proper course for him to take would be to submit a letter to the Commission, addressed to Vice Chairman Clay, presenting his views as to how the Commission should decide Mr. Gambino's case. I informed Roger Clinton that any interested member of the public could do this. I also informed him that the Commission could grant parole, deny parole and schedule a rehearing at the normal time, or remand the case for another hearing if information requiring a remand were brought to their attention. I told Roger Clinton that he could ask the Commission to remand the case for another hearing, and that if such a hearing were ordered, that he (Roger Clinton) could appear and be heard, if he were to be selected by the inmate as his authorized representative.

At several points in the above conversation, Roger Clinton stated that he wished only to know what the correct procedures were, and to do everything in the proper way. However, both the Deputy DAEO and I are disturbed at the tactic employed by Roger Clinton of repeatedly invoking his brother as having (allegedly) recommended that he meet with Commissioner Gaines on the basis of that Commissioner being "...a friend of ours from Arkansas." The U.S. Parole Commission must not permit itself to be subjected to improper attempts to exercise political influence over its procedures. (Roger Clinton did not address himself to the merits of the case itself.) If Roger Clinton sends the Commission a letter that repeats these suggestions of political influence, I intend that the letter be referred immediately to the Deputy DAEO for review rather than admit it into the record. Although Roger Clinton is a member of the public who has the right to communicate his views to the Parole Commission, the Commission should not allow the fairness of its deliberations to be placed in doubt through inclusion in the record of any communication

that gratuitously introduces the factor of a potential political influence into the case. My preference is for the Commission to vote a decision based only on the facts of the Gambino case, and without reference to this episode.

Finally, I have discussed the situation with Commissioner Gaines, who agrees that the Commission should be shielded, if at all possible, from the unwelcome intrusion of a man who would appear to have nothing to contribute to the Commission's deliberations in the Gambino case but a crude (and I hope unauthorized) effort to exercise political influence. Commissioner Gaines is prepared to vote on the Gambino case, as scheduled, based solely on the file information. Neither I nor the Deputy DAEO find any reason for Commissioner Gaines to recuse himself in this matter, given his correct refusal to permit Roger Clinton to speak or meet with him.

MAS/ae



USPC/Gambino--00896

ROSARIO GAMBINO
Reg. No. 06235-050
F.C.I. Terminal Island
P.O. Box 3007
Terminal Island, CA 90731

January 9, 1997

Dear Mr. :

I am writing this letter to you as my last hope to get justice. I feel that the systems has been turned inside out in my case, and I now seek your help in the hope that you can right the wrong that is being done to me. What I am asking for is that my punishment be based on the crime that I did, and not on my name.

The reason I am asking for your help is because my son knows your brother, and my son has told me that your brother is a good and honorable man; I know such traits run in families, and I have heard that you are also such a man. Because of the trust and respect that my son has for your family, he suggested that I write this letter to you to explain my situation in more detail. So please let me take a few lines to explain my case.

In 1984 I was sentenced to 45 years in prison for conspiracy to distribute less than one kilogram of heroin. There was no "organized crime" or "RICO" charged involved in this case. Under the law I became eligible for parole after service of 10 years of my sentence, and I had my initial parole hearing after service of 11 years.

At my initial parole hearing in February 1995 my case was heard by a single experienced hearing examiner. In most cases, his recommendation is followed by the U.S. Parole Commission. At my hearing he examined my case file and asked me questions, which I answered. He asked me how I had become involved in the activity and I told him the truth: I had been diagnosed with throat cancer just before the conspiracy started in 1984 and was never the same. I told the examiner about my depression, the medication I was taking, the stress from the knowledge that I would have to have surgery, and my family responsibilities for a wife and four small children. While I had a business, I could not afford all of my expenses, and so I needed to make money to make up the difference. I first tried to get insurance, but was refused. That is when I got involved, and only after the government agents approached my codefendants. After telling these facts to the parole hearing examiner, and after assessing my involvement based upon the Parole Commission case file, he told me that he was recommending a parole date in July 1996 after service of 12 years, 4 months. [A copy of the transcript of my initial parole hearing is attached.]



RCC0046

However, because of my name, the case was referred to the entire Parole Commission in Washington. The recommendation was rejected and I received back an order denying parole because of alleged "Organized Crime" ties, and telling me to come back for reconsideration in the year 2010, after service of 26 years!

I appealed this decision and won a new hearing because the Commission admitted there was no evidence in my file to support such a finding.

In December 1995, after delays occasioned so that the Commission could try and obtain new information, I had a new hearing in front of the same hearing examiner. At this new hearing he asked a lot of questions about my alleged ties to "Organized Crime." After hearing my responses, and after reviewing all of the old and new evidence on that subject, he made a finding that I **was not** connected to "Organized Crime." [A copy of the transcript of the second parole hearing, and the examiner's findings in his Review Hearing Summary are attached.] However, he denied parole anyway based upon a **new** reason. I did not understand this since both my representative and I had thought that the only reason for the "de novo" hearing was to ascertain if I had ties to organized crime. The new excuse was based upon information in my Presentence Report that I had been convicted in Italy **in absentia** (and without representation) for my alleged involvement in a 1980 heroin importation conspiracy. However, the Presentence Report detailed that **I had been found not guilty** of involvement in that crime after I was tried for the exact same conspiracy in New York federal court in 1983. It is clear that the examiner was grasping for an excuse because he didn't want to go against his bosses in Washington; this **same** information had been know and discussed at my first hearing, after which the **same** examiner had **not** seemed to believe it was grounds for denial of parole.

When his new recommendation was sent to the Commission even they realized it was wrong and when I got the Notice of Action back from them in February 1996 they had a **different** set of excuses for denying parole; this was the third set. I then appealed that decision. Unfortunately, the administrative appeal was heard by the **same** Commissioners who had issued the February 1996 Notice of Action. When I was given notice of the appeal decision of July 12, 1996, denying parole and continuing me for reconsideration in 2010, the notice set forth **another set of excuses** that had never been given before. This was the forth set of excuses, all of which were based upon the **same** information that was available at my initial hearing in February 1995 when I had received the recommendation to be parole in July 1996!

When I was sentenced in 1984 the probation officer made a guidelines calculation of my sentence as being 40-52 months under Parole Commission rules. I have already served almost three times those guidelines. Even if I had been sentenced under the current "Sentencing Guidelines", which were designed to be much harsher on drug offenders, I would have already served the entire sentence less good time. And my institutional record is very good, where I have good work reports, I completed my GED, I completed a drug program, I completed a screenwriting program, and have other commendations. [A copy of the material that was submitted to the Commission is enclosed.] All of these things show that I have made a commitment to change my life and be a positive member of the community. That is why I don't understand how the notice of action denying parole can claim that I will repeat my crimes, or that I was a "career offender." **This was my first offense.** The Commission has no idea how much I have suffered because of what this has done to my family, nor has the Commission considered how much their arbitrary action is making my family suffer. I would never even think of doing any crime again.

At this point I don't believe I'm receiving fair treatment. My codefendants who did the negotiations, obtained and delivered the drugs have already been paroled. Only my brother-in-law and I are still in prison. I feel that they are punishing my name, and not my crime.

Sir, in my years in prison I have met people convicted of far greater drug crimes and convicted of violent crimes, who have gotten far shorter sentences, and who have served far less time. I have never seen anyone with a sentence of 45 years for less than one kilogram of heroin, or someone who has been made to serve this much time for that amount of drugs. I offer no excuses for my criminal acts in 1984; I admit I was wrong and deserved to be punished for what I did. However, I have now served almost 13 years for my involvement in a conspiracy to distribute less than a kilogram of heroin. This is far longer than anyone else would serve for the same crime.

At this point I only ask that I be treated like any other person sentenced to prison for a similar crime. I ask that I be given the opportunity to get back with my family and make a new life for us all. As I have been moved from prison to prison over the years, they have moved to stay close to me and they now live in the Los Angeles area. My wife and my children have literally grown up in prison with me; they have served these 13 years with me. The punishment is now worse for them that it is for me. There greatest concern is my continuing medical problems. They know that I do not get the quality of treatment I need for the reoccurring cancer.

I now ask your help because I don't know where else to turn. I you can assist in getting the original recommendation of parole reinstated I would be deeply indebted to you and your family.

If you have any questions, or need any more information, please let me know.

Very truly yours,

Rosario Gambino

ROSARIO GAMBINO

Encl:

Memorandum

Subject: Visit by Roger Clinton

Date: December 24, 1997

To:
Michael J. Gaines
Chairman
U.S. Parole Commission

From:
Thomas C. Kowalski
Manager
Case Operations
U.S. Parole Commission

Thru: Marie Ragghianti
Chief of Staff

On Tuesday, December 23, 1997, at approximately 8:30 a.m., Roger Clinton came to the office to speak with Chief of Staff Ragghianti. Since his visit involved case discussion, Ms. Ragghianti asked that I sit in with her during the discussion. Mr.Clinton had notes on three cases which he wanted to discuss.

1. The first case involved John Ballis #59856-079 who is serving at the FPC Beaumont and received his initial hearing during the week of December 15, 1997. Ballis is serving three cases from the S/TX. He was sentenced to probation on one case, 10 years Regular Adult and 30 months SRA running consecutive on another case and 41 month SRA concurrent on the last case. The offenses involve making false statements and reports in order to fraudulently receive bank loans.

   Mr. Clinton knew that the examiner had made a tentative decision to release the subject and was asking whether a furlough was possible for the holidays. First we advised him that the examiner's recommendation was only a recommendation and that the Commissioner would have to review and concur with the recommendation. He was advised that the recommendation could change. We then advised him that the Commission had no jurisdiction in the matter of furlough and any request would have to made to the Warden of the institution where he was confined.

   The examiner recommendation was for a parole effective date on 3/26/98 (parole eligibility) to the consecutive sentence. We did not have this information at the time of the interview.

EXHIBIT 44

2. The second case involved a man who had served federal time had been released in the mid 1980's. The request was for a pardon. He was advised that the materials regarding requests for pardon needed to be forwarded to the Pardon Attorney.

3. The last case involved Rosario Gambino, a notorious organized crime figure. Mr. Clinton made it clear that he was personally interested in this case and in no way was he representing his brother, the President. He is acquainted with the prisoner's son, Tommy Gambino and has been supporting a release for this subject for some time. He mentioned that he met with Commissioner Getty in Kansas City, MO about this case at some time in the past. Mr. Clinton had several FOIA documents from the file which he used as his notes. He basically believes that the Commission has been much too harsh in this case and that Rosario Gambino is not an organized crime boss as the Commission has considered him to be. If anything, he believes that he is only on the fringes of organized crime and he is being discriminated against because his name happens to be "Gambino". He used the Original Jurisdiction Appeal Summary by Michael Stover as his primary source of information. He specifically named Michael Stover as being discriminatory in his description of the prisoner and was particularly incensed by the statement in the summary which states, "Gambino appears to come from an immigrant background in which family connections are simply exploited (as in the current offense) to get around the law". In discussing this case, he was actually quite animated and argued rather emotionally about how the Commission is being too harsh with the prisoner.

Ms. Ragghianti and I merely listened throughout the session since we did not have file nor did Mr. Clinton have a signed release from the subject. He was advised that the case would be reviewed and no further promises were given.

After the interview, I secured the file and interestingly, Mr. Gambino was scheduled for a SIH review at the FCI Terminal Island the week of November 17, 1997 but waived the hearing.

07/18/01 WED 15:54 FAX

For the File

From: Marie Ragghianti
Chief of Staff
USPC

Marie Ragghianti

Date: December 23, 1997

Re: Roger Clinton Office Visit

On this date Mr. Roger Clinton visited the office. He arrived at about 8:30 am, and visited with Tom Kowalski, Case Operations Manager, and myself.

He was seeking advice about how to proceed in three matters: a case involving an inmate named John Ballis; a pardon matter; and an inmate named Rosario Gambino.

In the Ballis case, he was hoping to assist the family in obtaining a furlough. It appears that Ballis was recently recommended for a tentative parole date of October 1998. Tom advised him that the decision to furlough is one made by the warden.

In the second matter, we advised Mr. Clinton that he should contact Roger Adams, the recently appointed new Pardon Attorney.

Regarding Rosario Gambino, who apparently has been denied parole by this Commission, Mr. Clinton asked for any possible reconsideration of the matter. He pointed out that Gambino has served nearly 15 years, has at least 2 potential job opportunities, and also the support of a loving son, Tommy (Mr. Clinton's friend), and his wife and other children. We explained to him that the Commission takes a hard line in matters perceived as related to organized crime. Tom did offer to review the history of the case and write a summary (which will be sent to me). At that time, with the approval of the Commission or its legal department, I will notify Mr. Clinton of Tom's summary, as (or if) appropriate. *

Mr. Clinton was articulate. His questions and comments were thoughtful and appropriate, which is to say that he in no way came across as wishing to capitalize on his name. Instead, he apologized for taking our time. He appeared to be a genuinely caring person, not only for the 3 individuals he was seeking advice for, but in general. He thanked us for listening.

9-17-98
note: I never discussed Tom's summary at any time w/ Mr Clinton (nor did he ask me to). Mgr

EXHIBIT
45

USPC/Gambino--00891

[redacted] Marie Raghiant [redacted]

Questions for Tom Kowalski:

1) Possibility of re-transfer back to Terminal Island. Should he before or after parole hearing?

2) [redacted] If transfer back to Ca. is accepted, can Sam Robertson still conduct the hearing or is it out of his jurisdiction? (Harry Dwyer?)

3) What else can I do to serve as a reminder or as further emphasis? (personal letter, etc.)

4) What is the date of the upcoming hearing at FCI-Phoenix? The last one was postponed because the Commission's counsel was reviewing the file. Sam Robertson wasn't at the last hearing that was postponed. Will he, in fact conduct this hearing?

EXHIBIT 46

RCC0031

4

Mr Kowalski,

We need someone to "step up to the plate" on this one. I firmly feel that if everything in this case was the same and the prisoner's name was Rosario Stevens (only an example), then Mr. Stevens would have been released in July of 1996.

I understand the scenario of decisions based on name recognition, be it positive or negative. This man deserves to be released to return to his family after 14 years. He did the crime and he has done his time. We all deserve a second chance! I am living proof of that. Please help us achieve what is right!

With great respect and appreciation,

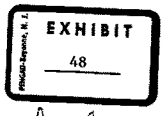
Roger C Clinton

13 Feb 98

EXHIBIT 47

RCC0176

Re: Jonny G, 13 Feb 98



Mr Kowalski,

I am sending you this information on Rosario Gambino because of the great importance of his upcoming parole hearing on Wednesday, February 18, 1998. We think that Examiner Harry Dwyer will once again be conducting the hearing. As a brief reminder, and as documented, Mr. Dwyer conducted the initial parole hearing in which he recommended a release date of July 16, 1996. Here are some other points of emphasis. Please refer to highlighted package numbers in upper righthand corners.

- actual charge and conviction based on 980 grams (less than 1 kilo) which requires guidelines of 40-52 months and an offense severity rating of category 6. One kilo would have guidelines of 52-80 months and an OSR of category 7. Somehow, somewhere the amount was increased to 6 kilos to justify changing his OSR to category 8. Package #6
- Commission acknowledges a disparity between the guidelines set for Rosario G. and the ones set for his co-defendants, but as of yet, has not addressed the disparity issue

RCC0173

* - Three of the four co-defendants have been released! All defendants were tried, convicted and sentenced for the same crime and on the same charge.

Rosario G. has been a model prisoner for 14 years, and last year, through CPR, helped save the life of a fellow inmate. All of this is documented!

- One factor in the previous denial by the Commission was because he was "most likely" a member of La Cosa Nostra, which is refuted by Harry Dwyer in his review hearing summary of December 12, 1995. Package #4

A new reason for denial was then given due to conviction, in absentia and without counsel, in Italy. However, Rosario G. was tried in the United States on the same charge and was acquitted! The Commission then returned to its earlier thinking, with slight word changes that Rosario "operated in a manner of a close-knit family", despite its own documentation refuting that claim.

- We feel that the last Commission Action Report ended in a blatant example of discrimination! #5

RCC0174

- Rosario G. when released will still be under a Twenty (20) year special probation, and if released now would make him almost 75 years old upon completion of that probationary period.
- If requested or required by the US Parole Commission Rosario G. would relocate himself and his family to another city or country.
- As documented by copies of pages from the Sicilian phone book, Gambino is a very popular name. A large majority is unrelated to the Gambino crime family
- I am concerned only with the case of Rosario G., not Erasmo G. I have included the recent judgment and opinion of the US Court of Appeals for the Third Circuit to refer to when appropriately related to Rosario's case. As you can see, the courts decision is based on an appeal by Erasmo G. which is not of concern to me

Please place special emphasis on packages 1 + 2, with #1 being the most up to date. We attempted

MEMORANDUM FOR THE FILE

From: Marie F. Ragghianti
Chief of Staff

CONFIDENTIAL

Date: September 14, 1998

Re: Rosario Gambino Case

On Friday, September 11, 1998, I was notified by General Counsel Stover that the FBI had visited this office the week of August 31st in order to review the above-named file. When asked why he had not informed the chief of staff, he indicated that it was not that unusual for the FBI to come to review a file. Mr. Stover indicated to me that the investigation was out of the FBI west coast offices, and that it appeared that Gambino might be involved in on-going drug-selling activity from prison.

Subsequently, two investigators visited USPC offices, and interviewed Mr. Stover, myself & Mr. Kowalski (in that order). The reason Mr. Kowalski & I were interviewed had to do with the fact that we had both spoken with Roger Clinton in recent months about the case.

Mr. Clinton first contacted this office late last year, asking to speak to the Chairman. The Chairman, concerned that Mr. Clinton might be inquiring about a case, refused to take the call, and referred it to me instead. I called Mr. Clinton, not knowing why he had called. Indeed, he asked to come in without saying exactly why he was calling. I emphasized to him that if he wished to discuss a case, the Chairman could not speak to him, that as a voting member of the Commission he would be forced to recuse from a case if he did. I also indicated to him that, likewise, I would not be able to discuss any such case with the Chairman, either. Mr. Clinton indicated that he understood.

After his initial visit, both Mr. Kowalski and I wrote memoranda for the file, although we did not place the memos in the decisionmaking file. I felt that we should not place the memos in that file because a hearing examiner might wrongly infer that we thought Mr. Gambino should receive special consideration--and I felt strongly that any examiner should stick solely to the facts & merits of the case. As Mr. Kowalski & I indicated in our memos, neither of us felt that Mr. Clinton had acted inappropriately; instead, he had been courteous, and thanked us for listening.

At the beginning of our meeting, Mr. Clinton had opened by stating that he had himself served time in prison, and that as a result he was sympathetic to the plight of inmates who served an extraordinary period of time. He inquired about 2 other cases, neither of which was under USPC jurisdiction. (I recall that we referred him to the Pardon Attorney in one case, and a prison warden in the second case.)

USPC/Gambino--00922

EXHIBIT
49

I think the record should show that I felt that Mr. Stover had, in the past, been gratuitously rude to Mr. Clinton. My personal philosophy was that Mr. Clinton deserved to be treated at least courteously by this Commission, which is why I agreed to see him. Nevertheless, it seemed appropriate that I should not visit with him alone, not only because of "appearances," but because I did not really know the intricate details of reading inmate files, nor the precise legal constraints on what information might be appropriately shared with interested parties. In short, I felt that Mr. Clinton should be accorded every courtesy, but that the Commission should then proceed with the case based solely on whatever merits it might (or might not) have.

After his initial visit, Mr. Clinton called and came in 2 other times. I did not record additional memoranda on either of the subsequent visits, because he did not offer additional information, but seemed only to want to be heard. My impression was that he was concerned about the suffering of the family, and wanted them to know that somebody cared, so to speak. Both Mr. Kowalski and I were courteous, but emphasized more than once on each visit that we could not really do anything, but that we were sure the case would be reviewed fairly.

On his last visit (about 2 months ago), Mr. Clinton brought pictures of his child, a little boy of around 2 or 3, who is clearly the apple of his father's eye. I escorted Mr. Clinton to the elevator on that occasion, and reminded him once again that he should not get his hopes up. My exact words were that the only thing worse than no hope is false hope, and that I did not want him to have false hope.

Mr. Clinton has not called again.

Memorandum

Subject	Date
Roger Clinton Phone Call	October 2, 1998

To	From
File	Thomas C. Kowalski Administrator Case Operations U.S. Parole Commission

Roger Clinton called this afternoon. He said he was seeking information on when Gambino would be heard because the subject has an opportunity to be transferred back to Terminal Island if he so desired. Clinton said that he did not know how to counsel the Gambino family about this decision and was calling to get some advise from me.

I advised him that the scheduling of this case would most likely occur next week and that the case would be scheduled at whatever institution he is at. I advised him that if a West Coast institution would facilitate family visits, then he should accept the transfer to Terminal Island. He said thanks - that was all he wanted and ended the call.

USPC/Gambino--00915

EXHIBIT
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Notes on January 26, 1999 Meeting (4:35 pm)

In attendance: Chairman Gaines, Commissioner Reilly, Commissioner Simpson, Chief of Staff Ragghianti, Ethics Officer Sharon Gervasoni

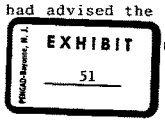
The meeting opened with Ms. Gervasoni clarifying that General Counsel Stover (who was on sick leave) had not "directed" that the meeting take place, but that he had agreed (with Ms. Ragghianti) that the meeting would be appropriate, if the Chairman wanted to call it. Ms. Ragghianti indicated that she had encouraged the Chairman to call the meeting, that she felt the issues were important enough that all Commissioners should be briefed.

Ms. Ragghianti then gave the Commissioners a brief description of recent events related to the Rosario Gambino case, and Mr. Roger Clinton's interest in the matter. Mr. Clinton's interest in the case dates back to 1996, at which time he had attempted to contact the Chairman, who referred his calls to the General Counsel. (Ms. Gervasoni & Mr. Stover had communicated with Mr. Clinton at that time.) Ms. Ragghianti reported that in December of 1997, Mr. Clinton had again attempted to contact the Chairman, who referred the matter to her. Ms. Ragghianti had then called Mr. Clinton to apologize for the fact that the Chairman was not free to call him to discuss any on-going case. Mr. Clinton then asked whether it would be okay for him to come in to discuss some matters with her. Ms. Ragghianti agreed to see him, and to provide him with a courteous ear, as she believed Commission staff respond similarly with other parties who contact us regarding cases.

When Mr. Clinton came in, Ms. Ragghianti reported that she and Mr. Kowalski had attempted to be appropriately helpful, primarily by listening courteously to his concerns. They emphasized to Mr. Clinton that they would not be free to discuss anything specific to the case with any of the Commissioners, nor to discuss details of Gambino's case with Mr. Clinton because of the Privacy Act. [Note: Mr. Clinton at the time also inquired about 2 other non-parole matters, and Mr. Kowalski referred him to appropriate agencies.] Ms. Ragghianti had told Mr. Clinton that he should not get his hopes up, but that she was sure the matter would be handled fairly. Mr. Kowalski, too, reinforced that statement. Mr. Clinton thanked them profusely for "just listening," and departed. He left some information with Mr. Kowalski, who added it to the file.)

Ms. Ragghianti reported that she and Mr. Kowalski had met again with Mr. Clinton on at least one other occasion, again here at the Commission offices. At that time, Mr. Clinton provided no new information, but made clear his continued support for Mr. Gambino and his family.

Ms. Ragghianti reported that several months ago (August/September), the FBI had come by & asked General Counsel Stover to review the Rosario Gambino file. They had also asked to interview Mr. Kowalski, and Ms. Ragghianti about Mr. Clinton's interest in the matter. Mr. Kowaski & Ms. Ragghianti had advised the FBI agents



that Mr. Clinton appeared to be motivated by a desire to help the Gambino family, whose father (Rosario Gambino) had been imprisoned for a long time.

Ms. Ragghianti stated that not long after the FBI agents came by, both she & Mr. Kowalski had received more calls from Mr. Clinton. They did not return the calls, but reported them to Mr. Stover. Not long afterward, to their chagrin, Mr. Clinton called once again, this time asking again to see the Chairman. The Chairman then discussed with Ms. Ragghianti how best to handle the matter, and Ms. Ragghianti conferred with Mr. Stover. Mr. Stover drafted a letter to be faxed to Mr. Clinton's home. Ms. Ragghianti edited the draft, and faxed it to Mr. Clinton. To her consternation, Mr. Clinton called her, apparently immediately upon receiving the faxed message (advising him that the Chairman could not meet with him, and that he should put any further inquiries in writing). Mr. Clinton's message indicated that he was embarrassed and somewhat hurt that anyone at the USPC might have thought he was asking for something inappropriate. He apologized for any possibility that he had given that impression, and asked Ms. Ragghianti to please call him. She did not.

Sometime after that, when Mr. Gambino had been heard by Hearing Examiner Robertson, Mr. Clinton evidently learned that Mr. Robertson had advised Mr. Gambino at his hearing that his recommendation was to be for a reconsideration of the Commission's original decision, and a possible reduction of time to be served. Mr. Clinton wrote & faxed a lavish letter of gratitude to the Commission. A reading of the letter suggested that he did not understand that Mr. Robertson's recommendation was only that (a recommendation), and that it was subject to review, both by other hearing examiners, as well as the Regional Commissioner. Neither Ms. Ragghianti nor Mr. Kowalski (nor anyone else with the USPC) acknowledged Mr. Clinton's letter.

Two weeks ago, while Ms. Ragghianti & Chairman Gaines were attending a Conference in Phoenix, Mr. Stover contacted Ms. Ragghianti to advise her that the FBI had contacted him again, requesting access to the Gambino file, as well as an interview with Examiner Robertson. Mr. Stover had requested the Bureau to wait until the case had been reviewed by all parties, and a final decision rendered. The FBI agreed. In the meantime, Examiner Essex had split with Examiner Robertson's recommendation, and the file had gone to Case Processing Administrator Shoquist. Regional Commissioner Simpson rendered a final decision, one which apparently differed significantly from Examiner Robertson's recommendation (but which was more consistent with the Essex & Shoquist recommendations).

Last Friday, Jackie Dalrymple, an FBI agent who had been here previously, came by to review the Gambino file, now that the decisionmaking process was over. Ironically, while she was in the Legal section of the office reviewing the file, Mr. Clinton again attempted to call both Ms. Ragghianti and Mr. Kowalski. He called

Ms. Ragghianti at 3:58 pm (ET), and Mr. Kowalski immediately afterward. On listening to her message from Mr. Clinton, and hearing Mr. Kowalski's message, Ms. Ragghianti agreed with Mr. Kowalski's belief that General Counsel Stover should be advised. She went back to advise Mr. Stover, who immediately stated that Ms. Dalrymple should be advised. Ms. Dalrymple asked to hear the 2 messages, and further requested that Ms. Ragghianti & Mr. Kowalski not delete them for a few days. (She indicated to Mr. Kowalski that she might ask both Ms. Ragghianti & Mr. Kowalski to come in on Saturday, although she did not follow up on that.)

On Monday, she came in and asked to tape record both Ms. Ragghianti's & Mr. Kowalski's messages. (Mr. Stover advised that Mr. Kowalski & Ms. Ragghianti should cooperate.)

On Tuesday (1-26-99), Ms. Dalrymple contacted Mr. Kowalski, asking whether he would agree to contact Mr. Clinton via his (Clinton's) pager, then allow any return call to Mr. Kowalski from Mr. Clinton to be taped. When Mr. Kowalski advised Ms. Ragghianti of this, her reaction was initially to question whether it was legal for any kind of recording of conversation to take place in the State of Maryland (recalling the Linda Tripp debacle related to a similar tape recording). Mr. Stover was out of the office, so Mr. Kowalski and Ms. Ragghianti located Ms. Gervasoni, who was already well-informed on most of the issues. Ms. Gervasoni at first stated that her advice would normally be for Mr. Kowalski not to return Mr. Clinton's call, but to write another letter asking for inquiries to be sent in writing. However, she felt the Mr. Stover should be called at home [he was ill], so the 3 of them (Gervasoni, Kowalski & Ragghianti) adjourned to a private office, and called Mr. Stover at home on speakerphone.

After hearing the situation, Mr. Stover stated that a similar situation had come up in the 80s, and that at that time, the USPC employee, Marie Ericson, had met with General Counsel Stover & Chairman Ben Baer, and had been advised that the decision to tape record a conversation to assist the FBI was a personal decision (not a USPC decision).

Mr. Stover stated that he felt the Marie Ericson precedent applied here, and that Mr. Kowalski should make whatever decision he felt comfortable with as a federal employee. Ms. Ragghianti inquired why the USPC would refrain from using its regular policy at this point, which might appear to be a simple letter to Mr. Clinton (without a tel. call), asking again for further requests to be put in writing. Mr. Stover again stated that this was Mr. Kowalski's decision alone to make. Ms. Ragghianti also asked why any USPC employee might be free to exercise that kind of decisionmaking in an issue so important to the functioning of the Commission.

Mr. Stover reiterated that this matter was now "bigger than the Parole Commission," and that the Commission's prerogataives were no longer the sole consideration. He said the USPC should inform Mr. Kowalski that the decision whether to return the call in

cooperation with the FBI was not one the USPC should dictate. Ms. Ragghianti expressed some apprehension that the USPC might become involved in a kind of "sting" operation (or possible entrapment) without the knowledge of the full Commission, or at least the Chairman. Mr. Stover agreed that it would be appropriate to discuss the matter with the Chairman and the 2 Commissioners.

Following Ms. Ragghianti's description of events as recounted above, Commissioner Simpson asked who the FBI is representing in their investigation; he felt that we should know that. Ms. Gervasoni was unsure, but Ms. Ragghianti stated that Mr. Stover had indicated that it was Ken Starr's investigation. Ms. Gervasoni added that Mr. Stover had said that the investigation was no longer only a USPC matter, and not limited to USPC issues. (Subsequently, Mr. Stover advised Ms. Ragghianti that he had been advised by Roger Adams [who was informed by the FBI when they visited his office] that the investigation was Ken Starr's; however, Mr. Stover stated that sometime later, he had received a call from an FBI asst. general counsel, who said that the investigation had the attention of both the FBI Director & Gen'l Counsel.)

Discussion followed about the question of Mr. Kowalski's possibly becoming involved in what resembles an FBI "sting." Ms. Ragghianti & Ms. Gervasoni reported that Mr. Stover had stated that his sense of things is that Mr. Kowalski is now acting as an "agent" for the FBI (if he agrees to cooperate in taping a conversation with Mr. Clinton). Mr. Stover also said that if we have concerns regarding questions of propriety in our employee's participation in a "sting," we should call Eric Holder. Jackie Dalrymple had asked Mr. Kowalski, and he has already indicated a willingness to help them.

Commissioner Reilly said that he felt that we shouldn't tell Mr. Kowalski what to do. There was discussion as to whether recusals from any of the Commissioners (in the Gambino case) might be necessary in the future. Ms. Gervasoni pointed out that we will soon have new Commissioners, and that presumably they wouldn't need to recuse.

Commissioner Simpson again stated that someone needs to ask Jackie Dalrymple what they're investigating. There was subsequent discussion regarding the fact that it appears at this time *not* to be related to Ken Starr. Commissioner Simpson stated that we need to call Holder if we believe it's a Starr matter.

Ms. Gervasoni expressed doubts about the D.A.G. being involved at this time. She thinks we'd be hard-pressed to explain how this [investigation] interferes with USPC business. She also stated that her impression of Holder is that he's a "stickler," "by the book" kind of person, and that we'd have to have good reason to refuse cooperation [with the FBI].

Commissioner Simpson again posed the questions: *what* are you

investigating, and *who* are you investigating, and for *whom*?

Discussion ensued regarding the fact that Mr. Stover had told Mr. Kowalski that when the FBI asks a citizen to cooperate, an explanation is owed that citizen. However, Mr. Kowalski can ask, WE can ask, but that doesn't mean they'll answer. Ms. Gervasoni pointed out that Mr. Kowalski has a legal basis to ask.

Chairman Gaines stated that Roger Clinton may have bragged to the wrong people that he had "contacts" or whatever at the Parole Commission. (The Chairman had mentioned already that while he had met Mr. Clinton in passing once or twice through the years, that the Clinton family members that he knew well were the President, his wife, and his mother, and not Roger Clinton.) General discussion also followed regarding the fact that Rosario Gambino is not the "big shot" Gambino [Carlo], although he is a relative.

There was brief general conversation regarding Ms. Ragghianti's past FBI involvement in Tennessee; she stated that she had cooperated fully with the FBI at that time, but that when asked to tape record conversations with the Governor's legal counsel, she had refused--that she was unwilling to go as far as furtively tape recording former friends & associates. Additional conversation centered around the Linda Tripp/illegal Maryland taping issues. The general consensus was that this is a different situation.

There was agreement with Commissioner Reilly's suggestion that a memo for the file should be made for the Ethics Officer. It was also agreed that Mr. Kowalski should make a memo for the file as well. (Ms. Gervasoni indicated that she had already requested that he do so.) Finally, there was general consensus that no one present should tell Mr. Kowalski what to do, that it was a personal decision that should be his alone to make.

The meeting was adjourned.

United States Postal Service

Application for Delivery of Mail Through Agent

See Privacy Act Statement on Reverse

1. Date 6/2/01

In consideration of delivery of my or our (firm) mail to the agent named below, the addressee and agent agree: (1) the addressee or the agent must not file a change of address order with the Postal Service upon termination of the agency relationship; (2) the transfer of my or our (firm) mail to another address is the responsibility of the agent; (3) all mail delivered to the agency under this authorization must be prepaid with new postage when redeposited in the mails; (4) upon request the agent must provide to the Postal Service all addresses to which the agency transfers mail; and (5) when any information required on this form changes or becomes obsolete, the addressee(s) must file a revised application with the Commercial Mail Receiving Agency (CMRA).

NOTE: The applicant must execute this form in duplicate in the presence of the agent, his or her authorized employee, or a notary public. The agent provides the original completed signed Form 1583 to the Postal Service and retains a duplicate completed signed copy at the CMRA business location. The CMRA copy of Form 1583 must at all times be available for examination by the postmaster (or designee) and the Postal Inspection Service. The addressee and the agent agree to comply with all applicable postal rules and regulations relative to delivery of mail through an agent. Failure to comply will subject the agency to withholding of mail from delivery until corrective action is taken.

This application may be subject to verification procedures by the Postal Service to confirm that the applicant resides or conducts business at the home or business address listed in boxes 8 or 11, and that the identification listed in box 9 is valid.

2. Name in Which Applicant's Mail Will Be Received for Delivery to Agent (Complete a separate Form 1583 for EACH Applicant. Spouses may complete and sign one Form 1583. Two items of valid identification apply to each spouse. Include discrete information for either spouse in appropriate box.)
Tommaso Gambino
Progressive Telecom
a/k/a Gambino

3. Address to Be Used for Delivery including ZIP + 4
1015 Gayley Ave
PMB 1238
Los Angeles, CA 90024-3424

4. Applicant Authorizes Delivery to and in Care of (Name, address, and ZIP Code of agent)
Postal Registry
1015 Gayley Ave.
LA CA 90024-3424

5. Will This Delivery Address Be Used for Soliciting or Doing Business With the Public? (Check one) ☐ Yes ☒ No

6. This Authorization Is Extended to Include Restricted Delivery Mail for the Undersigned(s)

7. Name of Applicant
Tommaso Gambino

8. Home Address (Number, street, city, state, and ZIP Code)
[redacted]
Woodland Hills CA

Telephone Number (818) [redacted]

9. Two Types of Identification Are Required, One Must Contain a Photograph of the Addressee(s). Agent Must Write in Identifying Information. Subject to Verification.
a. [redacted]
b.

Acceptable identification includes: driver's license; armed forces, government, or recognized corporate identification card; passport or alien registration card or other credential showing the applicant's signature and a serial number or similar information that is traceable to the bearer. A photocopy of your identification may be retained by agent for verification.

10. Name of Firm or Corporation
Progressive Telecom

11. Business Address (Number, street, city, state and ZIP Code)
[redacted]
Woodland Hills CA

Telephone Number ( )

12. Kind of Business
Telecom

13. If Applicant Is a Firm, Name Each Member Whose Mail Is to Be Delivered. (All names listed must have verifiable identification. A guardian must list the names and ages of minors receiving mail at their delivery address.)

14. If a CORPORATION, Give Names and Addresses of Its Officers
Tommy Gambino
[redacted]

15. If Business Name or The Address (Corporation or Trade Name) Has Been Registered, Give Name of County and State, and Date of Registration.
CA. 1994
LA

Warning: The furnishing of false or misleading information on this form or omission of material information may result in criminal sanctions (including fines and imprisonment) and/or civil sanctions (including multiple damages and civil penalties). (18 U.S.C. 1001)

16. Signature of Agent/Notary Public

17. Signature of Applicant (If firm or corporation, application must be signed by officer. Show title.)

PS Form 1583, March 1999

This form on Internet at www.usps.com

EXHIBIT 52

U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

Office of the Chairman

5550 Friendship Boulevard
Chevy Chase, Maryland 20815-7201

Telephone: (301) 492-5990
Facsimile: (301) 492-6634

October 26, 1998

Mr. Roger Clinton
1015 Gayley Avenue
Los Angeles, CA 90024

Re: Your invitation of October 26, 1998

Dear Mr. Clinton:

The Chairman has asked me to express his sincere regrets that he cannot accept your kind invitation to meet during your trip to Washington this week. As I have mentioned before, it is agency policy that members of the Commission cannot engage in private meetings of any kind with parties having an interest in parole proceedings. This is true even if the meeting is sought for purely social reasons.

Similarly, our policy also restricts the ability of Commission staff from engaging in any continued series of calls or discussions on official matters that are not in the context of an agency proceeding. Should you have any further request, I encourage you to write us. I hope that this will not be inconvenient, and I hope that both you and your family are well.

Sincerely,

Marie F. Ragghianti by alv

Marie F. Ragghianti
Chief of Staff
U.S. Parole Commission

MFR/alv
By Facsimile and Mail

EXHIBIT
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USPC/Gambino--00876

17 Nov 98

To the office of the U.S. Parole Commission,

There are certain situations in almost everyone's life that require standing up for what is right, regardless of the possible consequences. It is usually easier to sit and do nothing than to stand and do something. Over the past few years, and for several reasons, this particular case became very personal with me. I felt it necessary to stand and fight for what I thought was fair. I never asked for, never expected and never received any preferential treatment. You simply treated me with respect by allowing me, through written correspondence, to express my passionate feelings regarding this case. The entire process was handled in a fair and professional manner.

At the conclusion of the hearing on Friday, October 30th, 1998, a release date was given. It is to be January 15th, 1999. I have marked that date on my calendar as a day of celebration. I will celebrate in my own private way, filled with satisfaction and pride. With your decision, I feel that justice has now been served for everyone.

With the utmost respect, appreciation and gratitude, I want to thank you from the bottom of my heart.

Sincerely, Roger C. Clinton

USPC/Gambino--00875



Memorandum

Subject: Gambino, Rosario
Reg. No. 06235-050

Date: January 13, 1999

To: National Commissioners
U.S. Parole Commission

From: John R. Simpson
Commissioner
Eastern Regional Office
U.S. Parole Commission

A. This case is referred pursuant 28 C.F.R. 2.17 (b)(3)&(4) for decision as the case has previously been designated as Original Jurisdiction based upon unusual attention and the long term sentence.

B. COMMISSIONER'S ORDER AND VOTE:

Please see previous referral memorandums from former Commissioners Jasper Clay dated March 13, 1995 and Commissioner Carol Pavilack Getty dated January 23, 1996. In addition please see pre-hearing review dated November 8, 1997 and special reconsideration hearing summary dated October 30, 1998 and addendum for a comprehensive review of this case. After having reopened this case to take yet another look at the extensive documentation concerning this prisoner, the Commission needs to resolve three issues at this juncture.

First, does the evidence justify a Category Six rating based on the amount of heroin actually sold (less than 1 kilo), or a Category Eight rating based on the existence of a conspiracy to sell 10 kilograms of heroin? I agree with the panel recommendation for a Category Eight rating.

Second, how can this outcome be reconciled with the Category Six given to Erasmo Gambino and two other codefendants? I think that the Category Six ratings in these cases were in error. I have directed that all three cases be reviewed for possible reopening. However, the Commission need not give the ringleader of a major heroin conspiracy a lower rating just because his subordinates have been rated too low.

Third, is a continuance beyond 148 months for Rosario Gambino justified? If it is, is the need to account for the seriousness of the crime our only relevant concern, or should the Commission abide by its previous determination that Gambino should not be paroled until 2007 (when he will be 65) because he is a career professional criminal who offers no basis

EXHIBIT 55

USPC/Gambino-00664

for finding that he would not resume his former activities as soon as released? I think that the Commission should adhere to its previous view. This case is best regarded as a matter involving both a serious crime and a continuing risk of return to crime.

The evidence before the Commission reveals that, during January and February of 1984, Rosario Gambino approved and directed a conspiracy between himself and his subordinates, Erasmo Gambino, Antonio Gambino, and Anthony Spatola, to obtain and sell to government undercover agents a total of 10 kilograms of heroin. A Category Eight severity rating is therefore required to adequately reflect the overall offense behavior for which this prisoner was responsible as the ringleader. (I do not find that the U.S. Attorney's Sentencing Memo adds significantly to the presentence report information already available.)

Turning to the Commission's previous finding that Mr. Gambino is a career offender, the only matter in serious dispute is whether the police surveillance reports seized from Mr. Gambino at the time of his arrest were illegally obtained, or were provided to him by his attorney as the result of discovery in another pending trial. I propose to accept Examiner Robertson's recommendation to forego reliance on this matter, but it does not warrant the Commission abandoning its well-founded view that Mr. Gambino is a professional criminal who should only be paroled when there is a reasonable possibility that effective parole supervision will force him to retire for good. His parole would not meet the criterion at 18 U.S.C. § 4206(a)(2), because it would likely jeopardize the public welfare.

I am in agreement with the recommendation to assess the offense severity as category Eight and resulting guidelines of 100+ months.

Further, my order and vote is:

(1) Refer to National Commissioners for decision as case previously designated as Original Jurisdiction

(2) Continue to a presumptive parole after the service of 276 months March 14, 2007.

REASONS:

> Your offense behavior continues to be rated as Category Eight severity because you sold 460 grams of heroin at 68.% purity, and then directed a conspiracy to sell 10 kilograms of heroin. In furtherance of that conspiracy, you approved an offer of 2 kilograms as immediately available, with an actual sale of one-half kilo of heroin at 73.8% purity to prove the quality of the heroin to come. Your salient factor score is 9. You have been in federal confinement as a result of your behavior for a total of 155 months. Guidelines established by the Commission indicate a range of 100+ months to be served before release for cases with good institutional adjustment and

program achievement. In addition, you have committed rescission behavior classified as administrative. Guidelines established by the Commission indicate a range of 0-8 months per drug-related infraction. You have committed 1 drug-related infraction. Your aggregate guideline range is 100+ months to be served.

After review of all relevant factors and information presented, a decision more than 48 months above the minimum guideline range continues to be warranted because you are a sophisticated professional criminal who is unlikely to abandon a career in organized narcotics trafficking if released on parole. This conclusion is supported by your leadership role in a conspiracy that was operated in the manner of an organized crime family whose methods included the deliberate cultivation of a reputation for readiness to inflict death upon those who might introduce undercover informers to it. Moreover, your approval of a guarantee to deliver 10 kilograms of heroin per month indicates that you had an established involvement with wholesale narcotics distributors. Your contention that your offense was nonetheless a one-time involvement in crime, and that you did not direct the activities of Erasmo Gambino, is inconsistent with the evidence set forth in your presentence report. The Commission finds that the record is more consistent with your having arrived at your managerial position by unsuccessful maintaining a career in the narcotics trade notwithstanding prior efforts to convict you.

U.S. Department of Justice
U.S. Parole Commission

ORDER

Name GAMBINO, ROSARIO

Register Number 06235-050 *Institution* FCI TERMINAL ISLAND

In the case of the above-named, the Commission has carefully examined all the information at its disposal and the following action with regard to parole, parole status, or mandatory release status is hereby ordered:

Refer to Regional Commission for Original Jurisdiction Consideration.

/S/ SAMUEL ROBERTSON
R C Cross 12-28-98
~~John R. Simpson 12/30/98~~

Date

Refer to National Commissioners for decision as case previously designated Original Jurisdiction

John R Simpson 1/12/99
Earl Dowd 1/14/99

Date

JAN 15 1999
(Date Notice sent)

(Region-specify)

National Appeals Board _____ (check)

National Commissioners _____ (check)

Full Commission _____ (check)

PAROLE FORM H
APR. 83

USPC/Gambino-00667

S. Department of Justice
ited States Parole Commission
5[redacted]riendship Boulevard
[redacted] Chase, Maryland 20815-7201

NOTICE OF [redacted]N ON APPEAL

ame: Gambino, Rosario

egister Number: 06235-050 Institution: Terminal Island

he National Appeals Board examined the appeal of the above named and ordered the following:

ffirmation of the previous decision.

EASONS:

he Full Commission has reviewed the grounds you raise in your appeal and affirms the prior ommission decision.

our first claim on appeal is that it was a violation of your due process rights for the Commission not o adopt the recommendation of the hearing examiner. You argue that since the hearing examiner hat conducted the hearing recommended that the offense should be rated Category Six and that you should be paroled, that the Commission was required to adopt this recommendation or else order another hearing. You cite the district court opinion of Flores v. Stock, 715 F. Supp. 1468 (C.D. Cal. 1989).

[redacted]irst, your case is clearly distinguishable from the circumstances in Flores. Flores involved a parole revocation case where the credibility of the testimony of a witness was central to a finding of whether or not the alleged parole violator had violated the conditions of parole. The due process rights afforded a parolee at a revocation hearing are greater than the due process rights afforded a prisoner applying for release on parole since a person on parole has a greater liberty interest in maintaining that status. When a prisoner seeks parole, due process requires only that he be apprised of the information on which the Commission may rely and have an opportunity to refute that information, either at the parole hearing or upon administrative appeal. Roberts v. Corrothers, 812 F.2d 1173, 1179 (9th Cir. 1987). In your case, you are not on parole and the issue is not your credibility but a hearing examiner's assessment of the record and recommendation to the Commission. Applying procedural requirement found necessary in Flores to the parole release decision-making process would transfer the parole decision-making authority to the hearing examiners at the expense of the Commissioners. The parole statute clearly vested the parole decision-making authority in the Commissioners and not the examiners and the statute was created in the context of hearing examiners conducting hearings and making recommendations to the Commissioners. See Reynolds v. McCall, 701 F.2d 810 (9th Cir. 1983); Lynch v. United States Parole Comm'n, 768 F.2d 491, 496 (2d Cir. 1985); Liberatore v. Story, 854 F.2d 830, 837-38 (6th Cir. 1988).

Second, the Commission believes that Flores was incorrectly decided and notes that Flores conflicts with the circuit court opinion of Moore v. DuBois, 848 F.2d 1115 (10th Cir. 1988), and appears to conflict with the Ninth Circuit's decision in Standlee v. Rhay, 557 F.2d 1303 (9th Cir. 1977). In [redacted]ay, the Ninth Circuit found that a parolee was not denied due process where a key alibi witness was not present at a final revocation hearing. The Ninth Circuit stated that "parole revocation

EXHIBIT 56

ceedings are not part of the criminal process and are not protected by the full panoply of due cess rights." 557 F.2d at 1307. The Ninth Circuit went on to conclude that the examiner's ance on transcripts in lieu of live testimony was appropriate and had been expressly approved by Supreme Court citing Gagnon v. Scarpelli, 411 U.S. at 783 n. 5. The Ninth Circuit in Rhay stated t "[a]t the very least, . . . [petitioner] would have to show prejudice resulting from the use of the nscript." Id. (citations omitted). You have alleged no prejudice from your claimed deprivation of ur due process right to another hearing and there is none evident in the record. The issue of ether your offense should be rated Category Six or Category Seven is based on written information the record that has been available to you prior to the most recent special reconsideration hearing. u were clearly on notice that the Commission might rate your offense Category Eight as the mmission had done so in the past and you had every opportunity to present your arguments to the mmission.

nally, it is clear to the Full Commission that the hearing examiner was applying a clear and nvincing evidence standard to the information in the record rather than a preponderance of the idence standard to determine the appropriate offense severity rating. The question to be resolved d involve witness credibility. Rather, it was a question of the weight of the information in the cord. The Full Commission can identify no substantive due process right under the circumstances this case that would preclude additional examiners and the Commissioners from assessing the eight of the record information without requiring a pro forma additional hearing.

[redacted] second claim on appeal challenges the Commission's finding that your offense behavior should e rated Category Eight. You argue, in addition to the argument that the hearing examiner that onducted the hearing made a contrary finding, that the decision in your case resulted in unwarranted odefendant disparity. The Full Commission has reviewed information in your file and concludes your ffense was properly rated Category Eight. Assuming that the same information was presented in our codefendants' cases, then it appears that there may have been an error in their cases if they vere not also rated Category Eight. The Commission may reconsider the decision in the case of rasmo Gambino since he has not been released. (In fact, even if the appearance of disparity exists n the rating of the offense, there is no actual disparity since Erasmo Gambino has been denied parole). The Commission will not compound an error made in the cases of your codefendants by ncorrectly rating your offense behavior as well. Moreover, the Full Commission is aware that your challenge to the rating of your offense in a habeas corpus petition was recently rejected by the United States District Court for the Central District of California.

The Full Commission finds that you were the most culpable of all the offenders in this conspiracy and notes that the information in your file supports the conclusions of the Commission. The information supports the conclusion that it was you that provided the assurance that 10 kilograms of heroin could be delivered.

Your claim that you did not have the ability to distribute 10 kilograms of heroin has been reviewed. You argue that the other codefendants, Anthony Spatola and Antonio Gambino, told the FBI that they ould not provide that much heroin. However, the Full Commission finds that your role was [redacted]nificantly more culpable than these two codefendants and that you had the ability to make good on your assurances.

MEMORANDUM

TO: FILE

FROM: MICHAEL J. GAINES

DATE: APRIL 9, 1999

SUBJECT: ROSARIO GAMBINO #06235-050

I recuse from voting in the above-cited case.

USPC/Gambino-00820

EXHIBIT
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claim that the Third Circuit on direct appeal from the conviction noted that the issue of whether ıt the conspirators could provide additional amounts of heroin was never resolved. However, the ımission could, and has, resolved this issue.

Full Commission has reviewed the grounds you raise for a more lenient decision. The Full ımission has reviewed your institutional record including your participation in a group that counsels thful offenders. The Full Commission concludes that the seriousness of the offense and the risk ne community outweigh the mitigating factors you present.

arding the issues you raise in your supplement to the appeal, the Full Commission agrees with you t your rescission behavior should be rated as an administrative violation rather than an illicit drug- ıted infraction, but notes that it does not affect your parole guideline range a the Full ımmission finds that an earlier release date is not warranted.

ur claim of a disparate presumptive release date with codefendant Erasmo Gambino is ingenuous. The Commission has not set a presumptive parole in Erasmo Gambino's case. The ımmission has ordered him to continue to expiration and any release from his sentence earlier than ur presumptive parole date is the result of the fact that Erasmo Gambino's sentence is shorter than urs.

ıe Full Commission finds no merit to your claim that the decision in your case was a result of mination based upon national origin. A review of the record reveals that it was an for you have received a special reconsideration hearing. Your hearing should have been a statu Interim ıaring where the question of the offense severity rating should not have bee issue. evertheless, the Full Commission notes that this resulted in a more favorable decision affirms ıe prior Commission decision.

ll decisions by the National Appeals Board on appeal are final.

DOCKET: DEPARTMENT OF CORRECTIONS
NORTHEAST CORRECTIONAL CENTER
WEEK OF JANUARY 18, 1999

UNITED STATES PAROLE COMMISSION

Date: April 14, 1999 National Appeals Board Clerk: pch

Memorandum

Subject	Date
FBI Telephone Call	January 27, 1999

To	From
File	Thomas C. Kowalski Case Operations Administrator U.S. Parole Commission

On Tuesday, January 26, 1999, I received a telephone call from FBI Agent Jackie Dalrymple regarding a voice mail message left on my telephone from Roger Clinton. On 1/25/99, she had visited the office and recorded the message which was actually left on Friday, January 22, 1999. She asked me today if I would return the call to Mr. Clinton using his pager number and if I would allow this call to be is recorded. She also asked that an attempt be made to have him call back at an arranged time in order that the return call also is recorded. I indicated to her that I would cooperate.

EXHIBIT
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PETITION FOR COMMUTATION OF SENTENCE

Print or type legibly

Relief sought: *(check one)*
☐ Reduction of Prison Sentence Only ☒ Reduction of Prison Sentence and Remission of Fine
☐ Remission of Fine Only ☐ Other_____

TO THE PRESIDENT OF THE UNITED STATES:

PETITIONER, ROSARIO (First Name) GAMBINO (Middle) (Last), a Federal prisoner, Reg. No. 06235-050, confined in the Federal Institution at Terminal Island, Californ; in seeking a commutation of sentence, states that he was born on [redacted], and has Social Security No. _____. (If not a United States citizen, indicate country of citizenship: ITALY.)

PETITIONER was convicted on a plea of Not guilty (guilty, not guilty, nolo contendere) in the United States District Court for the _____ District of New Jersey of the crime of: conspiracy to distribute and distribution of heroin in violation of 21 U.S.C. § 846 and 841(a)(1).
(Describe the offense(s) of which you were convicted; provide citation of statute(s) violated, if known.)

involving the following circumstances: An undercover F.B.I. agent met with codefendan between October 1983 and March 1984, during which the agent arranged two purchases of heroin totalling 960 grams. Based upon surveillance and wiretap evidence, Rosario Gambino was connected to the conspiracy and convicted of assisting the codefendants obtain the heroin provided to the undercover agent.
(Describe accurately what you did, including your role in the offense.)

and was sentenced on December 6, 19 84, to imprisonment for 45 years (length of sentence) and/or to pay a (☒ fine ☐ restitution) of $ 105,000 (check one - do not include special assessment) and/or to supervised release or special parole for 20 years (length of sentence) and/or to probation for XXXXXXXXXXX (length of sentence).
My (☒ fine ☐ restitution) (☐ has ☒ has not) been paid; the balance owed is $ $75,000.00.

PETITIONER began the service of his sentence on December 6, 19 84. He will be released from confinement on June 2, 2010. If eligible for parole, he (☒was ☐ will be) eligible on March 16, 1984, and his application for parole was (☐ granted ☒denied).

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EXHIBIT 59
FENCO-Bayonne, N.J.

If your conviction or sentence was appealed or otherwise challenged, complete the following paragraph:

PETITIONER appealed to the United States Court of Appeals, where the judgment was affirmed on April 18, 19 86. A petition for a writ of certiorari (☒ was ☐ was not) sought from the Supreme Court, and (☐ granted ☒ denied) on October 6, 19 86. Petitioner (☒ did ☐ did not) challenge his conviction or sentence under 28 U.S.C. §2255 (habeas corpus). (Provide citations to court opinions, if known: Direct Appeal U.S. v. Gambino, 788 F.2d 938 (3d Cir. 1986) cert. denied 479 U.S. 825 (1986); 2255 Apeal U.S. V. Gambino, 864 F.2d 1064 (3d Cir. 1988) cert. denied 492 U.S. (19

In this paragraph, list every arrest, either as a juvenile or an adult, whether or not resulting in a conviction. For each incident list date, nature of offense charged, law enforcement authority involved, location, and disposition, if known.

PETITIONER'S criminal record, other than the instant offense, is as follows:

SEE ATTACHED EXCERPT FROM PETITIONER'S PRESENTENCE INVESTIGATION REPORT

PETITIONER respectfully prays that he be granted clemency for the following reasons:

SEE ATTACHED BRIEF IN SUPPORT OF PETITION FOR COMMUTATION OF SENTENCE

The statements contained herein are true to the best of my knowledge and belief, and I understand that any misstatements of material fact contained herein may subject me to criminal prosecution and/or cause adverse action on my petition for executive clemency.

November , 2000
Date

Signature of Petitioner

If space is insufficient, additional pages may be added. Letters and/or other supporting material may be submitted with petition.

CERTIFIED PHOTOCOPY

IN THE MATTER OF
THE PETITION FOR COMMUTATION OF SENTENCE
BY INMATE ROSARIO GAMBINO, Reg. No. 06235-050

I.

Introduction

Petitioner ROSARIO GAMBINO ("Petitioner") was sentenced to a 45 year term of imprisonment by the United States District Court for the District of New Jersey on December 6, 1984, based upon his conviction for involvement in a conspiracy to distribute slightly less than 1 kilogram of heroin in late 1983 and early 1984. Under applicable parole laws, Petitioner became eligible for parole after service of 10 years of his sentence. His four coconspirators received sentences ranging from 15-35 years of imprisonment, and have now **all** been paroled. The most recent parole was that of ERASMO GAMBINO, which occurred only after an order by the United States District Court for the District of New Jersey was issued when it granted a writ of habeas corpus to remedy illegal conduct by the United States Parole Commission, (hereinafter "Parole Commission" or "Commission"), in the case entitled Erasmo Gambino v. E.W. Morris, Civil 95-4559, in the District of New Jersey, Newark Division.

Petitioner, an exemplary prisoner who has served more than 16 ½ years of his sentence, now seeks a commutation of his sentence in the interests of justice and

fairness.

II.

Procedural History

1. Initial Parole Hearing.

Pursuant to 18 U.S.C. § 4205(a), Petitioner had his initial parole hearing on February 16, 1995. At the conclusion of that hearing, the U.S. Parole Commission Hearing Examiner who conducted that hearing recommended that Petitioner be granted a parole date in July 1996, after service of 12 years, 4 months.[1] While he erroneously rated Petitioner's offense severity rating at Category 8, he still believed that Petitioner was suitable for parole. This was based upon his **in-person** interview with Petitioner and his assessment of the fact that Petitioner was a very good parole risk.

However, that recommendation was rejected by the full Commission, which issued a notice of action denying parole on April 4, 1995. After several level of administrative appeal, which included a **de novo** hearing,[2] the United States Parole

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[1] If Petitioner had been parole as originally recommended in 1996, he would have been processed under the old Immigration and Naturalization Service laws and regulations, which would have included bail and judicial review of any decision. Those laws have since been amended and are much more harsh.

[2] The purpose of the "**de novo**" hearing was to determine if there was evidence that Petitioner was a member of "organized crime." After the hearing the examiner rejected the "organized crime" finding based upon lack of evidence.

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Commission issued a final notice of action on July 12, 1996, denying parole and putting the case off for reconsideration in the year **2010**. The Commission's records reflect that after each hearing or appeal review a new reason for denial of parole was constructed, as the previous reasons were insufficient under the Commission's own regulations, or were considered in violation of the Commission's own regulations.

Petitioner filed a petition for writ of habeas corpus challenging the Commission's action in the United States District Court for the Central District of California in May 1997. Petitioner argued, among other claims, that setting his offense severity rating at Category 8 - the highest Commission severity level, was not supported by the evidence and inconsistent with the Commission's actions in the cases of Petitioner's codefendants, where the offense severity ratings had been set at Category 6 or 7. In fact, by its own assessment, the Parole Commission had previously concluded that Petitioner was involved in a heroin distribution conspiracy "headed by you and Erasmo Gambino...."[3] Despite this assessment, the Commission set Petitioner's offense severity rating at Category 8, while setting the co-leader Erasmo's rating at Category 6. This disparate offense severity rating of Category 8 resulted in a guideline range of 100+ months instead of 40-52 months for a Category 6 rating. Noteworthy is the fact

[3] This is set forth in the Commission's Notice of Action on Appeal dated July 12, 1996.

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that based upon the filing of the writ the Commission reviewed the claim of disparity in the ratings of the codefendants and concluded that Petitioner's claim was "true." [See, the Memorandum from Commission attorney Richard K. Preseton to Commissioner John R. Simpson dated September 19, 1997, attached hereto.] Nevertheless, notwithstanding the assessment of a similar leadership role, and the conclusion that there was an unexplainable inconsistency in the offense severity ratings of the codefendants, the Commission, through its attorneys, continued to assert that Petitioner should be rated Category 8.

Petitioner is imprisoned at the Federal Correctional Institution at Terminal Island, California, which is located within the Ninth Circuit, and subject to a very limited judicial scope of review of the Commission's actions under the decision in Wallace v. Christensen, 802 F.2d 1539 (9th Cir. 1986)(en banc). His writ petition was denied by the district court in California on March 23, 1999, and that opinion was affirmed by the Ninth Circuit in an unpublished memorandum decision issued on April 18, 2000.

In contrast, when codefendant Erasmo Gambino, (the "co-leader" of the conspiracy pursuant to the Commission's own assessment), who was serving his sentence in a federal prison in New Jersey, challenged the Commission's denial of parole in his case, the more expansive standard of review utilized by the Third Circuit resulted in the decision in Gambino v. Morris, 134 F.3d 156 (3d Cir. 1998), and after

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the remand, the district court in New Jersey ordered Erasmo's immediate release on parole. See, Erasmo Gambino v. E.W. Morris, Civil 95-4559 (D. New Jersey April 11, 2000).

2. Interim Parole Hearing.

During the pendency of the habeas proceeding, Petitioner was provided an interim hearing, which was converted into a special reconsideration hearing at the recommendation of Commission Hearing Examiner Samuel Robertson. After presiding over two lengthy hearings in May and October 1998, during which he personally questioned Petitioner about the facts of the case, Examiner Robertson prepared and presented a recommendation to the Commission that the offense severity rating be set at Category 6, and that Petitioner be granted parole effective January 15, 1999. [Copies of transcripts of the October 1998 hearing are provided so that the reviewer can get an idea of the thoroughness of Examiner Robertson's review of the case.][4]

Instead of adopting the recommendation of Mr. Robertson, a different examiner, who merely reviewed the file, and who had did not listen to the several hours of tape recordings of the two hearings conducted by Mr. Robertson in 1998, prepared a nine page "addendum" to Mr. Robertson's Hearing Summary, and recommended that the

[4] The transcripts are rough due to the poor quality of the copies of the tape recordings provided to Petitioner.

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offense severity rating be kept at Category 8. In a notice of action dated January 20, 1999, the Commission once again rejected the recommendation of its own experienced examiner, Mr. Robertson, who had conducted lengthy **in-person** interviews with Petitioner, and chose to again set the offense severity rating at Category 8, while setting a tentative parole date of March 14, 2007. An administrative appeal was submitted that thoroughly discussed the inappropriateness of overruling Examiner Robertson, and which pointed out the overwhelming evidence that supported setting the offense severity rating at Category 6 rather than Category 8.[5] That appeal was denied by the Commission on April 14, 1999.

The Commission's Appeal Summary reveals that the Commission suddenly

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[5] It was even unclear to Examiner Robertson how the Commission had arrived at the Category 8 rating. Erasmo Gambino, who had been assessed as the "co-leader" by the Commission, was assessed at a Category 6 based upon the amount of heroin actually sold by the conspirators. In contrast, **only** Petitioner had his offense severity rating calculated based upon conversations **codefendants** had with an undercover F.B.I. agent. After a review **of the entire trial record** even the Third Circuit noted, "Left unresolved was the amount of heroin [the coconspirators] would be able to produce on a monthly basis." United States v. Gambino, 788 F.2d 938, 942 (3d Cir. 1986). While the Commission did not utilize the braggadocio of those coconspirators when calculating their offense severity rating, (i.e., the Commission did not use the "talk" against the persons who actually did the talking), nor in calculating the offense severity rating of "co-leader" Erasmo Gambino, it arbitrarily decided to use such talk in setting Petitioner's offense severity rating. While such arbitrary conduct by the Commission could be reviewed if Petitioner was imprisoned in the Third Circuit, it is not subject to review in the Ninth Circuit under Wallace v. Christensen, supra.

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indicated a belief that "Erasmo Gambino's offense was incorrectly rated...,"[6] and believed that the offense severity rating of 6 given to Erasmo's case was an "error."[7] In making that observation, the Commission noted:

> "The Commission may reconsider the decision in the case of Erasmo Gambino since he has not been released. (In fact, even if the appearance of disparity exists in the rating of the offense, there is no actual disparity since Erasmo Gambino has been denied parole)."[8]

However, based upon the April 11, 2000, decision of the district court in New Jersey in Gambino v. Morris, supra, and the subsequent release of Erasmo Gambino **without an appeal by the Commission**, there is now a disparity that is quite clear.

III.

Prejudice Based Upon National Origin

In his initial habeas petition filed in May 1997, Petitioner indicated a belief that he was being denied parole based solely on the fact that his name is Gambino. During the course of Petitioner's habeas corpus proceedings he discovered an internal Commission directed to the full Commission which had been approved by the

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[6] This is contained in the Commission's "Appeal Summary" prepared by Commission staff prior to issuance of the April 14, 1999, Notice of Action on Appeal.

[7] This is stated in the Notice of Action on Appeal dated April 14, 1999, at page 2, paragraph 3.

[8] This is contained in the Notice of Action on Appeal, at page 2, paragraph 3.

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Commission's general counsel, which concluded with the observation that:

> "Gambino appears to come from an immigrant background in which family connections are simply exploited (as in the current offense) to get around the law." [9]

While the courts in the Ninth Circuit summarily rejected Petitioner's claims of discrimination based upon his Italian national origin without holding an evidentiary hearing, the court in New Jersey handling Erasmo's similar claims did not. After full arguments, Judge Bissell noted in Erasmo's case that:

> "It is readily apparent that the Parole Commission is judging Mr. Gambino on his name and on ambivalent familial associations. This Court finds that, as the Third Circuit states, those reasons are simply insufficient cause to subject Mr. Gambino to an extra 12 to 24 years of incarceration."

Judge Bissell also observed that Commission's continued to rely on conclusory evidence that was "flimsy and insufficient," and based upon that court's concern that any further remand to the Commission would result in denial of parole "based once again upon unsupportable conclusions," it ordered Erasmo's immediate release.

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[9] At the time Petitioner filed the petition in May 1997 **he had not obtained a copy of this document**. It was only released on June 27, 1997, after Petitioner filed a civil action seeking release of such documents under the Freedom of Information/Privacy Act.

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IV.

Petitioner's Readiness for Release

1. Appearance Before the Commission Hearing Examiners.

During his **in person** hearings, Petitioner has expressed contrition for his criminal conduct. At both his initial hearing, and the subsequent special interim reconsideration hearings, the Commission hearing examiners who actually met with Petitioner recognized this sincerity, as they recommended parole.

2. Institutional Record.

The Petitioner has an outstanding institutional record. After recovering from illness during the first years of his incarceration, Petitioner has been a model prisoner who had actively attempted to improve himself and prepare for release into the community, such as participating in educational propgrams and voluntary participation in drug education programs. [Attached hereto are some of the many documents in Petitioner's prison record that establish this fact.]

As an example, when Petitioner was housed at the Federal Correctional Institution at Phoenix, Arizona, he participated in the "Insiders Group," which was a program designed to educate young juvenile offenders by placing them in contact with federal prisoners. When he was transferred back to F.C.I. Terminal Island, Petitioner contacted the prison administration at Terminal Island about starting a similar program

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there, and has participated in that program at Terminal Island. Moreover, Petitioner has plans to continue his work in this regard once he is released, creating and operating such a program in the community.

On a more narrow focus, the accompanying prison records show Petitioner has worked in harmony with prison staff and administration, while also assisting other prisoners, including, in one instance, obtaining medical help for a fellow prisoner that the individual believes saved his life. He has also volunteered at the prison hospital to assist ill imates.

Contact with officials at F.C.I. Terminal Island will confirm that Petitioner is an exemplary prisoner.[10]

3. Petitioner's Family Support.

Petitioner also has strong family support. During his imprisonment, Petitioner's family moved from New Jersey to California to be near him. Several of his children operate a small private pay telephone company in Los Angeles, and Petitioner will have active employment in that company upon his release.

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[10] In denying parole, the Commission expressed an unsupported belief that Petitioner would return to criminal activity upon release. That vague belief on the part of the Commission is contradicted by the Petitioner's exemplary record, and the fact that there has been no involvement in any criminal activity while incarcerated. As noted above, the Commission's belief appears to be rooted in prejudice against "immigrants" from Italy, rather than any facts.

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V.

Conclusion

In 1995, after his initial parole hearing, the Commission examiner who conducted the hearing, and personally examined Petitioner, recommended that he be paroled effective July 1996. After his special interim parole hearings in 1998, the Commission examiner who conducted those hearings, and personally examined Petitioner, also recommended that Petitioner be paroled. The full Commission rejected both of these recommendations without seeing, or speaking with, Petitioner, based upon a procedural mind set that is highly suspect, as recognized by the April 11, 2000, decision of Judge Bissell in the case of Erasmo Gambino.

In enacting the Sentencing Reform Act of 1984, Congress sought to eliminate sentence disparities by, among other things, elimination of the United States Parole Commission. In considering this petition, Petitioner urges the reviewers to take note that the sentence Petitioner would receive **for the same offense** if sentenced under the present day Sentencing Guidelines would likely be in the range of 151-188 months,

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which Petitioner has already fully served.[11]

Based upon the findings contained in the opinion of Judge Bissell dated April 11, 2000, the interests of justice and fairness can only be met by commutation of Petitioner's sentence to time served, and his immediate release. Furthermore, based on the fact that Petitioner has already served nearly 5 years more time than he would have had an equitable determination been made in his case, the release should be unconditional and not include any period of parole. Finally, based upon the fact that it appears Petitioner should have been paroled in July 1996, any commutation order should direct that the Immigration and Naturalization Service apply the statutes and regulations in effect in July 1996 when reviewing Petitioner's immigration status.

DATED: November 30, 2000 Respectfully submitted,

JAMES D. HENDERSON
Attorney for Petitioner
ROSARIO GAMBINO

[11] With a **worst** case calculation under the Sentencing Guidelines, Petitioner would have an adjusted offense level of 34, calculated as a base offense level of 30 due to the 960 grams of heroin sold (**U.S.S.G.** § 2D1.1) and a 4 level upward adjustment for the purported leadership role. At level 34, with a Criminal History category of I, the resulting guideline range is 151-188 months. Even assuming Petitioner would receive the upper range sentence of 188 months, a reduction of 15% for good time credits would result in service of approximately 161 months (13 years, 5 months). Petitioner has already served approximately 16 years, 8 months.

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****------------------------------------------------------------------------****

*      87 PAGES              3946 LINES              JOB  46476   1036TB       *
*   6:51 P.M. STARTED     6:53 P.M. ENDED                04/05/99              *
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*                          EEEEE      N   N      DDDD                          *
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*                          EEEEE      N   N      DDDD                          *

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SEND TO: LINDSEY, BRUCE
GENERAL COUNSEL STAFF
ROOM 308
OLD EXECUTIVE OFFICE BUILDING
WASHINGTON, DISTRICT OF COLUMBIA 20502

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Meeting w/ R.C. 2/19

Rosario Gambino 53 years old = Terminal Island FCI

2 [redacted] denied

1980 - acquitted →

③ 1984 - convicted → { plead guilty - drugs - 5 co-defendants - 45 years - distribution of one kilo of heroin

① 1980 - charged - U.S. acquitted

② Charged and convicted - Italy - absentia

"They" said he had an atty -

He says - off docket - never had an attorney -

{ 52 - 80 months - probation officer set
100+ months eligible for parole

Category 7 or 8 -

↓

initial setting

Hung out (?)

changed during sentence → parole supervision set

→ release date at 148 months - July 16, 1990

12 / 148 / 12 / 24 / 4

20 appointed parole

→ one main request - "shot" - which is yes -

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EXHIBIT 61

3 co-defendants released - 34 years
1 co-defendant - parole pending - Dennis "
(Dennis's sister married)

2 Notices of Action & Parole Commission - denied

① first - organized crime →
"person" was not a member of Carlo Gambino

② appealed → second hearing on
"organized crime charge - govt. admitted
no title of organized crime - same
testimony - and named Italy
charge → [redacted] conviction - → Second
Notice of Action - he was "king pin" of
gang -

Documents

① Parole Guidelines Date - 11/20/84
② Presentence Report - '84
③ Second Hearing - Dec
④ Spatola Parole Hearing -
- Antonio Gambino
- Antonio Spatola
⑤ Notice of Action - Anto. Gambino
⑥ Notice of Action - Anthony Spatola

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(7/13/94)

⑦ Notice of Act — Erasmo Gamboa

⑧ Notices of Act — ~~⑥~~ - Rosario Gamboa

⑨ Second Hearing → on agenized civil issues & There is no evidence by a preponderance of the evidence that RG was a member of agenized civil —

⑩ ~~Petition~~ Memo →

Michael Sloan - counsel → Mike Gamboa
↳ in propria

Roger Clute —

Gamboa
- Erasmo - 8 to 6
- Lydia - 6 to 7
- Rosario - 7 to 8

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PAR1L 540*23 * SENTENCE MONITORING * 03-19-2001
AG[redacted]001 * COMPUTATION DATA * 14:40:02
AS OF 03-19-2001

EGNO..: 06235-050 NAME: GAMBINO, ROSARIO

'BI NO.....: [redacted] DATE OF BIRTH: [redacted]
.RS1.....: LOS/A-HLD ARS2.....: TRM/FED WRIT
INIT.....: SUNSET QUARTERS.....: I05-902L
)ETAINERS.....: NO NOTIFICATIONS: NO

'HE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
'HE INMATE IS PROJECTED FOR RELEASE: 03-14-2007 VIA PRESUM PAR

----------CURRENT JUDGMENT/WARRANT NO: 010 ----------

)OURT OF JURISDICTION.....: NEW JERSEY
)OCKET NUMBER.....: 84-98
JUDGE.....: LACEY
DATE SENTENCED/PROBATION IMPOSED: 12-06-1984
DATE WARRANT ISSUED.....: N/A
DATE WARRANT EXECUTED.....: N/A
DATE COMMITTED.....: 03-09-1985
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO
SPECIAL PAROLE TERM.....: 20 YEARS

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
COMMITTED.....				
[redacted]OUNT.....:	$00.00	$00.00	$105,000.00	$00.00
[redacted]OUNT PAID.:	$00.00	$00.00	$00.00	$00.00
DATE PAID...:				
DT INDG OATH:				
DATE OTHER..:				

RESTITUTION...: PROPERTY: SERVICES: AMOUNT: $00.00

----------CURRENT OBLIGATION NO: 010 ----------
OFFENSE CODE....: 382
OFF/CHG: 21USC 841(A(1) KNOWINGLY DID POSSESS HEROIN W/I DIST; DID
DIST HEROIN; CONSP TO DIST HEROIN; USE OF COMM FACL TO DIST

SENTENCE PROCEDURE.....: 4205(A) REG ADULT-ORIG TERM GRTR THAN 1YR
5H SENTENCE IMPOSED/TIME TO SERVE.: 45 YEARS

G0002 MORE PAGES TO FOLLOW . . .

EXHIBIT
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USPC/Gambino-00010

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5H      PARIL  540*23 *          SENTENCE MONITORING            *     03-19-2001
PA      002 OF 002 *             COMPUTATION DATA               *     14:40:02
                                 AS OF 03-19-2001

REGNO..: 06235-050 NAME: GAMBINO, ROSARIO


------------------------CURRENT COMPUTATION NO: 010 --------------------------

COMPUTATION 010 WAS LAST UPDATED ON 08-31-1999 AT TRM AUTOMATICALLY

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 12-06-1984
TOTAL TERM IN EFFECT.......:    45 YEARS
TOTAL TERM IN EFFECT CONVERTED..:    45 YEARS

JAIL CREDIT................:   FROM DATE     THRU DATE
                               03-16-1984    12-05-1984

TOTAL JAIL CREDIT TIME.....: 265
TOTAL INOPERATIVE TIME.....: 0
STATUTORY GOOD TIME RATE...: 10
TOTAL SGT POSSIBLE.........: 5400
PAROLE ELIGIBILITY.........: 03-15-1994
STATUTORY RELEASE DATE.....: 06-02-2014
TWO THIRDS DATE............: 03-15-2014
180 DAY DATE...............: 09-16-2028
EXPIRATION FULL TERM DATE..: 03-15-2029

PRESUMPTIVE PAROLE DATE....: 03-14-2007
NEXT PAROLE HEARING DATE...: 01-00-2001
TYPE OF HEARING............: STATUTORY INTERIM HEARING

PROJECTED SATISFACTION DATE.....: 03-14-2007
PROJECTED SATISFACTION METHOD...: PRESUM PAR

REMARKS.....: NOA DATED 04-04-95; CONTINUE TO EXPIRATION.




S0055       NO PRIOR SENTENCE DATA EXISTS FOR THIS INMATE
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Corporate Cardmember Name: VICKI CRAWFORD
Corporate Account Number: [redacted]
Closing Date: 04-13-99
Page 3 of 5
APEN01090
29

67

ITEM 1 — $75.00
AMERICAN AIRLINES WASHINGTON DC

Cardmember Account No.	Transaction Date	Ticket Number
[redacted]	03/16/99	0010619370245 4

Passenger Name: CORNWELL/LISA
Ticketing Airline: AMERICAN AIRLINES
Issuer Name: AMERICAN AIRLINES
Issuer Address: WASHINGTON

From / To	Carrier	Class	Transaction Amount
To:	YY	YY	$75.00
To:	YY	YY	
To:	YY	YY	
To:	YY	YY	

Amexco Use Only: 075001041 000290 00 076000

MISC CHARGE ORDER/PREPAID TICKET AUTHORITY
S/E # 7992403089

ITEM 2 — $75.00
AMERICAN AIRLINES WASHINGTON DC

Cardmember Account No.	Transaction Date	Ticket Number
[redacted]	03/16/99	0010619370261 6

Passenger Name: MCCLELLAND/MONA
Ticketing Airline: AMERICAN AIRLINES
Issuer Name: AMERICAN AIRLINES
Issuer Address: WASHINGTON

From / To	Carrier	Class	Transaction Amount
To:	YY	YY	$75.00
To:	YY	YY	
To:	YY	YY	
To:	YY	YY	

Amexco Use Only: 075001048 000290 00 076000

MISC CHARGE ORDER/PREPAID TICKET AUTHORITY
S/E # 7992403089

ITEM 3 — $4.25
CALL HOME AMERICA SOUTH FIELD MI

Cardmember Account No.	Date of Charge	Reference Code	Approval Code
[redacted]	03/17/99	201755536	68

Service Establishment and Location: CALL HOME AMERICA SOUTH FIELD MI
Record of Charge: COMMUNICATIONS

ROC NUMBER 0004711313

S/E # 3216547307

TOTAL CHARGE AMOUNT: $4.25

ITEM 4 — $250.00
AMERICAN AIRLINES WASHINGTON DC

Cardmember Account No.	Transaction Date	Ticket Number
[redacted]	03/19/99	0010715478855

Passenger Name: CLINTON/ROGER
Ticketing Airline: AMERICAN AIRLINES
Issuer Name: AMERICAN AIRLINES
Issuer Address: WASHINGTON

From / To	Carrier	Class	Transaction Amount
To:	XX	XX	$250.00
To:	XX	XX	
To:	XX	XX	
To:			

Amexco Use Only: 078001513 000290 00 079000

MISC CHARGE ORDER/PREPAID TICKET AUTHORITY
S/E # 7992403089

ITEM 5 — $622.00
AMERICAN AIRLINES WASHINGTON DC

Cardmember Account No.	Transaction Date	Ticket Number
[redacted]	03/19/99	0012159793146 0

Passenger Name: GAMBINO/THOMAS
Ticketing Airline: AMERICAN AIRLINES
Issuer Name: AMERICAN AIRLINES
Issuer Address: WASHINGTON

From / To	Carrier	Class	Transaction Amount
From: LOS ANGELES CA			$622.00
To: DALLAS/FT WORTH TX	AA	VE	
To: WASHINGTON NAT'L D	AA	VE	
To: DALLAS/FT WORTH TX	AA	VE	
To: LOS ANGELES CA			

Amexco Use Only: 078001451 000290 00 079000

PASSENGER TICKET
S/E # 7992403089

ITEM 6 — $832.00
AMERICAN AIRLINES WASHINGTON DC

Cardmember Account No.	Transaction Date	Ticket Number
[redacted]	03/19/99	0012159794495 5

Passenger Name: CLINTON/ROGER
Ticketing Airline: AMERICAN AIRLINES
Issuer Name: AMERICAN AIRLINES
Issuer Address: WASHINGTON

From / To	Carrier	Class	Transaction Amount
From: LOS ANGELES CA			$832.00
To: DALLAS/FT WORTH TX	AA	V2	
To: WASHINGTON NAT'L D	AA	V2	
To: DALLAS/FT WORTH TX	AA	V2	
To: LOS ANGELES CA			

Amexco Use Only: 078001502 000290 00 079000

PASSENGER TICKET
S/E # 7992403089

ITEM 7 — $184.00
AMERICAN AIRLINES WASHINGTON DC

Cardmember Account No.	Transaction Date	Ticket Number
[redacted]	03/19/99	0012159794500 3

Passenger Name: CLINTON/ROGER
Ticketing Airline: AMERICAN AIRLINES
Issuer Name: AMERICAN AIRLINES
Issuer Address: WASHINGTON

From / To	Carrier	Class	Transaction Amount
From: DALLAS/FT WORTH TX			$184.00
To: LITTLE ROCK AR	AA	W2	
To: DALLAS/FT WORTH TX	XX	XX	
To:	XX	XX	
To:			

Amexco Use Only: 078001503 000290 00 079000

PASSENGER TICKET

ITEM 8 — $300.00
AMERICAN AIRLINES WASHINGTON DC

Cardmember Account No.	Transaction Date	Ticket Number
[redacted]	03/23/99	0010715580822

Passenger Name: CLINTON/ROGER
Ticketing Airline: AMERICAN AIRLINES
Issuer Name: AMERICAN AIRLINES
Issuer Address: WASHINGTON

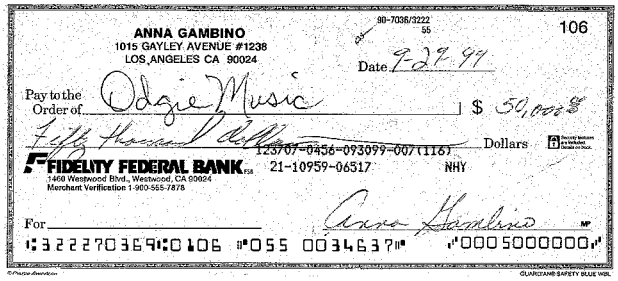
From / To	Carrier	Class	Transaction Amount
From:	XX	XX	$300.00
	XX	XX	
	XX	XX	

EXHIBIT 63 — PENGAD-Bayonne, N. J.

Amexco Use Only: 082001383 000290 00 083000

MISC CHARGE ORDER/PREPAID TICKET AUTHORITY

/PEN01090// / 1 / 1 / 1



ANNA GAMBINO
1015 GAYLEY AVENUE #1238
LOS ANGELES CA 90024

90-7036/3222
55

106

Date 9-27-99

Pay to the Order of Odgie Music $ 50,000.00

Fifty Thousand and 00/100 Dollars

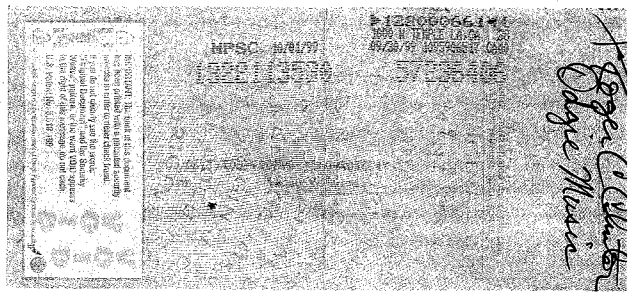
FIDELITY FEDERAL BANK FSB
1460 Westwood Blvd., Westwood, CA 90024
Merchant Verification 1-900-555-7878

123707-0456-093099-007(116)
21-10959-06517 NHY

For

Anna Gambino

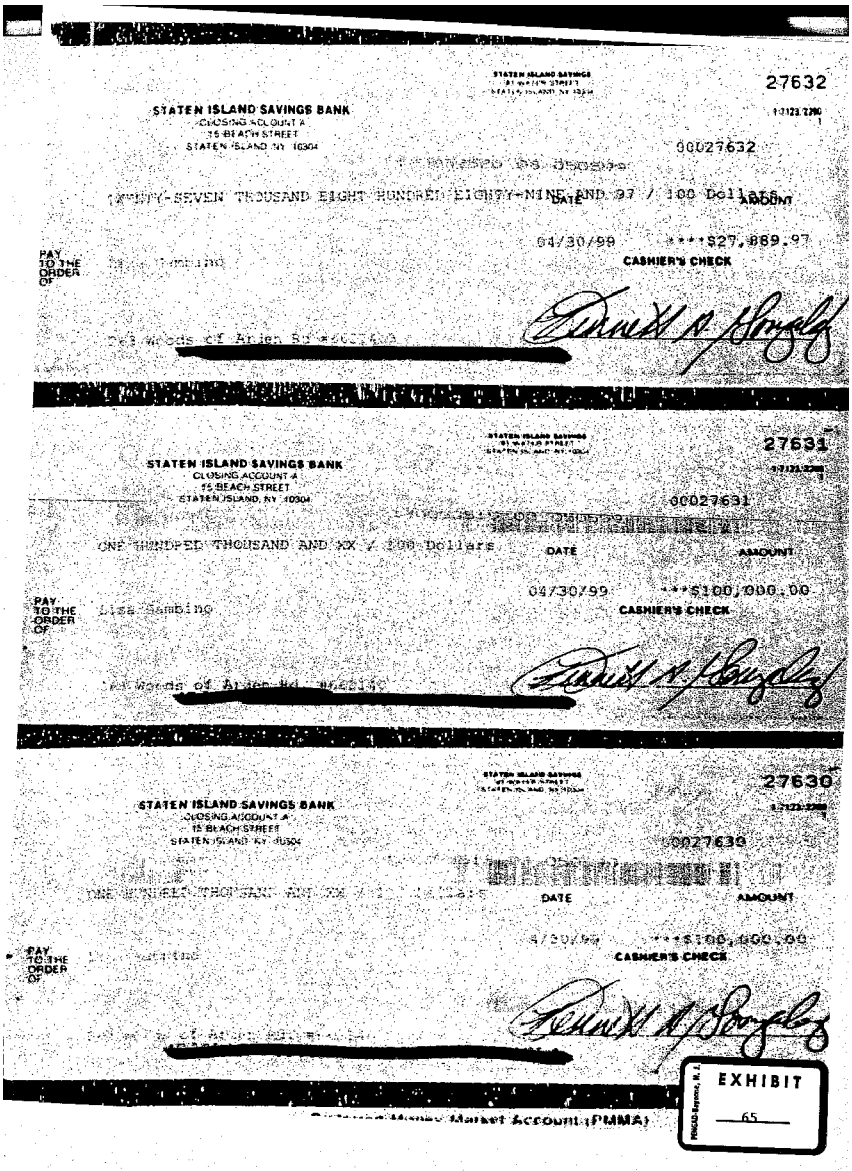
⑆322270369⑆0106 ⑈055 003463?⑈ ⑈000500000⑈



MPSC 10/01/99

Roger C. Clinton
Odgie Music

EXHIBIT
64



STATEN ISLAND SAVINGS BANK
CLOSING ACCOUNT A
15 BEACH STREET
STATEN ISLAND, NY 10304

27632

00027632

DATE 04/30/99 AMOUNT ***$27,889.97

PAY TO THE ORDER OF

CASHIER'S CHECK

STATEN ISLAND SAVINGS BANK
CLOSING ACCOUNT A
15 BEACH STREET
STATEN ISLAND, NY 10304

27631

00027631

ONE HUNDRED THOUSAND AND XX / 100 Dollars

DATE 04/30/99 AMOUNT ***$100,000.00

PAY TO THE ORDER OF Lisa Sambino

CASHIER'S CHECK

STATEN ISLAND SAVINGS BANK
CLOSING ACCOUNT A
15 BEACH STREET
STATEN ISLAND, NY 10304

27630

00027630

DATE AMOUNT

PAY TO THE ORDER OF

CASHIER'S CHECK

EXHIBIT
65

ACCOUNTHOLDER(S) ☐ TEMPORARY ☐ DATA ENTRY ACCOUNT NUMBER

1
2 GAMBINO:ANNA
3 GAMBINO:GIUSEPPA
4

[redacted]
NO. SIGS OPENED/
REQ. VERIF. BY

DATE OPENED. 05/11/99 1

THE UNDERSIGNED APPLY FOR A CHECKING ACCOUNT AT FIDELITY FEDERAL BANK FSB AND AGREE TO THE RULES SET FORTH BELOW. I ACKNOWLEDGE RECEIPT OF A COPY OF THE BANK'S ACCOUNT INFORMATION AND DISCLOSURE AND SCHEDULE OF FEES AND SERVICES. THE BANK RESERVES THE RIGHT TO HOLD FUNDS ON DEPOSITED ITEMS PER REGULATION CC. THE ACCOUNT INDICATED ABOVE SHALL BE OWNED AS A/AN:

JOINT TENANTS ACCOUNT

INDICATE WHICH ACCOUNTHOLDER'S NAME WILL BE USED FOR TAX REPORTING: NAME 1

Under penalties of perjury, the Accountholder indicated for tax reporting purposes certifies on (date) that 1) the TIN provided is my correct TIN and 2) I am not subject to back-up withholding either because I have not been notified that I am subject to back-up withholding as a result of a failure to report all interest or dividends, or the Internal Revenue Service has notified me I am no longer subject to back-up withholding.

SIGNATURE	TIN/EIN
① Anna Gambino	156-80-9496
2 Giuseppe Gambino	103-46-9152
3	

SIG. LINE #	(1)	(2)	(3)
PRIMARY I.D.	[redacted]	[redacted]	
BIRTHDATE	[redacted]	[redacted]	
BIRTHPLACE	NEW YORK	ITALY	
MOTHER'S MDN. NAME	ROMANO	CANDOLFO	
HOME PHONE	[redacted]	[redacted]	
BUS. PHONE	310 446 0784	310 446 0784	

BENEFICIARY(S)/OFFICER/SUCCESSOR CUSTODIAN NAME(S)	RELATIONSHIP/TITLE
1	
2	
3	
4	
1	
2	
3	
4	

EXHIBIT
66

JUL.19'2001 09:01 8185493559 READ FEB LEGAL DEPT #0905 P.002

MAILING ADDRESS

[redacted]

HOME ADDRESS

SAME

OPENING/CURRENT INFORMATION

ACCOUNT BALANCE	PLAN TYPE	TERM	INTEREST RATE	BANK ORG. NAME CODE
160,000.00	ICA			00

INTEREST DISPOSITION/	CYCLE	TRANSFER INTEREST TO ACCOUNT NO.	MAIL CODE
CREDIT			0

DATE OF CHANGE	REASON

CHEX SYSTEMS — ACCOUNTHOLDER # 1	CHEX SYSTEMS — ACCOUNTHOLDER # 2
☐ Record ☑ No Record	☐ Record ☐ No Record

CC

CARD AUTHORIZATION

☐ By checking this box, I (we) hereby authorize Fidelity Fidelity Bank to issue a Master Money Debit Card(s) or Fidelity Express ATM Card(s), and a Personal Identification Number (PIN), and to link my (our) account(s) to my (our) MasterMoney Debit/ ATM Card(s). This Card(s) allows access to my (our) accounts by ATM, POS, and such other electronic services as are available in the future.

If the account(s) listed are owned jointly, all applicants will be jointly and severally liable for the use of the card(s).

CARD #	LINKED ACCOUNT #

ORGANIZATION/CORPORATE RESOLUTION

Resolved, that the funds of the organization are hereby to be deposited into an account in Fidelity Federal Bank FSB and that said Bank is authorized to act without further inquiry in accordance with writings bearing the signature(s) of the persons shown on the face hereof until it receives written notice that signature(s) are no longer authorized. The undersigned certify that this resolution is not a violation of the articles of incorporation or the bylaws of the organization and was adopted at a meeting of the Board held on _____ day of _____, 19____.

In witness whereof we have hereunto affixed our hand as President and Secretary of this organization.

PRESIDENT _____ DATE _____

SECRETARY _____ DATE _____

BD 1700 (9-94)

JUL.19'2001 09:01 8185493559 READ FFB LEGAL DEPT #0905 P.003

FIDELITY FEDERAL BANK FSB DIRECT INQUIRIES TO:

THE CONVENIENCE STATEMENT

FIDELITY FEDERAL BANK, FSB
PO BOX 1631
GLENDALE CA 91209-1631

818-241-6215 800-A-FIDELITY

QUICK REFERENCE

PAGE	1	ACCOUNT NUMBER [redacted]
ENCLOSURES		LAST STATEMENT DATE 04-11-99
		THIS STATEMENT DATE 05-31-99

ANNA GAMBINO [redacted] 055

CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	DEPOSITS AND CREDITS	INTEREST EARNED	CHECKS AND DEBITS	SERVICE CHARGE	ENDING BALANCE	INTEREST EARNED Y.T.D.
.00	160,000.00	259.70	12.91		160,246.79	259.70

- - - - - - - - - - CHECKING ACCOUNT [redacted] CTIVITY - - - - - - - - -

DATE	DEBITS	CREDITS	TRANSACTION DESCRIPTION
05-11		160,000.00	DEPOSIT
05-27	12.91		CK PRINTING CHG
05-28		259.70	INTEREST PAID

AVERAGE DAILY BALANCE $160009 MINIMUM BALANCE ON 05-27 $159987.09

- - - - - - - - - - - - - - - - DAILY CHECKING BALANCE - - - - - - - - - - - -

DATE	AMOUNT	DATE	AMOUNT	DATE	AMOUNT
05-11	160000.00	05-27	159987.09	05-28	160246.79

ANNUAL PERCENTAGE YIELD EARNED 2.86%

FRAUD ALERT! DON'T DISCLOSE ACCOUNT OR OTHER INFO TO CALLERS POSING AS BANK EMPLOYEES ASKING YOU TO TRANSFER FUNDS INTO A SPECIAL BOND ACCOUNT DUE TO YEAR 2000 COMPUTER PROBLEMS.

*** M 17 ***

*** M 17 ***

FIDELITY FEDERAL BANK, FSB DIRECT INQUIRIES TO:

THE CONVENIENCE STATEMENT

FIDELITY FEDERAL BANK, FSB
PO BOX 1631
GLENDALE CA 91209-1631

818-241-6215 800-4-FIDELITY

QUICK REFERENCE

PAGE	1	ACCOUNT NUMBER	[redacted]
ENCLOSURES	2	LAST STATEMENT DATE	05-31-99
		THIS STATEMENT DATE	06-30-99

ANNA GAMBINO
[redacted]

055

CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	DEPOSITS AND CREDITS	INTEREST EARNED	CHECKS AND DEBITS	SERVICE CHARGE	ENDING BALANCE	INTEREST EARNED Y.T.D.
160,296.79		373.71	11,450.00		149,170.50	633.41

CHECKING ACCOUNT [redacted] ACTIVITY

CHECK	DATE	AMOUNT	CHECK	DATE	AMOUNT	CHECK	DATE	AMOUNT
0093	06-04	500.00	0094	06-14	2500.00			

DATE	DEBITS	CREDITS	TRANSACTION DESCRIPTION
06-04	2,300.00		WITHDRAWAL
06-14	2,000.00		WITHDRAWAL
06-18	5,700.00		WITHDRAWAL
06-21	450.00		WITHDRAWAL
06-30		373.71	INTEREST PAID

AVERAGE DAILY BALANCE $153436 MINIMUM BALANCE ON 06-21 $148796.79

DAILY CHECKING BALANCE

DATE	AMOUNT	DATE	AMOUNT	DATE	AMOUNT
05-31	160296.79	06-14	152946.79	06-21	148796.79
06-04	157446.79	06-18	149246.79	06-30	149170.50

ANNUAL PERCENTAGE YIELD EARNED 3.00%

NEED A HOME LOAN NOW? WE'VE GOT THEM. FIXED, ADJUSTABLE, NON-CONFORMING-WHATEVER! YOU'LL GET GREAT RATES, VARYING TERMS & SUPER SERVICE. SEE YOUR LOCAL BRANCH FOR DETAILS.

*** B 01 *** *** B 01 ***

JUL.19'2001 09:01 8185493559 READ FFB LEGAL DEPT #0905 P.005

FIDELITY FEDERAL BANK FSB DIRECT INQUIRIES TO:

THE CONVENIENCE STATEMENT

FIDELITY FEDERAL BANK, FSB
PO BOX 1631
GLENDALE CA 91209-1631

818-241-6215 800-4-FIDELITY

QUICK REFERENCE

PAGE	1	ACCOUNT NUMBER	[redacted]
ENCLOSURES	2	LAST STATEMENT DATE	06-30-99
		THIS STATEMENT DATE	07-31-99

ANNA GAMBINO
GIUSEPPA GAMBINO
[redacted]

055

CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	DEPOSITS AND CREDITS	INTEREST EARNED	CHECKS AND DEBITS	SERVICE CHARGE	ENDING BALANCE	INTEREST EARNED Y.T.D.
149,170.50	5,000.00	111.55	150,900.00		3,382.05	749.96

- - - - - - - - - - CHECKING ACCOUNT [redacted] CTIVITY - - - - - - - - -

CHECK	DATE	AMOUNT	CHECK	DATE	AMOUNT	CHECK	DATE	AMOUNT
0101	07-26	1900.00	0102	07-23	20000.00			

DATE	DEBITS	CREDITS	TRANSACTION DESCRIPTION
07-07	9,000.00		WITHDRAWAL
07-09	120,000.00		XFR TO 05530039825 9293
07-23		5,000.00	DEPOSIT
07-30		111.55	INTEREST PAID

AVERAGE DAILY BALANCE $44290 MINIMUM BALANCE ON 07-26 $3270.50

- - - - - - - - - - - - - - - - DAILY CHECKING BALANCE - - - - - - - - - - - - - - -

DATE	AMOUNT	DATE	AMOUNT	DATE	AMOUNT
06-30	149170.50	07-09	20170.50	07-26	3270.50
07-07	140170.50	07-23	5170.50	07-30	3382.05

ANNUAL PERCENTAGE YIELD EARNED 3.01%

NEED A HOME LOAN NOW? WE'VE GOT THEM. FIXED, ADJUSTABLE, NON-CONFORMING-WHATEVER! YOU'LL GET GREAT RATES, VARYING TERMS & SUPER SERVICE. SEE YOUR LOCAL BRANCH FOR DETAILS.

*** 0 17 *** *** 0 17 ***

JUL.19'2001 09:02 8185493559 READ FFB LEGAL DEPT #0905 P.008

FIDELITY FEDERAL BANK, FSB DIRECT INQUIRIES TO:

THE CONVENIENCE STATEMENT

FIDELITY FEDERAL BANK, FSB
PO BOX 1631
GLENDALE CA 91209-1631

818-241-6215 800-4-FIDELITY

QUICK REFERENCE

PAGE	1	ACCOUNT NUMBER	[redacted]
ENCLOSURES	2	LAST STATEMENT DATE	07-31-99
		THIS STATEMENT DATE	08-31-99

ANNA GAMBINO 055
GIUSEPPA GAMBINO
[redacted]

CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	DEPOSITS AND CREDITS	INTEREST EARNED	CHECKS AND DEBITS	SERVICE CHARGE	ENDING BALANCE	INTEREST EARNED Y.T.D.
3,382.05		5.51	2,836.00		551.56	750.47

CHECKING ACCOUNT [redacted] ACTIVITY

CHECK	DATE	AMOUNT	CHECK	DATE	AMOUNT	CHECK	DATE	AMOUNT
0103	08-17	1900.00	0105*	08-23	900.00			

DATE	DEBITS	CREDITS	TRANSACTION DESCRIPTION
08-18	18.00		NSF/UCF CHARGE INSUFF FUNDS
08-24	18.00		NSF/UCF CHARGE INSUFF FUNDS
08-31		5.51	INTEREST PAID

AVERAGE DAILY BALANCE $2189 MINIMUM BALANCE ON 08-24 $546.05

DAILY CHECKING BALANCE

DATE	AMOUNT	DATE	AMOUNT	DATE	AMOUNT
07-31	3382.05	08-18	1464.05	08-24	546.05
08-17	1482.05	08-23	564.05	08-31	551.56

ANNUAL PERCENTAGE YIELD EARNED 3.00%

NEED A HOME LOAN NOW? WE'VE GOT THEM. FIXED, ADJUSTABLE, NON-CONFORMING-WHATEVER! YOU'LL GET GREAT RATES, VARYING TERMS & SUPER SERVICE. SEE YOUR LOCAL BRANCH FOR DETAILS.

*** M 17 *** *** M 17 ***

JUL.19'2001 09:02 8185493559 READ FEB LEGAL DEPT #0005 P.001

FIDELITY FEDERAL BANK FSB DIRECT INQUIRIES TO:

THE CONVENIENCE STATEMENT

FIDELITY FEDERAL BANK, FSB
PO BOX 1631
GLENDALE CA 91209-1631

818-241-6215 800-4-FIDELITY

QUICK REFERENCE

PAGE	1	ACCOUNT NUMBER	[redacted]
ENCLOSURES		LAST STATEMENT DATE	08-31-99
		THIS STATEMENT DATE	09-30-99

ANNA GAMBINO
GIUSEPPA GAMBINO
[redacted]

055

CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	DEPOSITS AND CREDITS	INTEREST EARNED	CHECKS AND DEBITS	SERVICE CHARGE	ENDING BALANCE	INTEREST EARNED Y.T.D.
551.56	50,000.00	5.40			50,556.96	755.87

- - - - - - - - - - CHECKING ACCOUNT [redacted] CTIVITY - - - - - - - - -

DATE	DEBITS	CREDITS	TRANSACTION DESCRIPTION	
09-30		50,000.00	XFR FROM 5530039825	9409
09-30		5.40	INTEREST PAID	

AVERAGE DAILY BALANCE $2218 MINIMUM BALANCE ON 08-31 $551.56

- - - - - - - - - - - - - - DAILY CHECKING BALANCE - - - - - - - - - - - -

DATE	AMOUNT	DATE	AMOUNT	DATE	AMOUNT
08-31	551.56	09-30	50556.96		

ANNUAL PERCENTAGE YIELD EARNED 3.00%

NEED A HOME LOAN NOW? WE'VE GOT THEM. FIXED, ADJUSTABLE, NON-CONFORMING-WHATEVER! YOU'LL GET GREAT RATES, VARYING TERMS & SUPER SERVICE. SEE YOUR LOCAL BRANCH FOR DETAILS.

*** N 16 *** *** N 16 ***

JUL.19'2001 09:02 8185493559 READ FFB LEGAL DEPT #0905 P.006

FIDELITY FEDERAL BANK FSB DIRECT INQUIRIES TO:

THE CONVENIENCE STATEMENT

FIDELITY FEDERAL BANK, FSB
PO BOX 1631
GLENDALE CA 91209-1631

818-241-6215 800-4-FIDELITY

QUICK REFERENCE

PAGE	1	ACCOUNT NUMBER	[redacted]
ENCLOSURES	1	LAST STATEMENT DATE	09-30-99
		THIS STATEMENT DATE	10-31-99

ANNA GAMBINO
GIUSEPPA GAMBINO
[redacted]

055

CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	DEPOSITS AND CREDITS	INTEREST EARNED	CHECKS AND DEBITS	SERVICE CHARGE	ENDING BALANCE	INTEREST EARNED Y.T.D.
50,556.96		1.40	50,000.00		558.36	757.27

- - - - - - - - - - CHECKING ACCOUNT [redacted] CTIVITY - - - - - - - - -

CHECK	DATE	AMOUNT	CHECK	DATE	AMOUNT	CHECK	DATE	AMOUNT
0106	10-01	50000.00						

DATE	DEBITS	CREDITS	TRANSACTION DESCRIPTION
10-29		1.40	INTEREST PAID

AVERAGE DAILY BALANCE $556 MINIMUM BALANCE ON 10-01 $556.96

- - - - - - - - - - - - - - - - DAILY CHECKING BALANCE - - - - - - - - - - - - - -

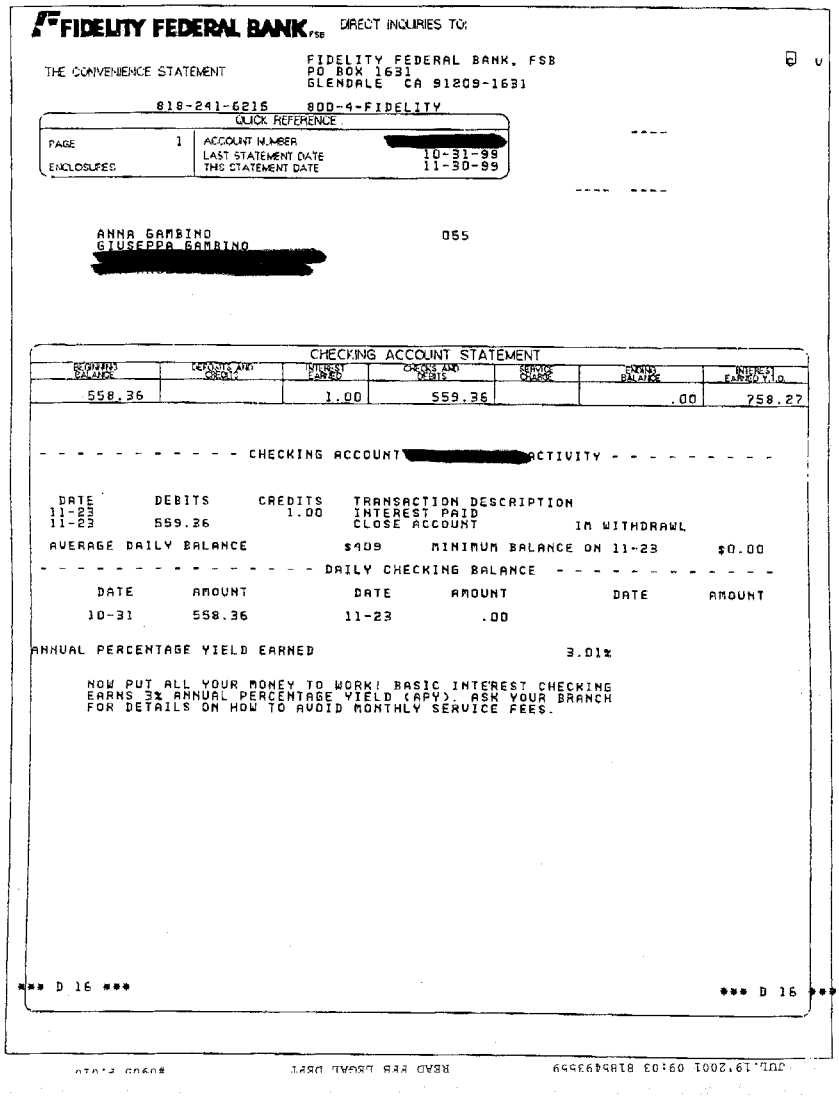
DATE	AMOUNT	DATE	AMOUNT	DATE	AMOUNT
09-30	50556.96	10-01	556.96	10-29	558.36

ANNUAL PERCENTAGE YIELD EARNED 3.00%

NEED A HOME LOAN NOW? WE'VE GOT THEM. FIXED, ADJUSTABLE, NON-CONFORMING-WHATEVER! YOU'LL GET GREAT RATES, VARYING TERMS & SUPER SERVICE. SEE YOUR LOCAL BRANCH FOR DETAILS.

*** E 17 *** *** E 17 ***

JUL.19'2001 09:02 8185493559 READ FFB LEGAL DEPT #0905 P.009



FIDELITY FEDERAL BANK FSB

DIRECT INQUIRIES TO:

THE CONVENIENCE STATEMENT

FIDELITY FEDERAL BANK, FSB
PO BOX 1631
GLENDALE CA 91209-1631

818-241-6215 800-4-FIDELITY

QUICK REFERENCE

PAGE	1	ACCOUNT NUMBER	[redacted]
ENCLOSURES		LAST STATEMENT DATE	10-31-99
		THIS STATEMENT DATE	11-30-99

ANNA GAMBINO
GIUSEPPA GAMBINO
[redacted]

055

CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	DEPOSITS AND CREDITS	INTEREST EARNED	CHECKS AND DEBITS	SERVICE CHARGE	ENDING BALANCE	INTEREST EARNED Y.T.D.
558.36		1.00	559.36		.00	758.27

- - - - - - - - - - CHECKING ACCOUNT [redacted] ACTIVITY - - - - - - - - -

DATE	DEBITS	CREDITS	TRANSACTION DESCRIPTION
11-23		1.00	INTEREST PAID
11-23	559.36		CLOSE ACCOUNT

IN WITHDRAWL

AVERAGE DAILY BALANCE $409 MINIMUM BALANCE ON 11-23 $0.00

- - - - - - - - - - - - - - DAILY CHECKING BALANCE - - - - - - - - - - - -

DATE	AMOUNT	DATE	AMOUNT	DATE	AMOUNT
10-31	558.36	11-23	.00		

ANNUAL PERCENTAGE YIELD EARNED 3.01%

NOW PUT ALL YOUR MONEY TO WORK! BASIC INTEREST CHECKING EARNS 3% ANNUAL PERCENTAGE YIELD (APY). ASK YOUR BRANCH FOR DETAILS ON HOW TO AVOID MONTHLY SERVICE FEES.

*** D 16 ***

*** D 16 ***

Uniform Residential Loan Application

This application is designed to be completed by the applicant(s) with the lender's assistance. Applicants should complete this form as "Borrower" or "Co-Borrower", as applicable. Co-Borrower information must also be provided (and the appropriate box checked) when ☐ the income or assets of a person other than the "Borrower" (including the Borrower's spouse) will be used as a basis for loan qualification or ☐ the income or assets of the Borrower's spouse will not be used as a basis for loan qualification, but his or her liabilities must be considered because the Borrower resides in a community property state, the security property is located in a community property state, or the Borrower is relying on other property located in a community property state as a basis for repayment of the loan.

I. TYPE OF MORTGAGE AND TERMS OF LOAN

Mortgage Applied for: ☐ V.A. ☐ Conventional ☐ Other: ☐ FHA ☐ FmHA

Agency Case Number | Lender Case Number

Amount: $ 500,000 | Interest Rate: 7.125 | No. of Months: 360 | Amortization Type: ☐ Fixed Rate ☐ GPM ☐ Other (explain): ☐ ARM (type): 10/1

II. PROPERTY INFORMATION AND PURPOSE OF LOAN

Subject Property Address (street, city, state, ZIP) [redacted] | No. of Units

Legal Description of Subject Property (attach description if necessary) | Year Built

Purpose of Loan: ☐ Purchase ☒ Refinance ☐ Construction ☐ Construction-Permanent ☐ Other (explain):

Property will be: ☐ Primary Residence ☐ Secondary Residence ☐ Investment

Complete this line if construction or construction-permanent loan.

Year Lot Acquired | Original Cost $ | Amount Existing Liens $ | (a) Present Value of Lot $ | (b) Cost of Improvements $ | Total (a + b) $

Complete this line if this is a refinance loan.

Year Acquired | Original Cost $ | Amount Existing Liens $ 200,000 | Purpose of Refinance: Investment | Describe Improvements ☐ made ☐ to be made Cost: $

Title will be held in: Lisa Grabino | Manner in which Title will be held: Sole | Estate will be held in: ☒ Fee Simple ☐ Leasehold (show expiration date)

Source of Down Payment, Settlement Charges and/or Subordinate Financing (explain): Proceeds

III. BORROWER INFORMATION

Borrower	Co-Borrower
Borrower's Name (include Jr. or Sr. if applicable): Lisa Grabino	Co-Borrower's Name (include Jr. or Sr. if applicable):
Social Security Number: [redacted]	Social Security Number:
Home Phone (incl. area code): [redacted]	Home Phone (incl. area code):
Age: 28	Yrs. School: 14
☐ Married ☒ Unmarried (include single, divorced, widowed) ☐ Separated	Dependents (not listed by Co-Borrower): no. 0 ages
☐ Married ☐ Unmarried (include single, divorced, widowed) ☐ Separated	Dependents (not listed by Borrower): no. ages
Present Address (street, city, state, ZIP): [redacted] ☒ Own ☐ Rent No. Yrs. 3	Present Address (street, city, state, ZIP) ☐ Own ☐ Rent No. Yrs.
If residing at present address for less than two years, complete the following:	
Former Address (street, city, state, ZIP) ☐ Own ☐ Rent No. Yrs.	Former Address (street, city, state, ZIP) ☐ Own ☐ Rent No. Yrs.
Former Address (street, city, state, ZIP) ☐ Own ☐ Rent No. Yrs.	Former Address (street, city, state, ZIP) ☐ Own ☐ Rent No. Yrs.

IV. EMPLOYMENT INFORMATION

Borrower	Co-Borrower
Name & Address of Employer ☐ Self Employed	Name & Address of Employer ☐ Self Employed
Yrs. on this job	Yrs. on this job
Yrs. employed in this line of work/profession	Yrs. employed in this line of work/profession
Position/Title/Type of Business	Position/Title/Type of Business
Business Phone (incl. area code)	Business Phone (incl. area code)
If employed in current position for less than two years or if currently employed in more than one position, complete the following:	
Name & Address of Employer ☐ Self Employed	Name & Address of Employer ☐ Self Employed
Dates (from - to)	Dates (from - to)
Monthly Income $	Monthly Income $
Position/Title/Type of Business	Position/Title/Type of Business
Business Phone (incl. area code)	Business Phone (incl. area code)
Name & Address of Employer ☐ Self Employed	Name & Address of Employer ☐ Self Employed
Dates (from - to)	Dates (from - to)
Monthly Income $	Monthly Income $
Position/Title/Type of Business	Position/Title/Type of Business
Business Phone (incl. area code)	Business Phone (incl. area code)

EXHIBIT 67
PENCAD Systems, N.J.

V. MONTHLY INCOME AND COMBINED HOUSING EXPENSE INFORMATION

Gross Monthly Income	Borrower	Co-Borrower	Total	Combined Monthly Housing Expense	Present	Proposed
Base Empl. Income *	$	$	$	Rent	$	
Overtime				First Mortgage (P&I)		$
Bonuses				Other Financing (P&I)		
Commissions	No income			Hazard Insurance		
Dividends/Interest		verification		Real Estate Taxes		
Net Rental Income				Mortgage Insurance		
Other (before completing, see the notice in "describe other income," below)				Homeowner Assn. Dues		
				Other:		
Total	$	$	$	Total	$	$

* Self Employed Borrower(s) may be required to provide additional documentation such as tax returns and financial statements.

B/C	Describe Other Income *Notice:* Alimony, child support, or separate maintenance income need not be revealed if the Borrower (B) or Co-Borrower (C) does not choose to have it considered for repaying this loan.	Monthly Amount
		$

VI. ASSETS AND LIABILITIES

This Statement and any applicable supporting schedules may be completed jointly by both married and unmarried Co-Borrowers if their assets and liabilities are sufficiently joined so that the Statement can be meaningfully and fairly presented on a combined basis; otherwise separate Statements and Schedules are required. If the Co-Borrower section was completed about a spouse, this Statement and supporting schedules must be completed about that spouse also.

Completed ☐ Jointly ☐ Not Jointly

ASSETS Description	Cash or Market Value
Cash deposit toward purchase held by:	$
List checking and savings accounts below	
Name and address of Bank, S&L, or Credit Union: Citibank	
Acct. no. [redacted]	$ 8,000
Name and address of Bank, S&L, or Credit Union	
Acct. no.	$
Name and address of Bank, S&L, or Credit Union	
Acct. no.	$
Name and address of Bank, S&L, or Credit Union	
Acct. no.	$
Stocks & Bonds (Company name/number & description)	$
Life insurance net cash value	$
Face amount: $	
Subtotal Liquid Assets	$
Real estate owned (enter market value from schedule of real estate owned)	$ 150,000
Vested interest in retirement fund	$
Net worth of business(es) owned (attach financial statement)	$
Automobiles owned (make and year) 1995 Celica	$ 18,000
Other Assets (itemize) personal property	$ 100,000
Total Assets a.	$

Liabilities and Pledged Assets. List the creditor's name, address and account number for all outstanding debts, including automobile loans, revolving charge accounts, real estate loans, alimony, child support, stock pledges, etc. Use continuation sheet, if necessary. Indicate by (*) those liabilities which will be satisfied upon sale of real estate owned or upon refinancing of the subject property.

LIABILITIES	Monthly Pmt. & Mos. Left to Pay	Unpaid Balance
Name and address of Company: Citibank-MC	$ Pmt./Mos. Do-	$ 700
Acct. no.		
Name and address of Company	$ Pmt./Mos.	$
Acct. no.		
Name and address of Company: Greenpoint	$ Pmt./Mos. 217-	$ 257,900
Acct. no.		
Name and address of Company	$ Pmt./Mos.	$
Acct. no.		
Name and address of Company	$ Pmt./Mos.	$
Acct. no.		
Name and address of Company	$ Pmt./Mos.	$
Acct. no.		
Name and address of Company	$ Pmt./Mos.	$
Acct. no.		
Alimony/Child Support/Separate Maintenance Payments Owed to:	$	
Job Related Expense (child care, union dues, etc.)	$	
Total Monthly Payments	$	
Net Worth (a. minus b.)	$	Total Liabilities b. $

VI. ASSETS AND LIABILITIES (cont.)

Schedule of Real Estate Owned (If additional properties are owned, use continuation sheet.)

Property Address (enter S if sold, PS if pending sale or R if rental being held for income)	Type of Property	Present Market Value	Amount of Mortgages & Liens	Gross Rental Income	Mortgage Payments	Insurance, Maintenance, Taxes & Misc.	Net Rental Income
		$	$	$	$	$	$
	Totals	$	$	$	$	$	$

List any additional names under which credit has previously been received and indicate appropriate creditor name(s) and account number(s):

Alternate Name	Creditor Name	Account Number

VII. DETAILS OF TRANSACTION

a. Purchase price	$
b. Alterations, improvements, repairs	
c. Land (if acquired separately)	
d. Refinance (incl. debts to be paid off)	
e. Estimated prepaid items	
f. Estimated closing costs	
g. PMI, MIP, Funding Fee	
h. Discount (if Borrower will pay)	
i. Total Costs (add items a through h)	
j. Subordinate financing	
k. Borrower's closing costs paid by Seller	
l. Other Credits (explain)	
m. Loan amount (exclude PMI, MIP, Funding Fee financed)	
n. PMI, MIP, Funding Fee financed	
o. Loan amount (add m & n)	
p. Cash from/to Borrower (subtract j, k, l & o from i)	

VIII. DECLARATIONS

If you answer "Yes" to any questions a through i, please use continuation sheet for explanation.

	Borrower Yes	Borrower No	Co-Borrower Yes	Co-Borrower No
a. Are there any outstanding judgments against you?		X		
b. Have you been declared bankrupt within the past 7 years?		X		
c. Have you had property foreclosed upon or given title or deed in lieu thereof in the last 7 years?		X		
d. Are you a party to a lawsuit?		X		
e. Have you directly or indirectly been obligated on any loan which resulted in foreclosure, transfer of title in lieu of foreclosure, or judgment? (This would include such loans as home mortgage loans, SBA loans, home improvement loans, educational loans, manufactured (mobile) home loans, any mortgage, financial obligation, bond, or loan guarantee. If "Yes," provide details, including date, name and address of Lender, FHA or V.A. case number, if any, and reasons for the action.)		X		
f. Are you presently delinquent or in default on any Federal debt or any other loan, mortgage, financial obligation, bond, or loan guarantee? If "Yes," give details as described in the preceding question.		X		
g. Are you obligated to pay alimony, child support, or separate maintenance?		X		
h. Is any part of the down payment borrowed?		X		
i. Are you a co-maker or endorser on a note?		X		
j. Are you a U.S. citizen?	X			
k. Are you a permanent resident alien?		X		
l. Do you intend to occupy the property as your primary residence? If "Yes," complete question m below.	X			
m. Have you had an ownership interest in a property in the last three years?	X			
(1) What type of property did you own–principal residence (PR), second home (SH), or investment property (IP)?	PR			
(2) How did you hold title to the home–solely by yourself (S), jointly with your spouse (SP), or jointly with another person (O)?	S			

IX. ACKNOWLEDGMENT AND AGREEMENT

The undersigned specifically acknowledge(s) and agree(s) that: (1) the loan requested by this application will be secured by a first mortgage or deed of trust on the property described herein; (2) the property will not be used for any illegal or prohibited purpose or use; (3) all statements made in this application are made for the purpose of obtaining the loan indicated herein; (4) occupation of the property will be as indicated above; (5) verification or reverification of any information contained in the application may be made at any time by the Lender, its agents, successors and assigns, either directly or through a credit reporting agency, from any source named in this application, and the original copy of this application will be retained by the Lender, even if the loan is not approved; (6) the Lender, its agents, successors and assigns will rely on the information contained in the application and I/we have a continuing obligation to amend and/or supplement the information provided in this application if any of the material facts which I/we have represented herein should change prior to closing; (7) in the event my/our payments on the loan indicated in this application become delinquent, the Lender, its agents, successors and assigns, may, in addition to all their other rights and remedies, report my/our name(s) and account information to a credit reporting agency; (8) ownership of the loan may be transferred to successor or assign of the Lender without notice to me and/or the administration of the loan account may be transferred to an agent, successor or assign of the Lender with prior notice to me; (9) the Lender, its agents, successors and assigns make no representations or warranties, express or implied, to the Borrower(s) regarding the property, the condition of the property, or the value of the property.

Certification: I/We certify that the information provided in this application is true and correct as of the date set forth opposite my/our signature(s) on this application and acknowledge my/our understanding that any intentional or negligent misrepresentation(s) of the information contained in this application may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Section 1001, et seq. and liability for monetary damages to the Lender, its agents, successors and assigns, insurers and any other person who may suffer any loss due to reliance upon any misrepresentation which I/we have made on this application.

Borrower's Signature	Date	Co-Borrower's Signature	Date
X	5/1/99	X	

X. INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the Federal Government for certain types of loans related to a dwelling, in order to monitor the Lender's compliance with equal credit opportunity, fair housing and home mortgage disclosure laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a Lender may neither discriminate on the basis of this information, nor on whether you choose to furnish it. However, if you choose not to furnish it, under Federal regulations this Lender is required to note race and sex on the basis of visual observation or surname. If you do not wish to furnish the above information, please check the box below. (Lender must review the above material to assure that the disclosures satisfy all requirements to which the Lender is subject under applicable state law for the particular type of loan applied for.)

BORROWER		CO-BORROWER	
	☐ I do not wish to furnish this information		☐ I do not wish to furnish this information
Race/National Origin:	☐ American Indian or Alaskan Native ☐ Asian or Pacific Islander ☒ White, not of Hispanic Origin ☐ Black, not of Hispanic origin ☐ Hispanic ☐ Other (specify)	Race/National Origin:	☐ American Indian or Alaskan Native ☐ Asian or Pacific Islander ☐ White, not of Hispanic Origin ☐ Black, not of Hispanic origin ☐ Hispanic ☐ Other (specify)
Sex:	☒ Female ☐ Male	Sex:	☐ Female ☐ Male

To be Completed by Interviewer

This application was taken by:
- ☒ face-to-face interview
- ☐ by mail
- ☐ by telephone

Interviewer's Name (print or type): Peter Brugnoletti 2/99

Interviewer's Signature: Peter Brugnoletti Date

Interviewer's Phone Number (incl. area code): 718-979-3000

Name and Address of Interviewer's Employer: NY Mort. Exchange 2205 Hylan Blvd SI NY 10306

Continuation Sheet/Residential Loan Application

Use this continuation sheet if you need more space to complete the Residential Loan Application. Mark **B** for Borrower or **C** for Co-Borrower.	Borrower:	Agency Case Number:
	Co-Borrower:	Lender Case Number:

I/We fully understand that it is a Federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

Borrower's Signature:	Date	Co-Borrower's Signature:	Date
X		X	

03/25/99 THU 12:53 FAX 1 718 987 8026 CALABRESE REAL Y 001

3/25

Att: Roberta Okun

Re: Gambino, Lisa
Woods of Arden

Please reduce loan from 500,000 to 499,000 as mortgage tax becomes greater for the 1,000. Please re-commit

Thank you

Teri Bruno Calabrese

OK



To whom it may Concern 990317

I am getting this loan for an investment.

Thank You

Lisa



MEMORANDUM

TO: Marie Ragghianti
Chief of Staff

FROM: Sharon Gervasoni
DDAEO

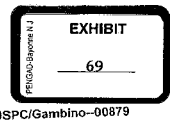
DATE: September 23, 1998

RE: Your request for advice dated September 16, 1998

I agree with your concern that the Commission handle Rosario Gambino's case in the same fair, impartial manner that it strives to handle all prisoners' cases. What properly belongs in the parole file is any material relating to the official decisionmaking and the official record of that process. The FBI's interest in Mr. Gambino (i.e., that he may be under investigation, for reasons unknown) does not rise to the level of substantial information that the Commission should or may consider in making a parole decision in Gambino's case. If in the future the Commission were to be informed that the investigation had yielded some concrete allegations of conduct by Mr. Gambino that would be relevant to his suitability for release on parole, that information would be properly part of the decisionmaking file. At this time, however, the mere fact that the FBI wished to review Mr. Gambino's file is not a matter that should be placed in the decisionmaking file. (Disclosure of information to the FBI is an intra-agency disclosure and is permissible under the Privacy Act. 5 U.S.C. §552a(b)(1). It is not a disclosure under a routine use.)

I have spoken with the hearing examiner currently doing the prehearing review in Mr. Gambino's case, and have concluded that his recusal is not necessary. Finally, there is no basis for continuing Mr. Gambino's case, as he has a statutory entitlement to his statutory interim hearing in a timely manner. Given that the Commission's prior decision in his case was that it be continued to a 15 year reconsideration hearing, there is adequate time for the FBI to inform the Commission in the event that their investigation yields information regarding Mr. Gambino that is relevant to whether he should be paroled.

In my view, the decisionmaking file should not include information regarding Roger Clinton's interest in the Rosario Gambino case. Mr. Clinton is not Mr. Gambino's representative and does not have a Privacy Act waiver from Mr. Gambino authorizing his access to Gambino's Privacy Act-protected file material. He has previously been invited to reduce his concerns about Gambino's case to a written document (e.g. a letter to Commissioner Simpson), so that his views can be



considered.[1] (Mr. Stover told him this during his telephone conversation with Mr. Clinton in 1996.) He has, to my knowledge, not taken this action, instead engaging in meetings with Commission staff which seem to me designed to influence the decisionmaking process outside of the official record (for example by complaining about allegedly rude treatment by Commission staff members). The fact that he may have attempted to influence the Commission's decisionmaking outside official decisionmaking channels need not become a part of the official decisionmaking record, and indeed in my opinion would potentially taint that record and make an impartial decision more difficult.[2] (In providing advice to Chairman (then Commissioner) Gaines in 1996 about whether he should or must recuse himself from Gambino's case, among my considerations were Commissioner Gaines' statements that he did not know Roger Clinton, that he had declined to speak to Mr. Clinton about a pending case and that he would make his decision solely on the record. If the record had at the time of decision contained Mr. Stover's memorandum regarding his conversation with Mr. Clinton, it would have defeated Commissioner Gaines' attempt to insulate himself from Mr. Clinton's ex parte communication, and potentially undermined the fairness of the decisionmaking process.)

I note the apparently contradictory language in the Commission's Procedures Manual, which states that "visits to the Commission's Office are summarized for the file in all cases." Procedures Manual §2.22-05. I would mention several things with respect to this provision. First, it has been in the Manual for a very long time, since before the advent of the Privacy Act. The provisions of the Privacy Act severely limit what information can be given to a member of the public regarding a prisoner without that person's express waiver of his privacy protection. The Privacy Act has vastly reduced the utility of visits to the Commission's office for persons who do not have such a waiver in hand, as Commission staff must refuse to discuss particulars of the case in which the visitor is interested. See discussion of Privacy Act at pp. 153-157 of the Manual. Second, there is no provision in the Commission's statute or rules entitling any member of the public to a meeting with Commission staff. "Interested parties opposing parole" may appear **at parole hearings** (i.e., as part of the **official** parole decisionmaking process) under circumstances specified in the Manual at paragraph 2.13-11. Finally, the Commission's statute requires it to consider, in making parole decisions, "such additional **relevant** information concerning the prisoner" as may be available. 18 U.S.C. §4207(5)(emphasis added). That Roger Clinton is interested in Mr. Gambino's case is not relevant to his suitability for parole under the criteria of 18 U.S.C. §4206. I think the best way to view the language in the Manual regarding visits is as a guideline for the usual case, but not as a straightjacket which would require the Commission to include something in the case

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[1] The Commission's regulations provide that it may consider "such additional relevant informatin concerning the prisoner...as may be reasonably available" and state that "the Commission encourages the submission of relevant information concerning an eligible prisoner by interested persons".

[2] The Commission's regulations do not provide for meetings by members of the public or prisoners' representative with official decisionmakers (i.e., Commissioners).

file which is not relevant to its parole decision and which could taint the fairness or appearance of fairness of its decision.

Finally, I am not sure what you mean when you refer to an "interim protocol for handling sensitive cases". Perhaps we can discuss your proposal further so I can understand what you have in mind. Mr. Stover is currently working on the advice memorandum you reference.

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BANK OF AMERICA CALIFORNIA          TJFULL     Run 26-OCT-1999 06:28 Page 81988
FULL TRANSACTION REPORT                        For 25-OCT-1999

<<< TRN: 991025-034484 >>>

    **** MESSAGE ENVELOPE ****              ( Bank : CAL )

SRC:MWR CALLER:                                    EXT:   SND DATE:99/10/25
RPT#          AMT:100,000.00        CUR:USD                          TRDR#
TEST: VAL:99/10/25                TYP:FTR/     FNDS:S CHG:DB:Y CD:Y COM:X CBL:X
--------------------------------------------------------------------------------
*DBT D[redacted]                       CDT *D/1095906517                ADV:LTR
GERARD GUEZ                            ODGIE MUSIC


SEND:B/3852
BANKAMERICA MTS CUSTOMER SVC 3854
1850 GATEWAY BLVD
8TH FLOOR
CONCORD, CALIFORNIA
SNDR REF NUM:BA REF940213
REF NUM:991025ECCA0032MW
ORIG:
/ACCT/[redacted] GERARD GUEZ
[redacted]


    **** MESSAGE TEXT ****

GCA141404 ECC0032
XX TMTA
.ECCA

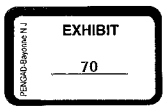

{STX}
YZYZ
FROM:/UN-3852
     BANK OF AMERICA CLIENT SVCS 20570
     333 S.BEAUDRY AVE. 18TH FL.
     LOS ANGELES, CA 90027
TO:  /NA-BOFA
     BANK OF AMERICA
     DOMESTIC MONEY TRANSFER
     CONCORD, CA
DATE:991025

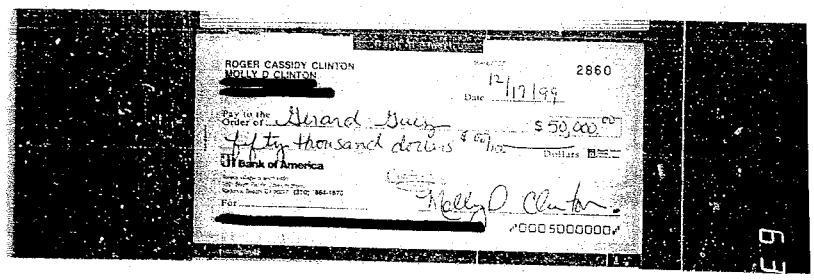
::100 CUSTOMER TRANSFER
PLEASE PAY

:15 TEST KEY:{TEST:}

:20 SENDERS REF:BA REF940213
:30 VALUE DATE:991025 25OCT99
:32 AMOUNT:
USD 100,000.00 US DOLLAR

:50 ORIGINATOR:
```




ROGER CASSIDY CLINTON
HOLLY D CLINTON
[redacted]
2860
Date 12/12/99
Pay to the Order of Gerard Gur
$ 50,000.00
Fifty thousand dorrars & no/100
Dollars
Bank of America
For [redacted]
Holly D Clinton
⑈000 5000000⑈

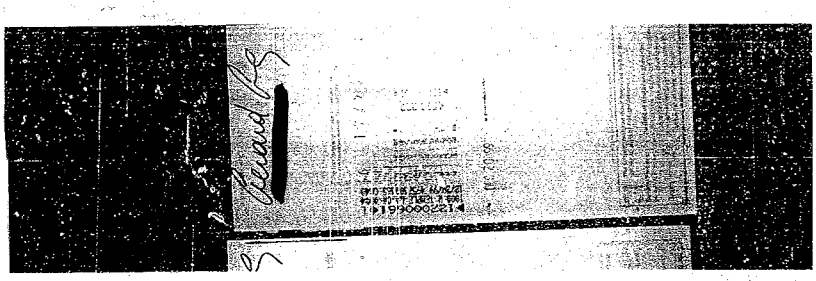
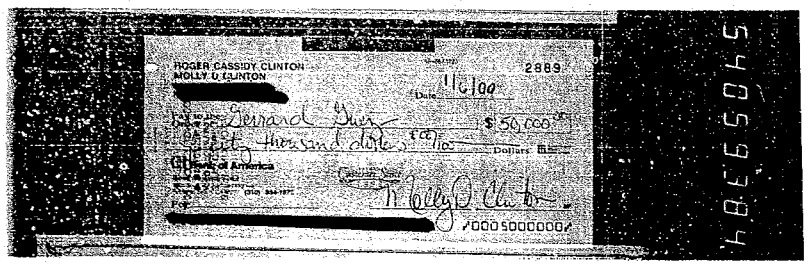
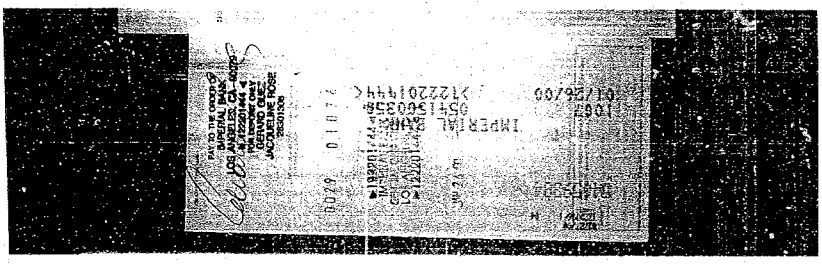
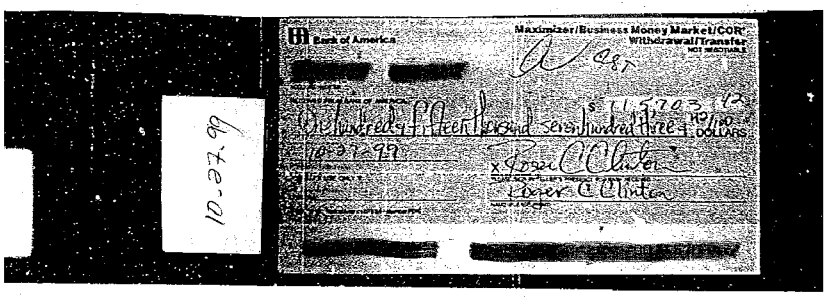

Gerard

EXHIBIT
71


ROGER CASSIDY CLINTON
MOLLY D. CLINTON
2889
Bernard Nussbaum
$50,000
Fifty Thousand dollars
Bank of America
Molly D. Clinton
/000050000004/
4BE65045


PAY TO THE ORDER OF
SUPERIAL BANK
LOS ANGELES, CA 90025
FOR DEPOSIT ONLY
ACCOUNT NO.
JACQUELINE ROSE
IMPERIAL BANK
05413603358
01/26/00
1062
⑆122201444⑆
0029 01012


Bank of America
Maximizer/Business Money Market/CORE
Withdrawal/Transfer
10-27-99

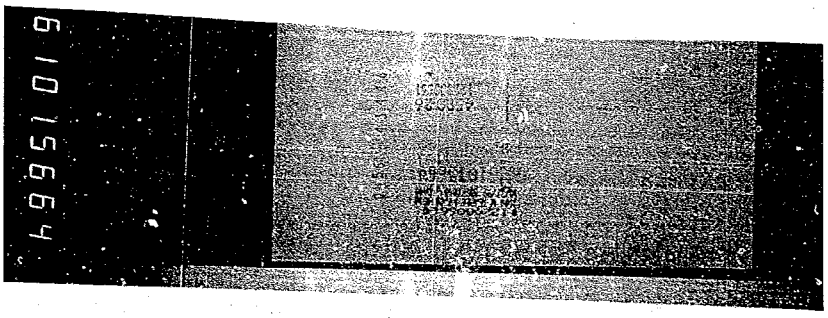
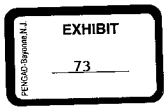

4995610156

EXHIBIT
72

Counsel's Office – Meredith Cabe
CF 2031
Printed contents of diskette (pardon lists)
[no folder, loose diskette in box]



NCIC for Michael Mahoney?

NCIS for Rosario Gambino, [redacted] no social security number, incarcerated at Terminal Island, CA

Please provide all information known regarding Kimberly Johnson's incident report for "threatening bodily harm"

Ask DOJ to contact sentencing judge in Diana G. Nelson case?

NCIC: Peter Ninemire, [redacted] what happens if we commute entire federal sentence; is he remanded to state custody???

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1. **NCIC Checks**

Michael Mahoney,

Rosario Gambino, [redacted], no social security number, incarcerated at Terminal Island, CA

Peter Ninemire, [redacted]

John Bustamente, [redacted]

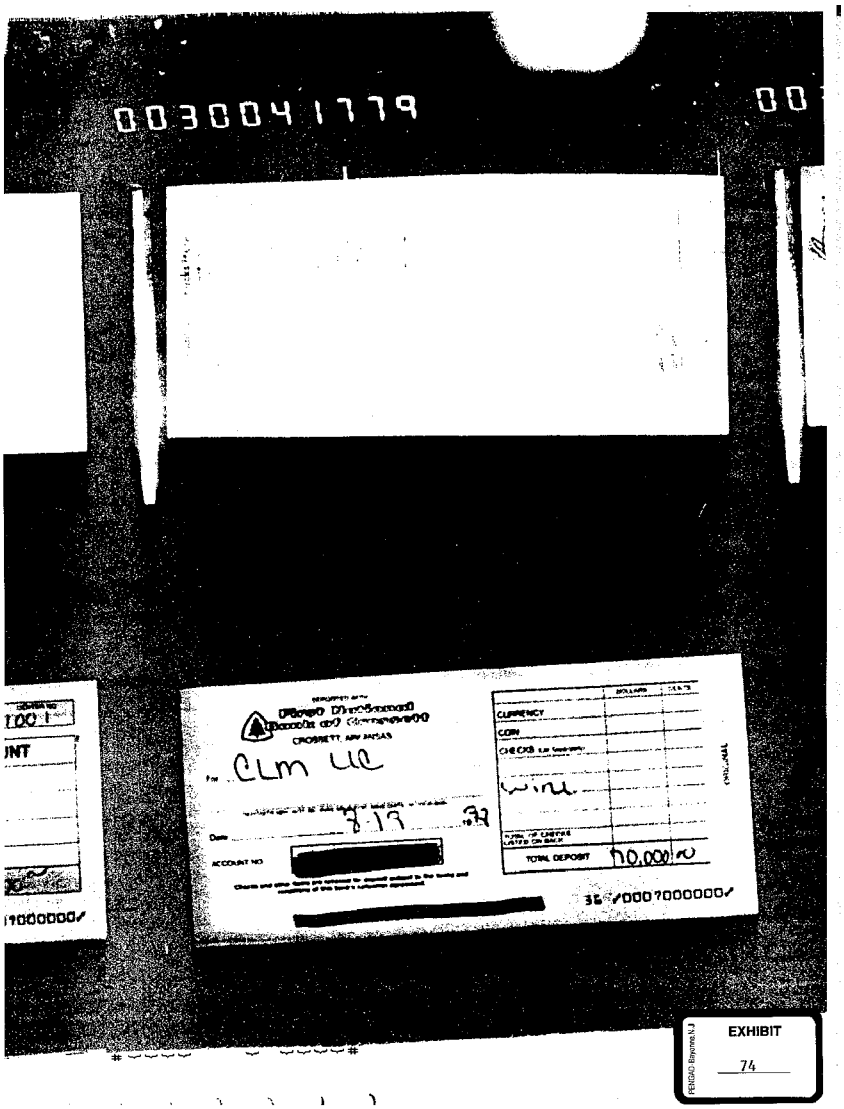
2. **Follow up questions**

Kimberly Johnson: please provide all information known regarding incident report for "threatening bodily harm"

Diana G. Nelson: Please contact sentencing judge regarding position on commutation.

Peter Ninemire: can you determine what happens if we commute entire federal sentence; is he remanded to state custody???

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PHOTOCOPY


003004 1779
CLM LLC
CURRENCY
COIN
TOTAL DEPOSIT
EXHIBIT
74

*** REPRINT ***

02 #### FT PROD #### FT INCOMING ####NORMAL MSG/ACCTG ENTRY####

{3100} Sender: 311093120 BKAMERTEXAS {2000} Amount: $70,000.00

{3400} Receiver: 082903219 FIRST NB CROSSETT {3600} Bus Function Code: CTR

{1510} Type Code: 1000

{5000} Originator: D8846705646
M M FOUNDATION
5220 SPRING VALLEY STE 300
DALLAS TX 75240

{4200} Beneficiary: [redacted]
C L M LLC

{1520} IMAD: 19980819L1QFBX4C000150

{3320} Sender Ref: 980819004597

{1110} Timestamp: 08191429FT01

{1120} OMAD: 19980819H2QZA40D0000030819142 9FT01

################

Sharon Priest
SECRETARY OF STATE

State of Arkansas
SECRETARY OF STATE

FILED
CORPORATIONS DIVISION
NO. 16753
98 AUG 14 PM 12:08
SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS
BY

LIMITED LIABLILITY COMPANY FRANCHISE TAX

In order for this limited liability company to receive it annual franchise tax reporting form, please complete and file with the the office of the Secretary of State at the time of filing.

C.L.M. L.L.C
Limited Liability Company Name as Applied for in Arkansas

Dicky Morton
Contact Person

P.O. Box 158
Street Address or Post Office Box

Fountain Hill Arkansas 71642
City, State, Zip Code

870-853-8503
Telephone Number

2070
Dissolution Date of Limited Liability Company
(Not Required for Foreign Limited Liability Company)

Note: This tax is due on or before June 1 of the year followingf filing or qualification in this state.

Signature (Please include affiliation)

State Capitol • Little Rock, Arkansas 72201-1094 • (501) 682-1010

EXHIBIT
75

[redacted]

Corporations and UCC Records • Elections • Capitol Building and Grounds

FILED
CORPORATIONS
NO. 161953
00 AUG 14 PM 12:09
SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS
BY

Arkansas Secretary of State
Sharon Priest

State Capitol • Little Rock, Arkansas 72201-1094 • 501.682.1010

Instructions: File in **DUPLICATE** with the Secretary of State, State Capitol, Little Rock, Arkansas 72201-1094. A copy will be returned after filing has been completed.

PLEASE TYPE OR CLEARLY PRINT IN INK

ARTICLES OF ORGANIZATION

The undersigned authorized manager or member or person forming this Limited Liability Company under the Small Business Entity Tax Pass Through Act, Act 1003 of 1993, adopt the following Articles of Organization of such Limited Liability Company:

First: The Name of the Limited Liability Company is:

CLM. L.L.C

Must contain the words "Limited Liability Company," "Limited Company," or the abbreviation "L.L.C.," "L.C.," "LLC," or "LC." The word "Limited" may be abbreviated as "Ltd.", and the word "Company" may be abbreviated as "Co." Companies which perform PROFESSIONAL SERVICE MUST additionally contain the words "Professional Limited Liability Company," "Professional Limited Company," or the abbreviations "P.L.L.C.," "P.L.C.," "PLLC," or "PLC." The word "Limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co."

Second: Address of registered office of the Limited Liability Company which may be, but need not be, the place of business shall be:

CLM. LLC
717 Pine Manor Dr.
Hamburg, AR 71646

Third: The name of the registered agent and the business residence or mailing address of said agent shall be:

Dickey Morton
[redacted]

(a) Acknowledgment and acceptance of appointment **MUST** be signed. I hereby acknowledge and accept the appointment of registered agent for and on behalf of the above named Limited Liability Company.

Please sign here

Fourth: The latest date (month, day, year) upon which this Limited Liability Company is to dissolve:

6/03/2010

Fifth: IF THE MANAGEMENT OF THIS COMPANY IS VESTED IN A MANAGER OR MANAGERS, A STATEMENT TO THAT EFFECT MUST BE INCLUDED IN THE SPACE PROVIDED OR BY ATTACHMENT:

N/O

PLEASE TYPE OR PRINT CLEARLY IN INK THE NAME OF THE PERSON (S) AUTHORIZED TO EXECUTE THIS DOCUMENT.

Dickey Morton

Signature of authorized manager, member, or person forming this Company:

Filing Fee $50.00

LL-01 Rev. 9-93

SOUTHERN BELLE CONST., INC.
717 PINE MANOR DRIVE
HAMBURG, ARKANSAS 71646 U.S.A.

Telephone 870-853-8503
Fax 870-853-8509

August 7,1998

Ersmark Financial & Legacy Group
Mr. Richard Cayce
FAX- 940-382-

RE: Political Meeting Agreement

Richard:

The following is an understanding of the way this meeting will occur on Tuesday August 12,1998 , along with the compensation required to get you this meeting .

Please review and sign and fax back to my fax number by this early afternoon if your group wants to consumate this meeting.

1. Call an airline representative for reservations for Roger Clinton , Mrs. Roger Clinton, and Molly Clinton, from Los Angeles to Dallas, Friday the 7th of August 1998, for a late direct flight first class. You pre-pay by your credit card today August 7th 1998.

2. The 1/3 of cookies that we discussed or 33,000 cookies will be delivered by your representative or you, cookies need to be ready to eat. A time and place will be setup early Monday morning for exchange for the meeting to set up for Tuesday , place needs to a private meeting place , as we do not need any auto graph seekers there. Roger will send his representative to meet you.

3. The meeting will be set for Tuesday , as to time and place,when you deliver cookies to Roger's representative on Monday morning the 11th of August.

4. The rest of cookies can be delivered Tuesday right before meeting.

Money

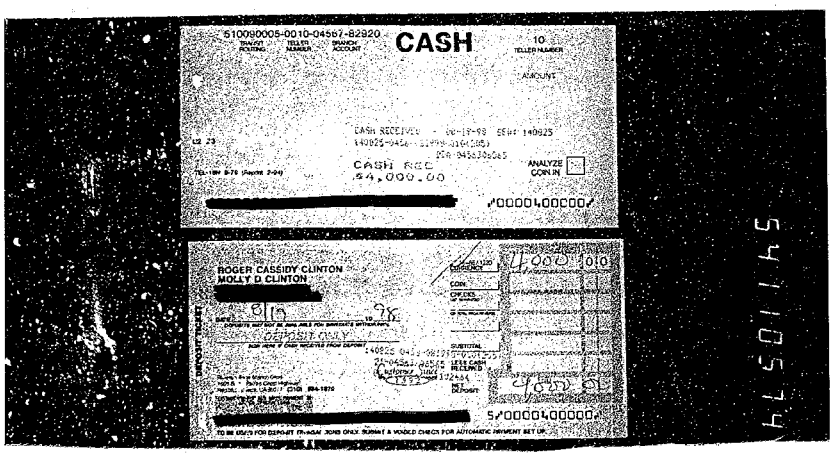
By signing you accept conditions of meeting.
I am not the representative of Roger Clinton in this transaction, you will meet him in Dallas , Texas.

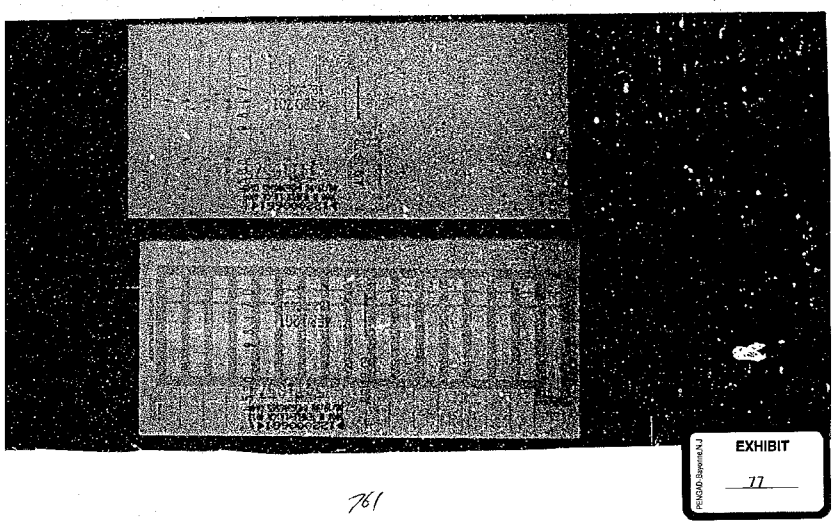
Best Regards,
D. Morton
Dickey Morton

cookies = money

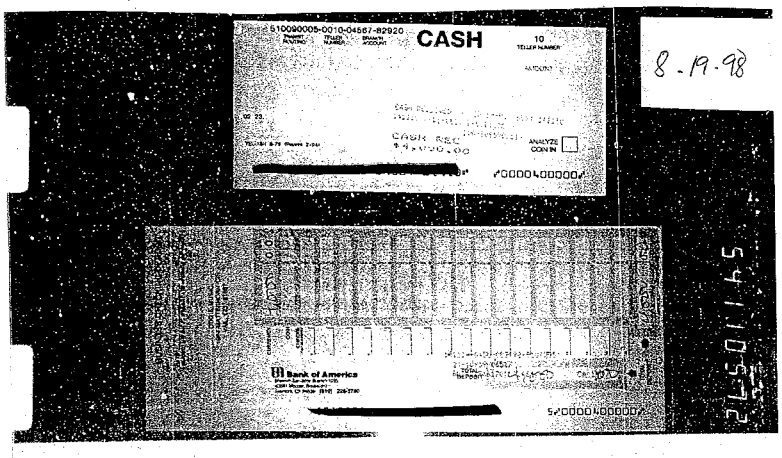
EXHIBIT
76
FENCHEL-Bayonne, N.J.

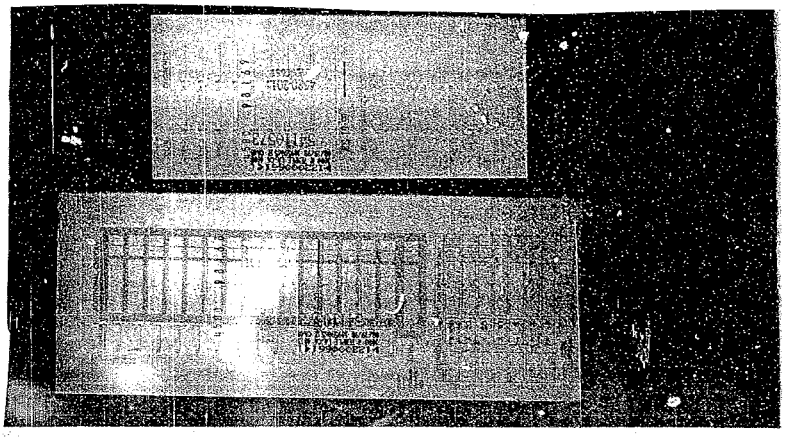
001144

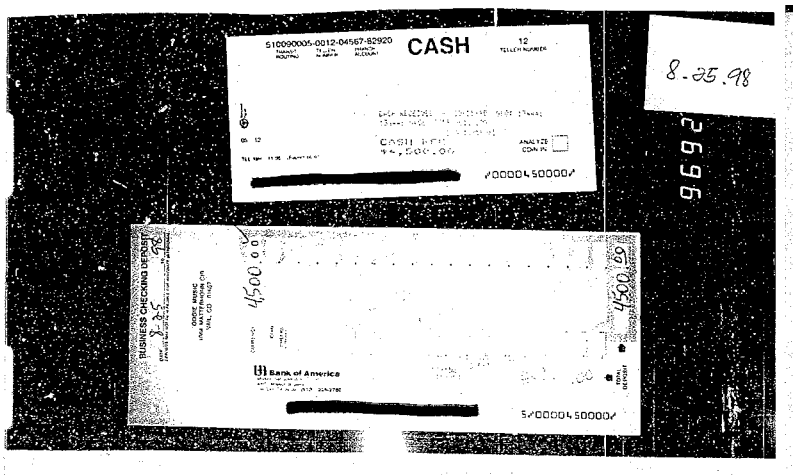

510090005-0010-04567-82920
CASH
10
CASH RECEIVED
CASH REC
$4,000.00
ROGER CASSIDY CLINTON
MOLLY D CLINTON
DEPOSIT ONLY
4000 010
SUBTOTAL
CASH RECEIVED
NET DEPOSIT
$*0000400000*
TO BE USED FOR DEPOSIT TO YOUR JOINS ONLY. SUBMIT A VOIDED CHECK FOR AUTOMATIC PAYMENT SET UP.
DEPOSIT TICKET


EXHIBIT
11
PENGAD Bayonne, N.J.

761


CASH
8-19-98
Bank of America




CASH
8-25-98
BUSINESS CHECKING DEPOSIT
Bank of America



Holiday Inn
EXPRESS

I-40 at Airport Exit
P.O. Box 95040
Little Rock, AR 72295
501/490-4000
Fax: 501/490-0423

Name & Address

GUY LINCECUM

Room
Arrive Date 12/26/78
Dept. Date 12/29/78
Folio # VIEW
Room Rate $ 62.50
Account 2 CRANK
Mkt/Seg 0-TRAN
PLT PROP

Independently operated by Hobbs & Curry FLP and owned by Heartland Hotel Corp.

I authorize you to bill the full balance of my account to my credit card which was presented upon registration.

SIGNATURE

Rapid Check-Out

The management is not responsible for any valuables not secured in safety deposit boxes provided at the front office. I agree that my liability for the charges is not waived and agree to be held personally liable in the event that the indicated person, company or association fails to pay for any part or the full amount of such charges.

X
SIGNATURE

DATE	CODE	REFERENCE	ID	DESCRIPTION	CHARGES	PAYMENTS	BALANCE
1228	111	1228000	ADV	GUEST ROOM	62.50	.00	62.50
1228	811	1228001	ADV	SALES TAX	6.33	.00	68.83
1229	911	1229000	CLT	CASH PAYMENT	.00	-68.83	.00
				TOTAL			$ .00

FORM # 3-672

TO REORDER CALL TOLL FREE A S HOSPITALITY 1-800-274-7859

ACCT. NO.

CARD MEMBER NAME

ESTABLISHMENT NO. & LOCATION

ESTABLISHMENT AGREES TO TRANSMIT TO CARD ISSUER FOR PAYMENT

CARD MEMBER'S SIGNATURE

X

MERCHANDISE AND OR SERVICES PURCHASED ON THIS CARD SHALL NOT BE RESOLD OR RETURNED FOR A CASH REFUND

DATE OF CHARGE | FOLIO NO./CHECK NO.

AUTHORIZATION | I.D.

PURCHASES & SERVICES

TOTAL AMOUNT

PENGAD-Bayonne, N.J.

EXHIBIT
78

American Gypsum Cement Products L.L.C.

717 Pine Manor Dr.
Hamburg, Arkansas 71646
United States

Phone 870-853-8503
Fax 870-853-8509
Email joe4_71646@yahoo.com

November 09, 1998

Mr. Jim McClain
Dallas , Texas

Dear Jim,

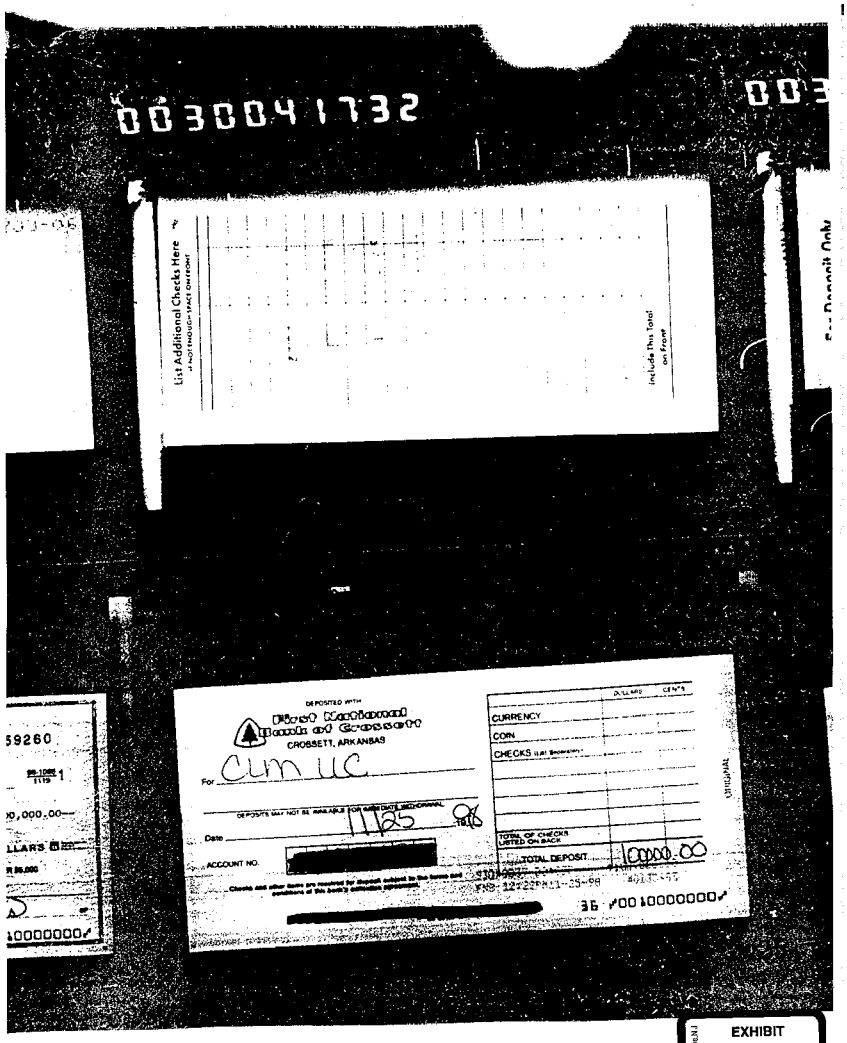
We had an extremely good week , with President Bill coming down to visit with us this week. After the Senator and I and Roger got together we all ageed to go forward . My only question is are you wanting to do businees or not , since we have not heard from you and I left several messages on your voice mail. and with you associate at Charter Financial. If so give me a call , if not , good luck.

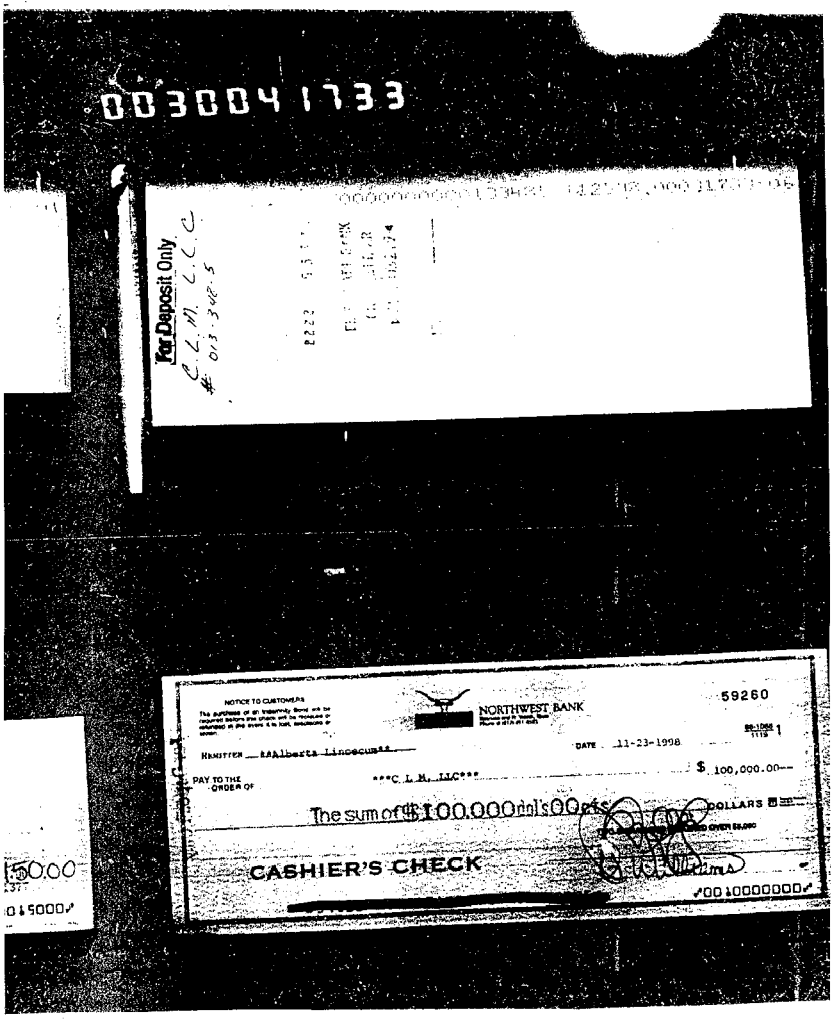
Sincerely,

Dickey Mcclain
Managing Partner
CLM LLC

EXHIBIT
79

000044


0030041732
List Additional Checks Here
Include this Total on Front
DEPOSITED WITH
First National Bank of Crossett
CROSSETT, ARKANSAS
For CLM LLC
Date
ACCOUNT NO.
DOLLARS
CENTS
CURRENCY
COIN
CHECKS
TOTAL OF CHECKS LISTED ON BACK
TOTAL DEPOSIT
100000.00
11125
59260
EXHIBIT
80


0003004 1733
For Deposit Only
NOTICE TO CUSTOMERS
NORTHWEST BANK
59260
DATE 11-23-1998
REMITTER RAAlberta Linecounts
PAY TO THE ORDER OF
C L M, LLC
$ 100,000.00
The sum of $100,000 and 00 cts
DOLLARS
CASHIER'S CHECK
⑈00100000⑈

December 16, 1998
3:17 p.m.

Edward Jones

William J. (Bill) Hayes
(972)335-4144

WHERE TO SEND FORMS & DOCUMENTS
FAX COVER LETTER:

EDWARD JONES FACSIMILE COVER LETTER

Please deliver the following pages to: Fax # [redacted]
Date 12/16/98

NAME: Dickie Morton

DEPARTMENT (and Sector):

Edward Jones ACCOUNT NUMBER:

Notes/Comments: Attached is a letter concerning Guy Lincecum

We are sending a total of 2 pages, including this cover letter.

Originals WILL ___ or WILL NOT X follow. (See VI,FAX,GUIDELINES)

**If you do not receive all the pages, call this number:

Bill Hayes (Investment Representative)
184949 (6-Digit IR Number)

Debbie Greenawalt (Branch Office Administrator)
Frisco TX (City, State)

If you want a faxed response, please fill in your fax number. If your fax number is not provided, the response will be sent to you through Branch Mail.

Branch Office Fax Number (including area code):

(Revision 9/16/98 10:54 Access 248682)

COMPLIANCE DEPARTMENT JH PRINCIPAL.
The above form/schedule is provided for the express use of the clients of Edward Jones for the sole purposes stated therein. No representation is made as to its acceptability beyond this stated purpose.

1 of 1

EXHIBIT 81

FAXED TO LOUIS BLANTZ 12/16/98

Edward Jones
6842 Main Street Suite 103
Frisco, TX 75034
(972) 335-4144

William J. Hayes
Investment Representative

Edward Jones

December 16, 1998

To Whom It May Concern:

Guy Lincecum has available in his account $100,000 worth of liquid securities. They can be sold and the money would be available after a three to five day settlement period. If you need to confirm this letteer, please contact William J. Hayes at Edward Jones, 6842 Main St. #103, Frisco, or call 972-335-4144.

Respectfully,

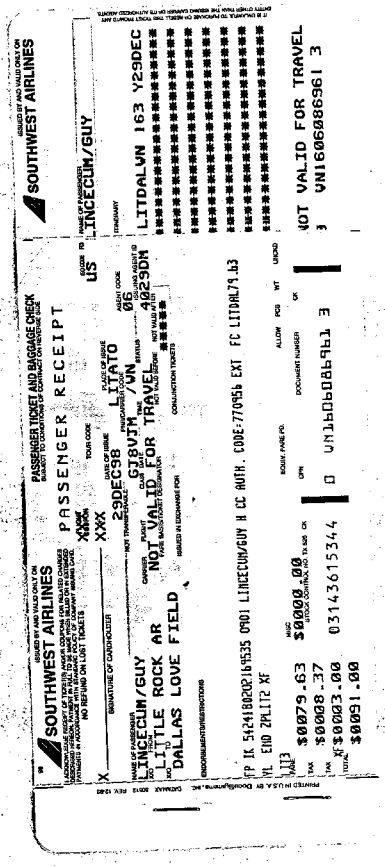
William J. Hayes

William J. Hayes
Investment Representaive

SENT GUY A COPY 4/26/01 DG

FAXED TO LOUIS RUIZ 4/26/01

04/23/2001 13:13 9723354144 EDWARD JONES PAGE 04



SOUTHWEST AIRLINES

PASSENGER RECEIPT

XXX 29DEC98 LITNTO

NOT VALID FOR TRAVEL

LITTLE ROCK AR
DALLAS LOVE FIELD

INCECUM/GUY

LITDALVN 163 Y29DEC

NOT VALID FOR TRAVEL
VN1606086961 3

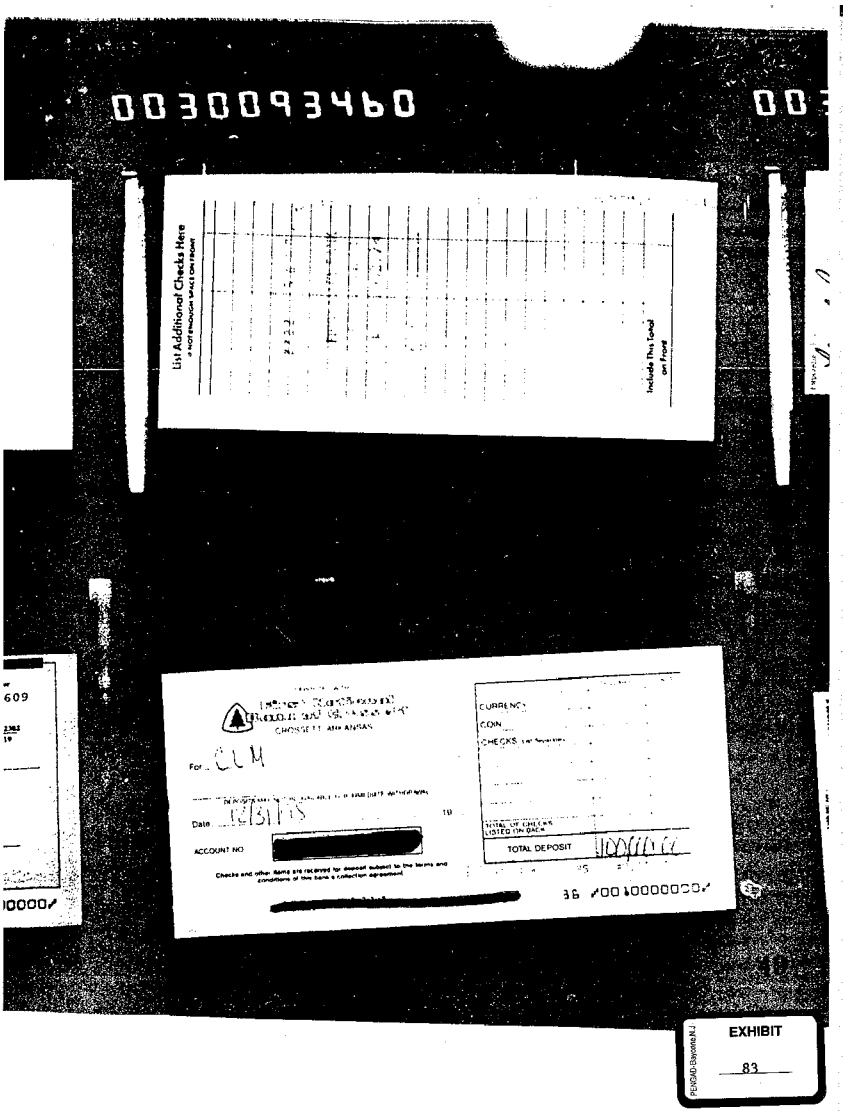
FP IK 5424180202169535 0901 LINCECUM/GUY M CC AUTH. CODE-770956 EXT FC LITDAL79.A3
YH END 2PLIT2 XF

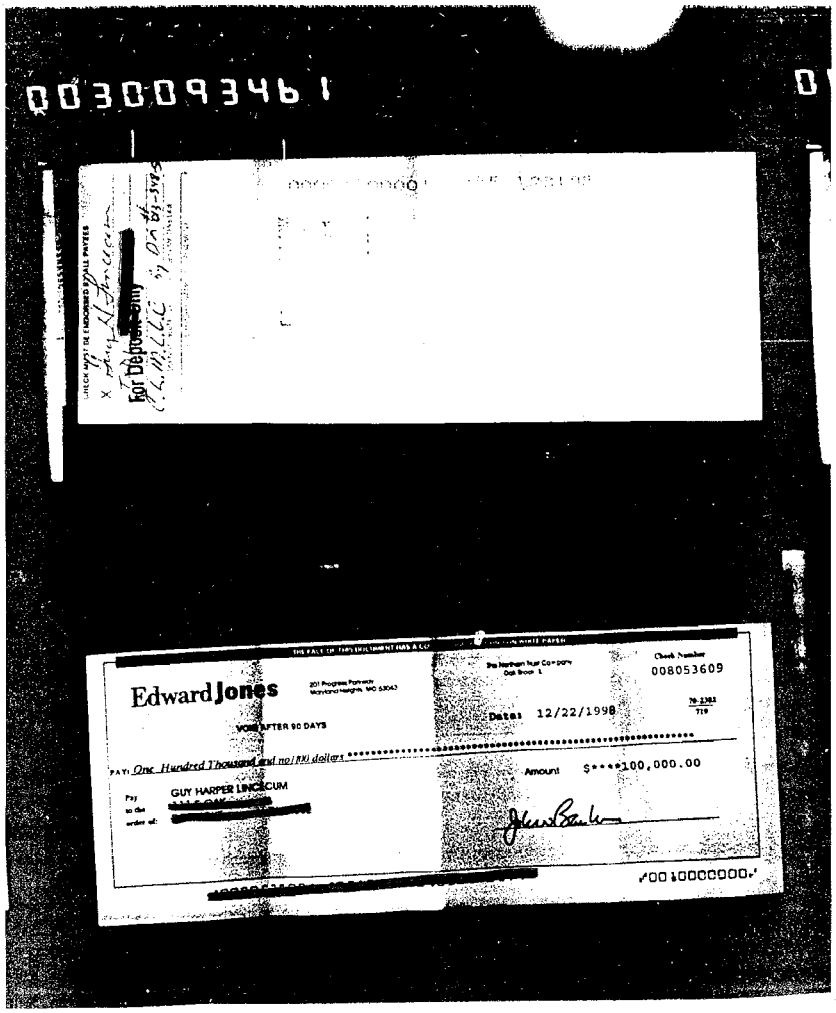
$0079.63
$0008.37
$0003.00
$0951.00

0314361534 4

EXHIBIT
82

PENGAD Bayonne, N.J.


0030093460
List Additional Checks Here
Include This Total on Front
For CLM
Date
ACCOUNT NO
CURRENCY
COIN
CHECKS
TOTAL DEPOSIT
EXHIBIT
83


Edward Jones
VOID AFTER 90 DAYS
Check Number
008053609
Date: 12/22/1998
PAY: One Hundred Thousand and no/100 dollars
Amount $****100,000.00
GUY HARPER LINCICUM

FIRST NATIONAL BANK/CROSSETT
218 MAIN
CROSSETT AR 71635

013-3485

ACCOUNT NUMBER 133485

ACCOUNT OWNER(S) NAME & ADDRESS

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

CE 10-18-99

OWNERSHIP OF ACCOUNT - CONSUMER PURPOSE

- ☐ INDIVIDUAL ☐ _____
- ☐ JOINT - WITH SURVIVORSHIP (and not as tenants in common)
- ☐ JOINT - NO SURVIVORSHIP (as tenants in common)
- ☐ TRUST - SEPARATE AGREEMENT:

☐ PAY ON DEATH DESIGNATION AS DEFINED IN THIS AGREEMENT
Name and Address of Beneficiaries:

OWNERSHIP OF ACCOUNT - BUSINESS PURPOSE

- ☐ SOLE PROPRIETORSHIP
- ☐ CORPORATION: ☐ FOR PROFIT ☐ NOT FOR PROFIT
- ☐ PARTNERSHIP ☒ LIMITED LIABILITY COMPANY

XX LLC

BUSINESS:
COUNTY & STATE OF ORGANIZATION:
AUTHORIZATION DATED:

☒ NEW ☐ EXISTING

TYPE OF ACCOUNT
- ☐ CHECKING ☐ SAVINGS
- ☐ MONEY MARKET ☐ CERTIFICATE OF DEPOSIT
- ☐ NOW XX CHECKING BUSINESS

ACCOUNT NAME:
☐ This is a Temporary account agreement.

DATE OPENED 08/17/1998 BY LCS
INITIAL DEPOSIT $ 100.00
☐ CASH ☐ CHECK ☐ _____
HOME TELEPHONE #
BUSINESS PHONE # 870-853-8503
DRIVER'S LICENSE #
EMPLOYER
MOTHER'S MAIDEN NAME
Name and address of someone who will always know your location:

Number of signatures required for withdrawal: 1
FACSIMILE SIGNATURE(S) ALLOWED? ☐ YES XX NO

[X]

SIGNATURE(S) - THE UNDERSIGNED AGREE(S) TO THE TERMS STATED ON PAGES 1 AND 2 OF THIS AGREEMENT, AND ACKNOWLEDGE(S) RECEIPT OF A COMPLETED COPY ON TODAY'S DATE. THE UNDERSIGNED ALSO ACKNOWLEDGE(S) RECEIPT OF A COPY OF AND AGREE(S) TO THE TERMS OF THE FOLLOWING DISCLOSURE(S):

XX Electronic Funds Transfer Disclosure XX Funds Availability Disclosure
XX Truth in Savings Disclosure ☐ _____

(1): [X]
C.L.M. L.L.C.
I.D. # _____ Other _____

(2): [X]
I.D. # _____ Other _____

(3): [X]
I.D. # _____ Other _____

(4): [X]
I.D. # _____ Other _____

BACKUP WITHHOLDING CERTIFICATIONS

TIN:

XX TAXPAYER I.D. NUMBER - The Taxpayer Identification Number shown above (TIN) is my correct taxpayer identification number.

XX BACKUP WITHHOLDING - I am not subject to backup withholding either because I have not been notified that I am subject to backup withholding as a result of a failure to report all interest or dividends, or the Internal Revenue Service has notified me that I am no longer subject to backup withholding.

☐ EXEMPT RECIPIENTS - I am an exempt recipient under the Internal Revenue Service Regulations.

☐ NONRESIDENT ALIENS - I am not a United States person, or if I am an individual, I am neither a citizen nor a resident of the United States.

SIGNATURE: I certify under penalties of perjury the statements checked in this section.

X _____ (Date)

AGENCY (POWER) OF ATTORNEY) DESIGNATION (Optional) Designation To Account, Name One or More Agents:

X _____ X _____

☐ Agency Designation Survives Disability or Incapacity of Parties
☐ Agency Designation Terminates on Disability or Incapacity of Parties
(Select One and Initial): _____

EXHIBIT 84

FORM 1

©1985, 1992 Bankers Systems, Inc., St. Cloud, MN (1-800-397-2341) Form MPSC-LAZ-AR 3/21/96

LIMITED LIABILITY COMPANY AUTHORIZATION RESOLUTION

FIRST NATIONAL BANK/CROSSETT
218 MAIN
CROSSETT AR 71635

By: C.L.M. L.L.C
(Limited Liability Company)
P.O. Box 158
(Address)
Fountain Hill, Ar 71642
(City, State and Zip Code)

A. I, Dickey Morton, certify that I am a manager of, or a member designated to act on behalf of, the above named limited liability company organized under the laws of Arkansas, Federal Employer I.D. Number _____, engaged in business under the trade name of C.L. M. L.L.C. _____, and that the following is a correct copy of resolutions adopted at a duly and properly called meeting held on _____ of all members of the limited liability company or the person or persons designated by the members of the limited liability company to manage the limited liability company as provided in the articles of organization or an operating agreement, hereinafter referred to as "Managers". These resolutions appear in the minutes of that meeting and have not been rescinded or modified.

B. Be it resolved that,

(1) The Financial Institution named above is designated as a depository for the funds of this limited liability company.

(2) This resolution shall continue to have effect until express written notice of its rescission or modification has been received and recorded by this Financial Institution.

(3) All transactions, if any, with respect to any deposits, withdrawals, rediscounts and borrowings by or on behalf of this limited liability company with this Financial Institution prior to the adoption of this resolution are hereby ratified, approved and confirmed.

(4) Any of the persons named below, so long as they act in a representative capacity as agents of this limited liability company, are authorized to make any and all other contracts, agreements, stipulations and orders which they may deem advisable for the effective exercise of the powers indicated below, from time to time with this Financial Institution, concerning funds deposited in this Financial Institution, moneys borrowed from this Financial Institution or any other business transacted by and between this limited liability company and this Financial Institution subject to any restrictions stated below.

(5) Any and all prior resolutions adopted by the Managers of this limited liability company and certified to this Financial Institution as governing the operation of this limited liability company's account(s), are in full force and effect, unless supplemented or modified by this authorization.

(6) This limited liability company agrees to the terms and conditions of any account agreement, property opened by any authorized representative(s) of this limited liability company. The Financial Institution may charge this limited liability company for all checks, drafts, or other orders for the payment of money that are drawn on the Financial Institution which contain the required number of signatures for this purpose. The Financial Institution may relay on facsimile signatures, regardless of by whom or by what means the facsimile signature(s) may have been affixed so long as they resemble the facsimile signature specimens in section C, or the facsimile signature specimens that this limited liability company files with the Financial Institution from time to time.

C. If indicated, any person listed below (subject to any expressed restrictions) is authorized to:

	Name and Title	Signature	Facsimile Signature (if used)
(a)	DICKEY MORTON MAN. PARTNER		
(b)			
(c)			
(d)			

Indicate a, b, c and/or d

A (i) Exercise all of the powers listed in (ii) through (vi).

_____ (ii) Open any deposit or checking account(s) in the name of this limited liability company.

_____ (iii) Endorse checks and orders for the payment of money and withdraw funds on deposit with this Financial Institution.
Number of authorized signatures required for this purpose _____.

_____ (iv) Borrow money on behalf and in the name of this limited liability company, sign, execute and deliver promissory notes or other evidences of indebtedness.
Number of authorized signatures required for this purpose _____.

_____ (v) Endorse, assign, transfer, mortgage or pledge bills receivable, warehouse receipts, bills of lading, stocks, bonds, real estate or other property now owned or hereafter owned or acquired by this limited liability company as security for sums borrowed, and to discount the same, unconditionally guarantee payment of all bills received, negotiated or discounted and to waive demand, presentment, protest, notice of protest and notice of non-payment.
Number of authorized signatures required for this purpose _____.

_____ (vi) Enter into written lease for the purpose of renting and maintaining a Safe Deposit Box in this Financial Institution.
Ned me and authorized persons required to gain access and to terminate the lease _____.

D. I further certify that the Managers of this limited liability company have, and at the time of adoption of this resolution had, full power and lawful authority to adopt the foregoing resolutions and to confer the powers granted to the persons named who have full power and lawful authority to exercise the same.

In Witness Whereof, I have hereunto subscribed my name and affixed the seal, if any, of this limited liability company on 08-17-1998 (date)

X _____
Manager

Seal

_____
Attest by One Other Manager

FORM 12

© 1982, 1985 Bankers Systems, Inc., St. Cloud, MN (1-800-397-2341) Form LLC-1 3/14/84

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

08/31/98

[redacted]

PG 1
7

CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 08/16/98 ...			.00
PLUS	2	DEPOSITS AND OTHER CREDITS ...	70,100.00
LESS	6	CHECKS AND OTHER DEBITS	61,917.18
CURRENT STATEMENT BALANCE AS OF 08/31/98			8,182.82
NUMBER OF DAYS IN THIS STATEMENT PERIOD		15	

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
	08/21	4000.00	1001*	08/28	200.00
	08/25	52000.00	1003*	08/31	1637.79
	08/26	4000.00			

*** CHECKING ACCOUNT TRANSACTIONS ***

DATE	DESCRIPTION	DEBITS	CREDITS
08/17	DEPOSIT		100.00
08/19	DEPOSIT		70,000.00
08/28	AC-HARLAND CHECKS -CHK ORDERS	79.45	

*** BALANCE BY DATE ***

08/16	.00	08/17	100.00	08/19	70,100.00
08/21	66,100.00	08/25	14,100.00	08/26	10,100.00
08/28	9,620.55	08/31	8,182.82		

FIRST NATIONAL BANK OF CROSSETT PROUDLY CELEBRATING 95
YEARS OF SERVICE TO ASHLEY COUNTY AND ITS CITIZENS....
1903 --- 1998

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

09/30/98

[redacted]

PG 1
8

CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 08/31/98 ...		8,182.82
PLUS	0 DEPOSITS AND OTHER CREDITS ...	.00
LESS	10 CHECKS AND OTHER DEBITS	7,197.26
CURRENT STATEMENT BALANCE AS OF 09/30/98 ...		985.56
NUMBER OF DAYS IN THIS STATEMENT PERIOD	30	

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
1002*	09/02	869.32	1009	09/14	300.00
1004*	09/03	45.21	1010	09/18	602.37
1007*	09/01	3000.00	1011	09/22	595.36
1008	09/02	250.00	1012	09/28	1500.00

*** CHECKING ACCOUNT TRANSACTIONS ***

DATE	DESCRIPTION	DEBITS	CREDITS
09/10	NSF ITEM CHARGE	17.50	
09/18	NSF ITEM CHARGE	17.50	

*** BALANCE BY DATE ***

08/31	8,182.82	09/01	5,182.82	09/02	4,063.50
09/03	4,018.29	09/10	4,000.79	09/14	3,700.79
09/18	3,080.92	09/22	2,485.56	09/28	985.56

YOUR ACCOUNT HAS BEEN SELECTED FOR CONFIRMATION. EXAMINE
CAREFULLY. IF NOT CORRECT, PLEASE NOTIFY OUR AUDITORS,
MAXWELL & ASSOC, PLLC AT PO BOX 548 CROSSETT OR 364-8992

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

10/31/98

[redacted]

PG 1
1 CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 09/30/98 ...			985.56
PLUS	0	DEPOSITS AND OTHER CREDITS ...	.00
LESS	1	CHECKS AND OTHER DEBITS	600.00
CURRENT STATEMENT BALANCE AS OF 10/31/98 ...			385.56
NUMBER OF DAYS IN THIS STATEMENT PERIOD	31		

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
1013*	10/05	600.00			

*** BALANCE BY DATE ***

09/30	985.56	10/05	385.56

YOUR ACCOUNT HAS BEEN SELECTED FOR CONFIRMATION. EXAMINE
CAREFULLY. IF NOT CORRECT, PLEASE NOTIFY OUR AUDITORS,
MAXWELL & ASSOC, PLLC AT PO BOX 548 CROSSETT OR 364-8992

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

11/30/98

[redacted]

PG 1
2

CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 10/31/98 ...			385.56
PLUS	1	DEPOSITS AND OTHER CREDITS ...	100,000.00
LESS	2	CHECKS AND OTHER DEBITS	20,004.01
CURRENT STATEMENT BALANCE AS OF 11/30/98 ...			80,381.55
NUMBER OF DAYS IN THIS STATEMENT PERIOD			30

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
1014*	11/25	20000.00			

*** CHECKING ACCOUNT TRANSACTIONS ***

DATE	DESCRIPTION	DEBITS	CREDITS
11/04	ACCOUNT ANALYSIS SERVICE CHRG	4.01	
11/25	DEPOSIT		100,000.00

*** BALANCE BY DATE ***

10/31	385.56	11/04	381.55	11/25	80,381.55

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

12/31/98

[redacted]

PG 1
15 CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 11/30/98 ...			80,381.55
PLUS	1	DEPOSITS AND OTHER CREDITS ...	100,000.00
LESS	16	CHECKS AND OTHER DEBITS	67,633.31
CURRENT STATEMENT BALANCE AS OF 12/31/98 ...			112,748.24
NUMBER OF DAYS IN THIS STATEMENT PERIOD	31		

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
1015*	12/01	13000.00	1022	12/15	600.00
1016	12/10	10000.00	1023	12/21	8100.00
1017	12/10	5500.00	1024	12/23	460.00
1018	12/07	1500.00	1025	12/22	600.00
1019	12/10	5000.00	1026	12/22	8000.00
1020	12/14	5100.00	1028*	12/28	3500.00
1021	12/16	1258.00	1029	12/28	5000.00

*** CHECKING ACCOUNT TRANSACTIONS ***

DATE	DESCRIPTION	DEBITS	CREDITS
12/03	STOP PAYMENT CHARGE	10.00	
12/04	ACCOUNT ANALYSIS SERVICE CHRG	5.31	
12/31	DEPOSIT		100,000.00

*** BALANCE BY DATE ***

11/30	80,381.55	12/01	67,381.55	12/03	67,371.55
12/04	67,366.24	12/07	65,866.24	12/10	45,366.24
12/14	40,266.24	12/15	39,666.24	12/16	38,408.24
12/21	30,308.24	12/22	21,708.24	12/23	21,248.24
12/28	12,748.24	12/31	112,748.24		

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

01/31/99

[redacted]

PG 1
6

CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 12/31/98 ...			112,748.24
PLUS	0	DEPOSITS AND OTHER CREDITS ...	.00
LESS	6	CHECKS AND OTHER DEBITS	24,700.00
CURRENT STATEMENT BALANCE AS OF 01/31/99 ...			88,048.24
NUMBER OF DAYS IN THIS STATEMENT PERIOD		31	

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
1030*	01/07	10000.00	1034*	01/15	2200.00
1032*	01/11	3500.00	1036*	01/20	3500.00
1033	01/12	3000.00	1037	01/25	2500.00

*** BALANCE BY DATE ***

12/31	112,748.24	01/07	102,748.24	01/11	99,248.24
01/12	96,248.24	01/15	94,048.24	01/20	90,548.24
01/25	88,048.24				

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

03/31/99

[redacted]

PG 1
13

CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 02/28/99 ...		59,869.24
PLUS	0 DEPOSITS AND OTHER CREDITS ...	.00
LESS	13 CHECKS AND OTHER DEBITS	20,055.02
CURRENT STATEMENT BALANCE AS OF 03/31/99		39,814.22
NUMBER OF DAYS IN THIS STATEMENT PERIOD	31	

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
	03/04	1015.00	1055	03/15	1207.00
1031*	03/09	1000.00	1056	03/16	3600.00
1050*	03/01	2000.00	1057	03/23	1500.00
1051	03/05	1313.02	1058	03/23	1500.00
1052	03/03	2500.00	1059	03/29	1700.00
1053	03/04	1100.00	1060	03/30	1500.00
1054	03/15	120.00			

*** BALANCE BY DATE ***

02/28	59,869.24	03/01	57,869.24	03/03	55,369.24
03/04	53,254.24	03/05	51,941.22	03/09	50,941.22
03/15	49,614.22	03/16	46,014.22	03/23	43,014.22
03/29	41,314.22	03/30	39,814.22		

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

04/30/99

[redacted]

PG 1
24

CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 03/31/99 ...			39,814.22
PLUS	0	DEPOSITS AND OTHER CREDITS	.00
LESS	24	CHECKS AND OTHER DEBITS	22,604.55
CURRENT STATEMENT BALANCE AS OF 04/30/99			17,209.67
NUMBER OF DAYS IN THIS STATEMENT PERIOD			30

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
1061*	04/01	100.00	1074*	04/15	354.00
1062	04/01	8300.00	1075	04/14	2000.00
1063	04/05	2000.00	1076	04/15	1800.00
1064	04/07	200.00	1077	04/19	550.00
1065	04/09	9.77	1078	04/21	133.65
1066	04/09	30.00	1079	04/22	1600.00
1067	04/08	43.50	1080	04/26	168.00
1068	04/08	200.00	1081	04/26	85.00
1069	04/09	100.00	1082	04/26	50.00
1070	04/07	1100.00	1083	04/28	1100.00
1071	04/08	466.62	1084	04/30	644.01
1072	04/12	470.00	1085	04/30	1100.00

*** BALANCE BY DATE ***

03/31	39,814.22	04/01	31,414.22	04/05	29,414.22		
04/07	28,114.22	04/08	27,404.10	04/09	27,264.33		
04/12	26,794.33	04/14	24,794.33	04/15	22,640.33		
04/19	22,090.33	04/21	21,956.68	04/22	20,356.68		
04/26	20,053.68	04/28	18,953.68	04/30	17,209.67		

C.L.M. L.L.C. 05/31/99
P O BOX 158
FOUNTAIN HILL, AR 71642

[redacted]

PG 1
16 CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 04/30/99 ...			17,209.67
PLUS	0	DEPOSITS AND OTHER CREDITS ...	.00
LESS	16	CHECKS AND OTHER DEBITS	9,910.40
CURRENT STATEMENT BALANCE AS OF 05/31/99 ...			7,299.27
NUMBER OF DAYS IN THIS STATEMENT PERIOD		31	

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
1086*	05/05	10.00	1094	05/11	600.00
1087	05/04	650.00	1095	05/13	500.00
1088	05/06	47.00	1096	05/14	2500.00
1089	05/05	500.00	1097	05/21	112.50
1090	05/07	1000.00	1098	05/21	1100.00
1091	05/12	120.00	1099	05/24	500.00
1092	05/11	129.15	1100	05/26	1000.00
1093	05/11	41.75	1101	05/28	1100.00

*** BALANCE BY DATE ***

04/30	17,209.67	05/04	16,559.67	05/05	16,049.67
05/06	16,002.67	05/07	15,002.67	05/11	14,231.77
05/12	14,111.77	05/13	13,611.77	05/14	11,111.77
05/21	9,899.27	05/24	9,399.27	05/26	8,399.27
05/28	7,299.27				

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

06/30/99

[redacted]

PG 1
20 CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 05/31/99 ...			7,299.27
PLUS	2	DEPOSITS AND OTHER CREDITS ...	1,235.44
LESS	18	CHECKS AND OTHER DEBITS	7,777.35
CURRENT STATEMENT BALANCE AS OF 06/30/99 ...			757.36
NUMBER OF DAYS IN THIS STATEMENT PERIOD			30

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
1102*	06/02	76.48	1113*	06/21	237.50
1103	06/02	2000.00	1114	06/22	428.91
1105*	06/07	1000.00	1115	06/24	83.44
1106	06/08	300.00	1116	06/23	138.00
1107	06/11	27.12	1117	06/29	149.00
1108	06/10	400.00	1118	06/30	224.18
1109	06/10	1000.00	1119	06/30	61.92
1110	06/16	240.00	1120	06/30	120.50
1111	06/14	650.00	1122*	06/30	640.30

*** CHECKING ACCOUNT TRANSACTIONS ***

DATE	DESCRIPTION	DEBITS	CREDITS
06/24	DEPOSIT		600.00
06/29	DEPOSIT		635.44

*** BALANCE BY DATE ***

05/31	7,299.27	06/02	5,222.79	06/07	4,222.79
06/08	3,922.79	06/10	2,522.79	06/11	2,495.67
06/14	1,845.67	06/16	1,605.67	06/21	1,368.17
06/22	939.26	06/23	801.26	06/24	1,317.82
06/29	1,804.26	06/30	757.36		

ATM BALANCES MAY INCLUDE THE OVERDRAFT PRIVILEGE.
PLEASE NOTE THAT THIS WILL MAKE YOUR BALANCE APPEAR
GREATER THAN THE AMOUNT IN YOU CHECKBOOK REGISTER.

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

07/31/99

[redacted]

PG 1
24

CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 06/30/99 ...			757.36
PLUS	1	DEPOSITS AND OTHER CREDITS ...	5,300.00
LESS	25	CHECKS AND OTHER DEBITS	5,911.51
CURRENT STATEMENT BALANCE AS OF 07/31/99			145.85
NUMBER OF DAYS IN THIS STATEMENT PERIOD		31	

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
1121*	07/08	245.06	1134	07/13	359.23
1123*	07/01	669.01	1135	07/14	141.23
1124	07/06	1193.13	1136	07/15	135.00
1125	07/08	394.00	1137	07/16	139.91
1126	07/12	479.56	1138	07/19	138.34
1127	07/19	21.75	1139	07/20	126.50
1128	07/07	767.00	1140	07/22	120.00
1129	07/13	137.80	1141	07/21	49.01
1130	07/16	188.85	1142	07/22	175.00
1131	07/14	161.89	1144*	07/27	67.67
1132	07/13	60.00	1147*	07/30	21.00
1133	07/12	100.00			

*** CHECKING ACCOUNT TRANSACTIONS ***

DATE	DESCRIPTION	DEBITS	CREDITS
07/06	DEPOSIT		5,300.00
07/06	ACCOUNT ANALYSIS SERVICE CHRG	3.07	
07/06	NSF ITEM CHARGE	17.50	

*** BALANCE BY DATE ***

06/30	757.36	07/01	88.35	07/06	4,174.65
07/07	3,407.65	07/08	2,768.59	07/12	2,189.03
07/13	1,632.00	07/14	1,328.88	07/15	1,193.88
07/16	865.12	07/19	705.03	07/20	578.53
07/21	529.52	07/22	234.52	07/27	166.85
07/30	145.85				

FOR YOUR CONVENIENCE, WE ARE COMBINING YOUR SAVINGS AND CHECKING STATEMENTS EFFECTIVE AUGUST 16, 1999. PLEASE CONTACT US AT 364-1300 IF YOU HAVE QUESTIONS.

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

08/31/99

[redacted]

PG 1
25 CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 07/31/99 ...			145.85
PLUS	1	DEPOSITS AND OTHER CREDITS ...	8,200.00
LESS	29	CHECKS AND OTHER DEBITS	8,660.09
CURRENT STATEMENT BALANCE AS OF 08/31/99 ...			314.24-
NUMBER OF DAYS IN THIS STATEMENT PERIOD		31	

*** CHECK TRANSACTIONS ***

SERIAL	DATE	AMOUNT	SERIAL	DATE	AMOUNT
1143*	08/05	80.00	1158	08/10	100.00
1145*	08/06	494.00	1159	08/16	479.55
1146	08/02	81.71	1160	08/13	186.00
1148*	08/09	1028.57	1161	08/12	42.80
1149	08/03	156.00	1162	08/16	300.00
1150	08/05	629.50	1163	08/16	1000.00
1151	08/09	52.33	1164	08/17	107.69
1152	08/06	68.11	1165	08/20	103.00
1154*	08/09	1050.00	1166	08/18	77.72
1155	08/10	460.92	1167	08/18	85.00
1156	08/10	1338.02	1168	08/24	116.00
1157	08/09	300.00	1169	08/24	200.67

*** CHECKING ACCOUNT TRANSACTIONS ***

DATE	DESCRIPTION	DEBITS	CREDITS
08/03	OVERDRAFT ITEM CHARGE	17.50	
08/03	NSF ITEM CHARGE	35.00	
08/04	NSF ITEM CHARGE	17.50	
08/05	DEPOSIT		8,200.00
08/05	NSF ITEM CHARGE	17.50	
08/24	OVERDRAFT ITEM CHARGE	35.00	

*** BALANCE BY DATE ***

07/31	145.85	08/02	64.14	08/03	144.36-
08/04	161.86-	08/05	7,311.14	08/06	6,749.03
08/09	4,318.13	08/10	2,419.19	08/12	2,376.39
08/13	2,190.39	08/16	410.84	08/17	303.15
08/18	140.43	08/20	37.43	08/24	314.24-

C.L.M. L.L.C.
P O BOX 158
FOUNTAIN HILL, AR 71642

09/30/99

[redacted]

PG 1
1

CYCLE-020

*** CHECKING *** BUSINESS CHECKING
ACCOUNT NUMBER [redacted] TAX ID NUMBER ***NONE***

PREVIOUS STATEMENT BALANCE AS OF 08/31/99 ...			314.24-
PLUS	1	DEPOSITS AND OTHER CREDITS ...	314.24
LESS	0	CHECKS AND OTHER DEBITS	.00

CURRENT STATEMENT BALANCE AS OF 09/30/99 .00
NUMBER OF DAYS IN THIS STATEMENT PERIOD 30

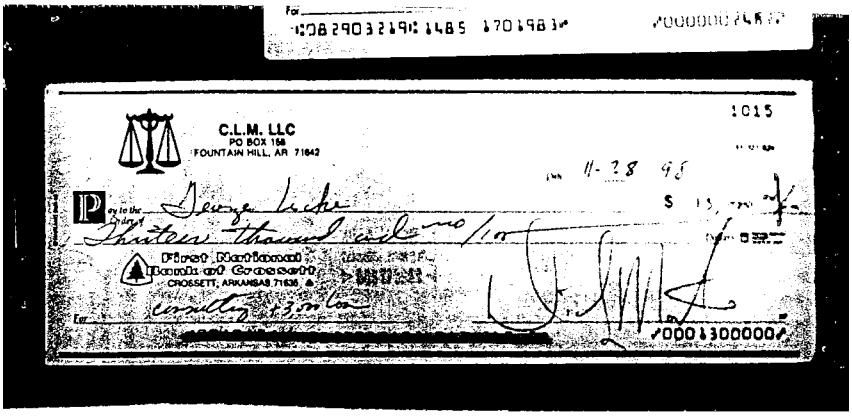
*** CHECKING ACCOUNT TRANSACTIONS ***

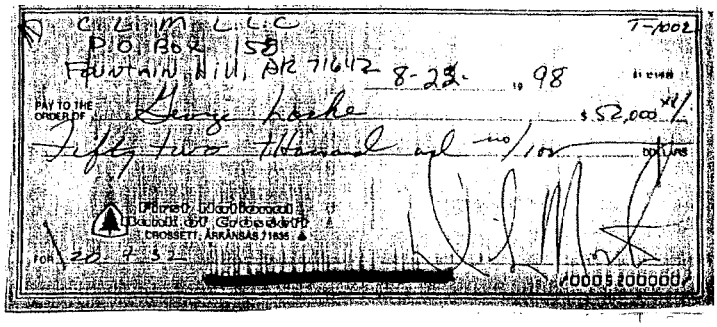
DATE	DESCRIPTION	DEBITS	CREDITS
09/03	DEPOSIT		314.24

*** BALANCE BY DATE ***

08/31	314.24-	09/03	.00

WE'VE TESTED KEY PROCESSES & TECHNOLOGY & HAVE COMPLIED
WITH FEDERAL REGULATORY REQUIREMENTS--WE'RE Y2K READY!
FOR MORE INFORMATION, VISIT US AT WWW.FNBCROSSETT.COM.


C.L.M. LLC
PO BOX 158
FOUNTAIN HILL, AR 71642
1015
11-28 95
Pay to the Order of
George Lucke
Thirteen thousand and no/100
$ 13,000.00
First Bank
Bank of Commerce
CROSSETT, ARKANSAS 71635
For
Equity $3,500.00
⑈000013000⑈



C.L.M. L.L.C
P.O. Box 58
Fountain Hill, AR 71642 8-22- 98

T-1002

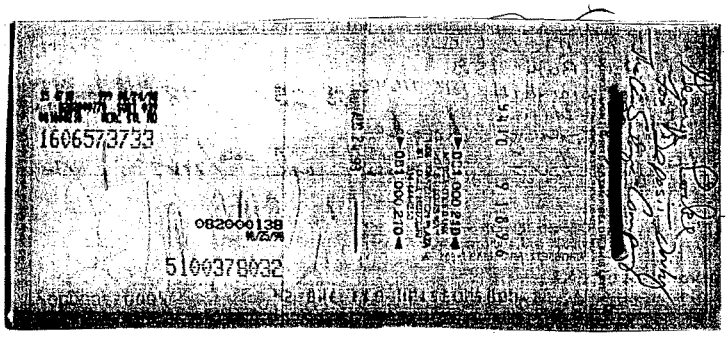
PAY TO THE ORDER OF Gerry Laske $52,000 XX/

Fifty Two Thousand and no/100 DOLLARS

FOR 22 7 5 7

[redacted]

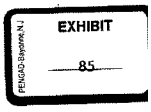
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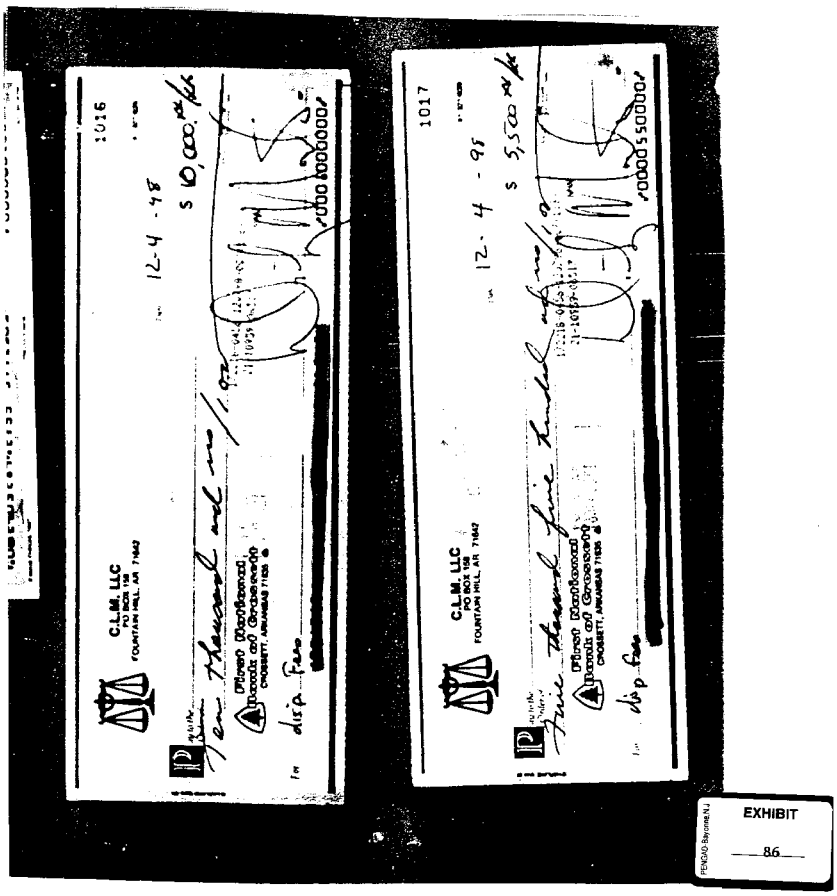


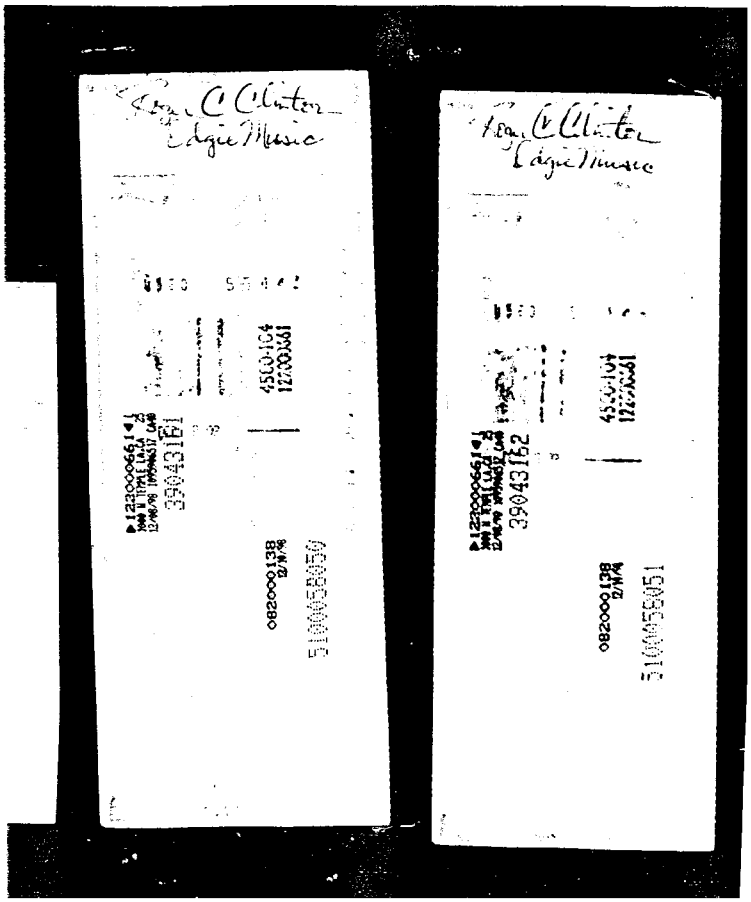
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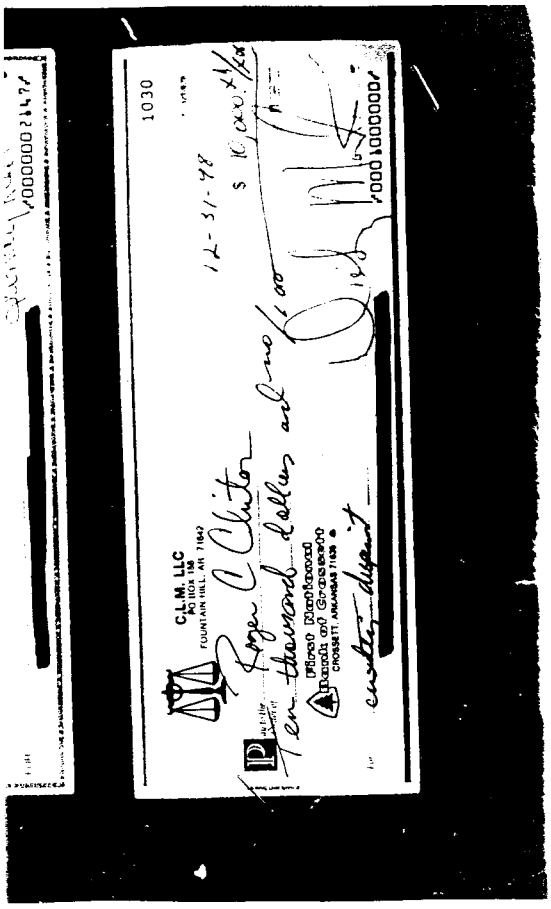
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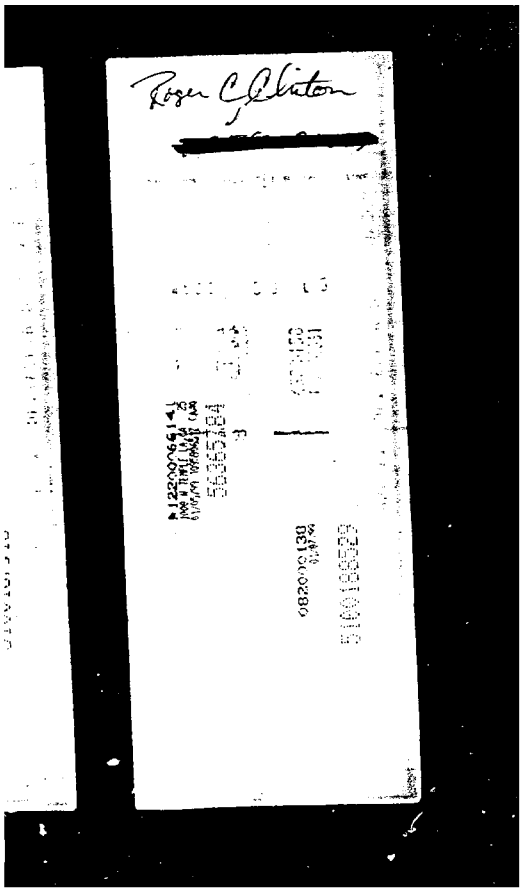
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C.L.M. LLC
FOUNTAIN HILL, AR 71642
1016
12-4-98
$ 10,000.00
disp. fees
1017
12-4-98
$ 5,500.00
disp. fees
EXHIBIT
86




1030
C.L.M. LLC
FOUNTAIN HILL, AR 71642
12-31-98
$ 10,000.00
Roger A Clinton
Ten thousand dollars and no/100
DOLLARS
custody deposit


Roger C. Clinton

000321

Guy Kinnison
P.O. Box 495
Roanoke, TX 76262

Dickey Morton
Southern Belle Construction
810 South Cherry St.
Hamberg, Ark. 71646

10-26-39

D

Dicky the gentleman I referred to in my letter, will be a great asset to our proposed organization. He is not only an excellent salesman. he is a good organizational man. He can and will produce millions of dollars in sales of the cement and sheetrock. I believe him to be very straight forward and honest. In his letter you will find an explanation of what happend to him.

Guy advised me that your organization has made some arrangements to purchase oil from Russia. If you can get me the particulars of same, I may be able to assist in the sale of the oil. I would need the following information:

(1) Analysis of the oil, including the specific gravity, paraffin and sulphur content, etc.

(2) Port in Russia, or elsewhere, that the oil would be put on the ship?

(3) Information on the Port facilities

(4) Price Oil is available to the buyer F.O.B. Russian ~~or~~ Port desired by buyer?

(5) Does the price include commission to the party selling the Oil? If commission is to be added, will you be able to protect some for the agent selling the oil?

(6) Quantity available?

(7) Loading & Shipping schedule proposed

(8) Transportation - who is responsible for arranging for the ships?

(9) Can we BARTER? [exchange goods Russia needs for the oil?]

I am sure that within 60 days of my release there will be four parties prepared to proceed on a similar item for themselves.

It would help if you could provide me the purchase price now being paid your group for large orders of the Cement and Gypsum Board. I do not care who the buyer are but an idea of the prices paid for large orders.

Hope you and the family are fine and enjoying good health.

Regards.

NAME: JIM MCCASKILL **AGE**: 43
MARRIED 22 YEARS **CHILDREN**: 2
RESIDENCE: [redacted], 43 YEARS
PRESENT ADDRESS: [redacted]

OCCUPATION: AUTOMOTIVE INDUSTRY
SALES, SERVICE, OWNER-MANAGER

1979-1981 MCCASKILL CHEVROLET OLDS
1981-1996 MCCASKILL MOTOR COMPANY

REFERENCES

Rose & Odell Morgan
Executive Directors
Oklahoma Independent Automobile Dealers Association
813 N.W. 34th
Moore, Oklahoma 73160
(405) 232-2947

Gary Smith
Owner-Operator
Dealers Auto Auction of Oklahoma City
1028 S. Portland
Oklahoma City, OK
(405) 947-2886

Dub Enlow
Owner-Operator
I-44 Auto Auction
16015 E Admiral Place
Tulsa, OK 74116
(918) 437-9044

Don Harris
President
Relocation Systems Inc.
2230 LBJ Freeway
Suite 400
Dallas, TX 75234
(972) 241-2300
Also was Executive Director of National Independent Automobile Dealers

NOTE:
Will be glad to provide as many references as needed.

HISTORY

I was in the automobile business in Ardmore, Oklahoma. I was also President of the National Independent Automobile Dealers Association (NIADA). NIADA had just signed and agreement for its members with a company called Jayhawk Finance out of Dallas, TX. Jayhawk financed a lower grade of credit customer, advanced a small portion of the contract up front and as payments were collected, Jayhawk would advance 80%. This was the direction in which the automobile industry was headed.

The reason for this type of financing was because of the length of a retail contract had evolved to longer terms so that the customer could still afford an automobile on a monthly basis. The negitive side was it took the customer out of an equity position for another year to a year an a half. This new way of financing would allow the dealer to reclaim lost sales. We had been slowly sliding into this market before signing with Jayhawk. Signing with Jayhawk would allow us to capture a larger portion of this business in a much shorter period of time. Our business moved more and more in this direction. I think it would be safe to say that 60% of our business was now what the dealers called special finance. We were so strong in this area that at one time we were number three in the nation with Jayhawk. We had seen no problems with Jayhawk until one day we received a phone call saying no more money would be sent until Jayhawk worked out their internal problems.

Being concerned I turned to a friend of mine that used to be my banker. I asked him if the would look into Jayhawk and see if he thought I had a problem. After just a few weeks he reported back to me and said that Jayhawk looked sound and I probably had nothing to worry about. Several months had now gone by and nothing had changed. We had lost our income and our sales or at least a large part of them. We were communicating with Jayhawk at least three times a week until one day we had received notice that Jayhawk had filed bankruptcy.

Jayhawk had gotten lax in sending out our reports. The last report we received was that Jayhawk owed us $1.2 million.

The next report we received was just under $900,000. We filed with the Court as quickly as we could so Jayhawk could not write our accounts down any further. Unknown to us at this time Jayhawk had quit trying to collect any of our notes. At the proper time the Court deemed the uncollectible and Jawhawk was free from any monies owed to us.

During this time I had been selling automobiles and not paying them off and floor planning automobiles that I had not yet paid for. When I saw that no money was going to be collected, I went to the bank and told them the whole story and gave them a game plan on how to work out of the problems. For a short period of time, about two hours, everything was fine. I am sure someone up the ladder pulled the plug. If I had it to do all over again, I would make different decessions. If you would like to discuss this further I would be happy to do so.

SUGGESTED PLAN OF OPERATIONS

My plan is to put warehouses in centrallylocated areas which include Houston, Dallas, and Tulsa. These areas would be most desirable. The west coast would need to be looked at probably, especially California.

This would allow us to service a large area and maintain a larger customer base. I believe the building industry is like most industries. If the product is readily available you are not able to obtain the service required to make your operation efficent. This problem would be addressed with the warehouses. Our customers will not have to wait on ships to arrive before product can be obtained. Combining avalible product, service, and price we will become a strong player in this market. With this combination and a strong sales staff in which I have already begun to assemble we should be able to capture our portion of this market.

In reference to the importing of automotive parts, being past President of NIADA, I believe that I would have some connections to implement automotive products into the market. This market is very competitive. It could be very costly and time consuming. Unlike the building materials there are no real shortages of product. To break into this market you would have to use quality and/or price. I believe establishing yourself in one area (building materials) would make it easier to penitrate the more competitive markets.

American Gypsum Cement Products L.L.C.

February 17, 2000

Mr. Robert Hutchison
Hutchison Consulting Company
14999 Preston Rd., #212
Dallas, TX. 75240-9118

Bob,

AGCP is a Limited Liability Company.

The Articles of Organization for American Gypsum Cement Products, L.L.C., Co. were filed in the state of Arkansas on July 19, 1999. The company was formed by George Locke of 2510-3 River Front Dr., Littlerock, AR., 72202.

Current members of the company are:
George Locke
Dickey Morton
Roger Clinton
Phillip Mak
Rod Osborne

The company is currently doing business by importing construction materials through the port of Savannah, Georgia. We form strategic alliances with those companies that can benefit from having a direct source of imported materials at below wholesale costs. This method of expanding our market allows us to concentrate on getting quality products to our marketing partners.

As a marketing partner of AGCP, Hutchison Consulting Company will receive a precentage of the gross purchase price paid by the buyer to AGCP. This fee is based on Hutchison Consulting Company providing an on-going service relationship with the buyer. Each sales relationship will be evaluated independentliy with a mutually agreed to compensation due prior to sale completion.

If this arrangement is satisfactory to this point, just OK it.

Hutchison Consulting Company
Robert Hutchison

American Gypsum Cement Products, L.L.C.
Rod Osborne

EXHIBIT
88
PENGAD Bayonne, N.J.

813 Brookhaven Dallas, TX. 75218
214-328-7418 214-328-8116 fax

PETITION FOR PARDON AFTER COMPLETION OF SENTENCE

Please read accompanying instructions carefully before beginning. Typewrite or print the answers in ink. Each question must be answered fully, truthfully, and accurately. If the space for any answer is insufficient, petitioner may complete answer on a separate sheet of paper and attach it to the petition. Submission of material, false information is punishable by imprisonment of up to five years and a fine of not more than $250,000. 18 U.S.C. §§ 1001 and 3571.

TO THE PRESIDENT OF THE UNITED STATES:

The undersigned petitioner prays for a pardon and in support thereof states as follows:

1. Full name: DANNY (First) RAY (Middle) LASATER (Last)

Address: [redacted] (Number, Street) [redacted] (City) [redacted] (State) [redacted] (Zip Code)

Telephone Number (include area code): [redacted]

Social Security No. [redacted] Date and place of birth: [redacted] LETONA, AR

Sex: Male Height: 6.0 Weight: 230 Hair Color: Brown Eye Color: Blue

Are you a United States citizen? ☑ yes ☐ no If not, state nationality and give alien registration number: _____. If naturalized U.S. citizen, furnish date and place of naturalization: _____

State in full every other name by which you have been known, including name under which you were convicted, the reason for the use of another name, and the dates during which you were so known (for example, include your maiden name, name(s) by a former marriage(s), alias(es), and nickname(s)).

Offense(s) For Which Pardon Is Sought

2. Petitioner was convicted on a plea of GUILTY (guilty, not guilty, nolo contendere) in the United States District Court for the EASTERN (Northern, Western, etc.) District of ARKANSAS (identify state) of the crime of: KNOWINGLY AND INTENTIONALLY CONSPIRING TO POSSESS AND TO DISTRIBUTE COCAINE, A SCHEDULE II DRUG IN VIOLATION OF 21 USC 841(a) AND 846 (Describe specific offense) and was sentenced on DECEMBER 18, 1986 to ☒ imprisonment for 30 MONTHS, ☐ probation for _____, ☒ a fine of $ 50.00, and/or ☐ restitution of $_____.

Petitioner was 38-42 years of age when the offense was committed.

3. Petitioner began service of the sentence of ☑ imprisonment ☐ probation on JANUARY 15, 1987; was released on JULY 14, 1987 from FEDERAL CORRECTIONAL INSTITUTION FORT WORTH, TEXAS (Federal Institution); and was finally discharged by expiration of sentence on JULY 13, 1989. Petitioner ☐ did ☑ did not appeal the conviction.

Indicate the date(s) on which the fine, restitution or special assessment was paid. If the fine, restitution, or assessment have not been paid in full, explain why. If appealed, please provide the date of decision(s) by the Court of Appeals and, if applicable, the Supreme Court. Please also provide citations to any published judicial opinion(s) or a copy of unpublished opinion(s). (An optional continuation page is provided.)

ST FRANCIS HOUSE COMMUNITY TREATMENT CENTER, LITTLE ROCK CUSTODY PAROLE JULY 14 1987 THROUGH NOVEMBER 16, 1987. REGULAR PAROLE UNTIL EXPIRATION JULY 13, 1989

EXHIBIT 89

PENGAD-Bayonne, N.J.

4. Give a complete and detailed account of petitioner's offense(s), including dates (or time span) of the offense, names of codefendants and, when applicable, amount of money involved. Petitioner is expected to describe the factual basis of her/his offense completely and accurately and not rely on criminal code citations or name references only. If the conviction resulted from a plea agreement, petitioner should describe fully the extent of her/his total involvement in the criminal transaction(s), in addition to the charge(s) to which she/he pled guilty.

During a period of time from December 15, 1981 through January or February of 1985, I used cocaine in social situations. Because of my early financial good fortunes, I had the habit of paying for dinner and drinks for my friends. I shared my financial success with them in that manner. On occasion and inadvertently, the same thing happened with cocaine. If we were in a social setting and cocaine was available, anyone who wanted to could participate. No one forced it on anyone. I never sold cocaine, ever. During the time of my casual use of cocaine, I never really appreciated the seriousness of my actions. I know now that I did wrong; and I believe that I have paid a high price for my actions. More importantly, I have learned some very valuable lessons. I know that I will never use cocaine again and I am equally confident that I will not find myself in this type of situation again.

Continued on Attachment

Prior and Subsequent Criminal Record

5. Have you ever been arrested, taken into custody, held for investigation or questioning, or charged by any law enforcement authority, whether federal, state, local or foreign, either as a juvenile or adult for any incident, aside from the offense for which pardon is sought? ☐ yes ☒ no

For each incident list date, nature of charge, factual circumstances, law enforcement authority involved, location, and disposition. You must list every violation, including traffic violations that resulted in an arrest or criminal charge; for example, driving under the influence. Any omission will be considered a falsification. (An optional continuation page is provided if necessary.)

Biographical Information

6. Current marital status: ☐ Never Married ☒ Married ☐ Divorced ☐ Widowed ☐ Separated

For each marriage give the following: name of spouse, date and place of spouse's birth, date and place of marriage, and, if applicable, date and place of divorce, and current or last known address and telephone number of each former spouse:

Linda M. (Jones) LASATER — [redacted] — DAYTON Ohio
name of spouse — date/place of birth

[redacted] — [redacted] — [redacted]
full address including Zip code — telephone number, including area code

5/14/77 — OCALA FLORIDA
date/place of marriage — date/place of divorce

Judi Scott — [redacted] — Kokomo Indiana
name of spouse — date/place of birth

[redacted] — [redacted] — [redacted]
full address including Zip code — telephone number, including area code

9/02/61 — Kokomo IN — 6/15/69 — Kokomo IN
date/place of marriage — date/place of divorce

7. List your children by name and furnish date and place of birth for each:

(If you do not have custody of any minor children, indicate whether you pay child support.)

name of child	date/place of birth
ROBERT D. LASATER	[redacted] KOKOMO INDIANA
RICHARD T. LASATER	[redacted] KOKOMO INDIANA
JOHN E. LASATER	[redacted] KOKOMO INDIANA
DAVID M. LASATER	[redacted] Little Rock Arkansas
BRET D. LASATER	[redacted] LITTLE ROCK ARKANSAS
LEIGH D. LASATER	[redacted] LITTLE ROCK ARKANSAS

8. List the complete address of all schools you have attended since your conviction, beginning with the most recent and working backward. Indicate the type of degree/diploma received and give the name of an instructor, counselor, or other school official who knew you well. (An optional continuation page is provided if necessary.)

School: NONE	From (month/year)	To (month/year)
Number and Street	Degree	Month/year awarded
City	State	Zip Code
Name of school official	Telephone number of school official	

Residences

9. List every place you have lived since the conviction, beginning with the present and working back. *(All periods must be accounted for below.)* List the physical location of your residence; do not use a post office box as an address. If you lived in an apartment complex, list your apartment number. (An optional continuation page is provided if necessary.)

Date you moved to present address (month/year):	Number and Street	Apartment Number
04/1990	City: [redacted]	State: [redacted] Zip Code: [redacted]

From (month/year):	Number and Street: 5800 South Country Club Lane	Apartment Number
To (month/year): 04/1990	City: Little Rock	State: Arkansas Zip Code: 72207

From (month/year):	Number and Street: #4 Edge Hill	Apartment Number
To (month/year): 10/1989	City: Little Rock	State: Arkansas Zip Code: 72207

Employment History

10. List all periods of employment and unemployment since the conviction, beginning with the present and working backward. List all full and part-time work, self-employment, and periods of unemployment. For each period of unemployment, indicate your means of support. (An optional continuation page is provided.)

Present Employer: Industrial Properties Limited Partnership			Telephone (include area code): (501) 224-4622
Date you began this employment (month/year): July 99	Number and Street: 1500 Macon Drive Suite D-7		
	City: Little Rock	State: Arkansas	Zip Code: 72221
Type of business: Real Estate Investments	Position: General Partner	Supervisor:	Supervisor's telephone number:

Employer: The Phoenix Group			Telephone (include area code): (501) 224-4622
Began (month/year): 1983	Number and Street: 1500 Macon Drive Suite D-7		
Ended (month/year): July 1999	City: Little Rock	State: Arkansas	Zip Code: 72221
Type of business: Real Estate Investment	Position: Owner	Supervisor:	Supervisor's telephone number:

Employer: Lasater and Company			Telephone (include area code): (501) 374-7744
Began (month/year): 1980	Number and Street: 310 Louisiana		
Ended (month/year): 1986	City: Little Rock	State: Arkansas	Zip Code: 72201
Type of business: Investment Banking	Position: Co-founder	Supervisor:	Supervisor's telephone number:

(a) Since the conviction, have you been fired or left a job following allegations of misconduct or unsatisfactory job performance? ☐ yes ☒ no

(b) Have you failed to list the conviction, or any other arrest or conviction, on any employment or other application where requested to list such information? ☐ yes ☒ no

If you answered yes to either of the above questions, explain fully below. An optional continuation page is provided.

Substance Abuse and Mental Health Information

11. (a) Have you ever used any illegal drug or abused prescription drugs or alcohol? ☒ yes ☐ no
If you answered yes, on a separate sheet identify the drugs used, the dates of use, and the frequency of use.

(b) Have you ever been involved in the illegal sale or distribution of drugs? ☒ yes ☐ no
If you answered yes, on a separate sheet provide complete details and dates of your involvement.

(c) Have you ever sought or participated in counseling, treatment, or a rehabilitation program for drug use or alcohol abuse? ☒ yes ☐ no
If you answered yes, on a separate sheet specify the dates of treatment or counseling, and provide the name, full address, and telephone number of the treatment facility and of the doctor, counselor or other treatment provider.

(d) Have you ever consulted with a mental health professional (psychiatrist, psychologist, or counselor) or with another health care provider concerning a mental health-related condition? ☐ yes ☒ no
If you answered yes, on a separate sheet specify the dates of treatment and the name, full address, and telephone number of the counselor/treatment provider.

Civil and Financial Information

12. (a) Are you in default or delinquent in any way in the performance or discharge of any debt or obligation imposed upon you? ☐ yes ☒ no

(b) Since the conviction, have any liens (including federal or state tax liens) or any lawsuits been filed against you, or have you filed for discharge of your debts in bankruptcy? ☐ yes ☒ no

(c) Do you have pending any judicial or administrative proceedings with the federal, state, or local governments? ☐ yes ☒ no

If you answered yes to any question, explain fully on the optional continuation page.

Military Record

13. (a) Have you ever served in the armed forces of the United States? ☐ yes ☒ no

Dates of service:_____ Branch(es):_____

Serial numbers:_____ Type of discharge:_____

Decorations (if any):_____

If other than honorably discharged, specify type and circumstances surrounding your release(s) (use optional continuation page) and attach copy of your separation papers (Form DD-214.

(b) While serving in the armed forces, were you the recipient of non-judicial punishment or the defendant in any court-martial? ☐ yes ☐ no

If yes, state fully the nature of the charge, relevant facts, disposition of the proceedings, the date thereof, and the name and address of the authority in possession of the records thereof. If you were convicted of an offense by court-martial, provide a copy of the court-martial promulgating order and on a separate sheet provide the same information with respect to each conviction that is required in questions 2 through 4 of this application.

_____

_____

Civil Rights and Occupational Licensing

14. Have you ever been granted or denied restoration of your civil rights (for example, a state pardon, a certification of restoration of civil rights, or a certificate of discharge)? ☐ yes ☒ no
Attach a copy of the document(s) evidencing the state's action.

15. Have you ever been granted or denied removal of your federal or state firearms disabilities?
Attach a copy of the document(s) evidencing the federal or state action. ☒ yes ☐ no

16. Since the conviction, have you been granted or denied any type of business or professional license, including the reinstatement of any licenses that were revoked or denied, in which your conviction was a consideration? ☒ yes ☐ no

If yes, attach a copy of the document(s) evidencing the action, including any explanation of the reasons for such action. If not available, provide the name, full address, and telephone number of the relevant authority taking the action, the nature of the license, the disposition of your request, and the date of the disposition. Use optional continuation page if necessary.

Reasons for Seeking Pardon

17. State your reasons for seeking a pardon. Please refer to paragraphs 4 and 11 in the attached Information and Instructions on Pardons. (As pointed out in paragraph 10 of the attached instructions, a pardon is a sign of forgiveness. Accordingly, in the usual request for pardon you should not reargue your case, assert innocence, or otherwise attack the validity of your conviction.)

I am requesting a "Presidential Pardon" because I think I have paid my debt to society and I do not want to continue tarnishing my family name because of my past mistakes. I do not try to excuse my crime. Using drugs and giving drugs to friends was wrong. But like so many other people, my ego told me that I would not become addicted, that I would not do what others had done. I now realize that drug addiction is an illness that neither I nor anyone else is immune to. I have sought redemption in my life in many ways. I'm active in my church; I seek to help others in ways that benefit society. I've tried to be a good example to my children, showing them that the greatest lessons we learn come from our own mistakes. I hope I can remove the blemish that not only taints me, but my family as well. Whether I am successful or not in my efforts to gain a pardon, I promise that I will continue trying to redeem myself as a citizen of my community and my country.

Certification and Personal Oath

I hereby certify that all answers to the above questions and all statements contained herein are true, and I understand that any misstatements of material facts contained in this petition may cause adverse action on my petition for pardon, in addition to subjecting me to any other penalties provided by law.

In petitioning the President of the United States for pardon, I do solemnly swear that I will be law-abiding and will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I take this obligation freely and without any mental reservation whatsoever, So Help Me God.

Respectfully submitted this 4 day of May, 19 2000.

(Signature of petitioner)

Subscribed and sworn to before me this 4th day of May, 19 2000.

SALLY A. BAREY NOTARY PUBLIC GARLAND COUNTY, AR

Notary Public

My Commission expires March 25, 2001

AUTHORIZATION FOR RELEASE OF INFORMATION

Carefully read this authorization to release information about you, then sign and date it in ink.

I authorize any investigator, special agent, or other duly accredited representative of the Federal Bureau of Investigation, the Department of Defense, and any authorized Federal agency, to obtain any information relating to my activities from schools, residential management agents, employers, criminal justice agencies, retail business establishments, or other sources of information. This information may include, but is not limited to, my academic, residential, achievement, performance, attendance, disciplinary, employment history, criminal history, arrest, conviction, medical, psychiatric/psychological, health care, and financial and credit information.

I understand that, for financial or lending institutions and certain other sources of information, a separate specific release may be needed (pursuant to their request or as may be required by law), and I may be contacted for such a release at a later date.

I further authorize the Federal Bureau of Investigation, the Department of Defense, and any other authorized agency, to request criminal record information about me from criminal justice agencies for the purpose of determining my suitability for a government benefit.

I authorize custodians of records and sources of information pertaining to me to release such information upon request of the investigator, special agent, or other duly accredited representative of any Federal agency authorized above regardless of any previous agreement to the contrary.

I understand that the information released by records custodians and sources of information is for official use by the Federal Government only for the purposes provided in this form, and may be redisclosed by the Government only as authorized by law.

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for three (3) years from the date signed.

Signature (sign in ink) [redacted]		
Full Name (type or print legibly) Danny Ray Lasater		*Date Signed* May 4, 2000
Other Names Used		
Street Address [redacted]		
City [redacted]	*State* [redacted]	*ZIP Code* [redacted]
Home Telephone Number (include area code) [redacted]	*Social Security Number* [redacted]	

Optional Continuation Page for
Petition for Pardon After Completion of Sentence

Residences

From (month/year):	*Number and Street*		*Apartment Number*
To (month/year):	*City*	*State*	*Zip Code*

From (month/year):	*Number and Street*		*Apartment Number*
To (month/year):	*City*	*State*	*Zip Code*

From (month/year):	*Number and Street*		*Apartment Number*
To (month/year):	*City*	*State*	*Zip Code*

From (month/year):	*Number and Street*		*Apartment Number*
To (month/year):	*City*	*State*	*Zip Code*

Employment History

Employer			*Telephone (include area code)*
Began (month/year):	*Number and Street*		
Ended (month/year):	*City*	*State*	*Zip Code*
Type of business	*Position*	*Supervisor*	*Supervisor's telephone number*

Employer			*Telephone (include area code)*
Began (month/year):	*Number and Street*		
Ended (month/year):	*City*	*State*	*Zip Code*
Type of business	*Position*	*Supervisor*	*Supervisor's telephone number*

Employer			*Telephone (include area code)*
Began (month/year):	*Number and Street*		
Ended (month/year):	*City*	*State*	*Zip Code*
Type of business	*Position*	*Supervisor*	*Supervisor's telephone number*

Employer			*Telephone (include area code)*
Began (month/year):	*Number and Street*		
Ended (month/year):	*City*	*State*	*Zip Code*
Type of business	*Position*	*Supervisor*	*Supervisor's telephone number*

Optional Continuation Page for
Petition for Pardon After Completion of Sentence

Answers to Other Questions

Question #	Response:
4.	There were five other people involved in this crime.
	Donald Glen Bradley — sentenced to 80 months
	Roger Clinton — sentenced to 24 months
	David A. Collins — sentenced to 24 months
	George E. Locke — sentenced to 15 months
	Lee Curtis Beery — sentenced to 60 months
11a	Between December 15, 1981 through January or February of 1985 I used cocaine in social situations.
11b	I never sold cocaine. However, I shared my financial success with my friends by purchasing them dinner and drinks on many occasions. If it were in a social setting and cocaine was available, anyone who wanted to could participate.
11c	During the period that I was incarcerated, I attended drug rehabilitation classes for 2 to 4 hours per week. The attendance was imposed by the court.

United States Department of Justice
Office of the Pardon Attorney
Washington, D.C. 20530

CHARACTER AFFIDAVIT

on behalf of

DAN R. LASATER
(print or type name of petitioner)

In support of the application of the above named petitioner to the President of the United States for pardon, I, WILLIAM R. WILSON, JR.
(print or type name of affiant),
residing at [redacted]
Number Street City State Zip Code
[redacted]
Telephone (include area code)
whose occupation is JUDGE

certify that I have personally known the petitioner for 18 years. Except as otherwise indicated below, petitioner has behaved since the conviction in a moral and law-abiding manner. My knowledge of petitioner's reputation, conduct and activities, including whether the petitioner has been arrested or had any other trouble with public authorities and has been steadily employed, is as follows:

SINCE HIS CONVICTION, FOR WHICH HE SEEKS THIS PARDON, MR. LASATER HAS BEEN HARDWORKING, UPRIGHT AND A GOOD FATHER AND HUSBAND. HE IS INVOLVED IN CHURCH ACTIVITIES, AND COACHES IN HIS DAUGHTERS ATHLETIC PROGRAMS (I HAVE A STEP-DAUGHTER IN THE SAME PROGRAM).

I HIGHLY RECOMMEND A PARDON FOR MR. LASATER.

I do solemnly swear that the foregoing information is true and correct to the best of my knowledge and belief.

W. R. Wilson, Jr.
(signature of affiant)

BETTIE V. NISWANGER NOTARY PUBLIC COMM. EXP. 9-1-2002 PULASKI CO. ARK.

Subscribed and sworn to before me this 17TH day of April, 2000

Bettie Niswanger
Notary Public

STATE OF ARKANSAS
EXECUTIVE DEPARTMENT

PROCLAMATION

TO ALL WHOM THESE PRESENTS SHALL COME ... GREETINGS:

WHEREAS, Danny Ray Lasater was convicted in the United States District Court for the Eastern District of Arkansas, Pulaski County, Arkansas, on December 18, 1986, of the crime of Knowingly and Intentionally Conspiring to Possess with the Intent to Distribute, and to Distribute Cocaine and sentenced to 30 months and $50.00 fine; and

WHEREAS, the State Board of Paroles and Community Rehabilitation has recommended that a conditional restoration of State rights, including the right to own and possess firearms, be granted;

NOW THEREFORE, I, BILL CLINTON, by virtue of the power and authority vested in me as Governor of the State of Arkansas, do hereby conditionally restore all rights, privileges and immunities enjoyed prior to conviction, including the right to own and possess firearms; provided, however, that no such restoration is effective until a federal removal of disabilities has been granted.

IN TESTIMONY WHEREOF, I hereunto set my hand an caused to be affixed hereto the Great Seal of State in the Governor's Office, Little Rock, Arkansas this 13th day of November, 1990.

Bill Clinton

BILL CLINTON
GOVERNOR

W. J. (BILL) McCUEN
SECRETARY OF STATE

EXHIBIT
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PENGAD Bayonne, N.J.

[redacted]

DAN R. LASATER
[redacted]

May 8, 2000

Roger Clinton
[redacted]

Roger,

Hi, hope everything is well with you and your family.

I have enclosed a copy off presidential pardon application that I sent to the Department of Justice. I wanted to make you aware that the application had been filed.

Any assistance you can provide will be very much appreciated.

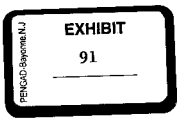
I have also forwarded a copy of the application to Senator David Pryor who has agreed to help in any way he could.

Please give me a call when you can.

Your friend,

Dan R. Lasater

Enclosure



J. T. Lundy
[redacted]

September 14, 1999

Dan Lasater

Via Fax [redacted]

Dear Dan,

I absolutely give you my word that all things we have given to you and everything we have told you is 100% true and proven. You can use what has been told to you without any worries or any concerns. I have been working on these projects for several years and have put together the whole structure. This is not hear say that I am telling you.

This is the reason we have been asking to meet with you and your people. We can satisfy every question in a two hour meeting where we can lay out all paper work and explain the whole thing clearly. We have every document, map, studies, mining plans and everything to provide for you.

Please get us a meeting with you and your people. I would like to be there, but if that is not possible, Robert will bring all the material and meet you where ever you can get your people to show up at.

It is safe for you to give your word as a fact. You know I would not B-S you. We have known each other for many years and you know I have always kept my word. I'm not going to change now.

Once again I want to thank you for helping to save me.

J. T.

J. T.

RCC0006

EXHIBIT
92

PENGAD-Bayonne, N.J.

To: Dan Lasater

From: Robert Lundy

Pages: Two

Date: September 14, 1999

These are the groups we are currently working with are:

1. Todd and Scott Kiscaden

   Todd and Scott are heavily involved in the coal business. They are involved with A.T. Massey Coal, as well as their own Kiscaden Coal. Kiscaden Coal's subsidiaries are mining in Zulia State, Venezuela (north of our concessions) and they are mining in southern tip of Chile. They are also involved with a man in Aruba named John Every. With Mr. Every, Todd and Scott broker thousands of metric tons of coal from Tachira State, Venezuela where our concessions are located.

   Todd and Scott are well aware of the qualities, quantities and the exact location of our concessions. They wanted us to hire one of their mining engineers to do a report. We are working with a mining engineer of our own named Bob Jones.

2. Mr. Bob Jones of Gauley Mining is scheduled to meet with me next week in Charleston, WV. Bob is going to go to do a mining plan for us. He is also working with several clients about purchasing the concessions.

3. My Venezuelan partners Aura Diaz and Robert Korsakas are scheduled to meet with British Petroleum on Sept. 20. BP is being represented by an agent from Spain. BP has a tentatively offered .38 cents USD a metric ton. There are an estimated reserves of 107,000,000+.

   (.38 X 107 million metric tons = $40,660,000) We have not accepted this offer, we feel the concessions are worth .50 to .55 cents per metric ton.

RCC0007

EXHIBIT

93

PENGAD Bayonne, N.J.

All of our information is from the Venezuelan Government's geological reports of the coal in the Franja Nor Oriental coal region of Tachira State. Our concessions are located in this region. The concessions we have offered to BP are Concession Las Mesas Escalante #16, #17 and #18.

The reports we have are out crop reports only. Any mining group interested in buying these concessions will not accept any core drilling from us.

They will want to perform their own core drilling prior to closing the purchase of our concessions. BP has offered to put up $200,000 in escrow for each concession while they perform their core drillings.

Please feel free to contact Luigi Miglietti, our attorney in Caracas his numbers are:

Office	011-58-2-564-7235
Office Fax	011-58-2-561-8717
Mobile	011-58-16-621-3169
E-Mail	luigimiglietti@true.net
	luigimiglietti@yahoo.net

If you have any questions do not hesitate to call me at [redacted] fax [redacted] or E-Mail [redacted]

October 11, 1999

Dear Roger:

I wish to find out when you and Dan will be able to schedule a meeting in Florida. Dan said, he will work with your schedule and will be available at your convenience. When you do decide on a meeting date, please give me a couple of days notice to allow me time to get there.

I want to point out a couple of things to you. As you know, Dan and J.T. have been doing deals together for more than 25 years. I am sure that Dan will tell you that J.T. has never told him anything that is not 100% right.

Dan has told J.T., He agreed to put the stock in his name for the group's interest. This way there will be no hassles or worries. Also, since I will still be involved, Dan and I will be guarding your groups' interest along with my own. After the transaction, your group and I will own the exact same amount of shares.

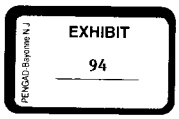
If you recall when we met at the Dallas Airport, we talked about racehorses. I spoke to J.T. and he has some good ideas concerning this. We can all get into this business together. J.T. really wants to get back into it full time. He would be more than willing to devote his full efforts to this. With the impute and directions from everyone, we can all have a lot of fun and make money.

J.T. also has some other ventures he wishes to discuss when we meet.

I know you understand the anxiety that J.T. is going through. Please try to set up a meeting date as soon as your schedule permits.

Robert

CC: Dan



J. T. Lundy
[redacted]
Home Phone [redacted]
Email [redacted] or [redacted]

November 10, 1999

TO: Roger Clinton

Via: Fedex

FROM: J. T. Lundy

Dear Roger,

I am sorry to worry you and Dan continually, but I am sure both of you know why I am so anxious, with the trial date set for January 16, 2000 .

Dan and I talk nearly everyday. He said you are real busy and are traveling all the time. We have discussed the things that need to done. I wrote Dan a Fedex letter, last Saturday, to explain my ideas of how we can handle everything.

You and Dan can make final plans. We will go on and transfer the stock share over to Dan now. This will allow you and your group some time to see if anyone owes you a favor that needs to be repaid. If you find that something good develops , we will work and get the rest of the stock for you at reasonable price.

I have suggested a way that Dan can own your stock, and there is no way any outsider can every know the true owners. Also, no one can ever get their hands on any of your money. And it is TAX FREE!

We will continue the sales negotiations that we are working on now, but before anything is final, we will ask if you want to go on with the sale , or if you want to wait. The choice will be yours., and you will have the last word . Robert will need your proxy so he will still have the 51% majority vote, as he does now.

With your help, we can work out a way to postpone everything until between November 8, 2000; and January 19, 2001.

Please get in touch with Dan as soon as you can . He has all the details

Sincerely,

J. T.

EXHIBIT
95
PENGAD Bayonne N.J.

RCC0011

J. T. Lundy
[redacted]
Fax [redacted]
Home Phone [redacted]
Email [redacted] or [redacted]

November 30, 1999

TO: Roger Clinton

Via: Fedex

FROM: J. T. Lundy

Dear Roger,

I am sure you know why I am so anxious, with the trial date set for January 16, 2000 . Dam told me that he is happy to help us. I am sure you know that Dan is our true and trusted friend. (Yours, Your Brother's, and mine)

Dan and I talk nearly everyday. We have discussed the things that I need your help with . You and Dan can make final plans. If you do not have the time to meet with me, Dan will come and work out the details, for your approval . I hope you can spare the time to meet with us, I would like to see you. Dan said he is ready to come, with are without you, as soon as you and he talk things over.

I have suggested a way that Dan can own your stock, and there is no way any outsider can every know any of your business, or get any of your money. And it is TAX FREE! You will make a great deal of money . Dan can give you an idea of the amounts you will get.

With you and Dan's help, a way can be worked out to postpone everything until after the November 8 election, and before the date you all leave office in 2001.

PLEASE get in touch with Dan soon. He has all the details of what you will received and he is willing to take care of everything for you all. Time is getting short! **PLEASE HELP ME NOW!**

Sincerely,

J. T.

J. T.

CC: Dan Lasater

EXHIBIT
96

RCC0012

Blume Loe
Reg. No. [redacted]
FCI Seagoville, Bldg. 5
P.O. Box 9000
Seagoville, Texas 75159-9000

Roger Clinton [redacted] May 30, 2000

RE: United States of America vs. Blume Loe, In the United States District Court for the Eastern District of Texas, Sherman Division, United States District Judge Paul Brown, Presiding

PRESIDENTIAL PARDON

Dear Roger:

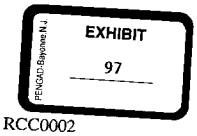
I thought I would be direct. Yes, this is me, and yes, this is Blume Loe asking you to get with brother Bill, and get me PARDONED.

As you know I was convicted on some tax charges. I never believed your brother's Government would get a conviction, but they did. I was sentenced to prison, and I know you know what that means. Seems now I am going through all those things that I never believed I would have to do to get this thing taken care of. For one, I am sitting in this goddamn law library typing a letter like a prison writ-writer. If these guys around me knew what I was writing, or who I was writing to, god knows what would happen. So anyway, it's me, and I need your help.

I talked to Dave, and we discussed how this could get this done. Dave talked to David Cruse, and David Cruse says he talked to you about this deal. I hope all this happened like I was told, but if it did not I would not be surprised. I learned in here that things are not always like they have been told. However, whether you have talked to anyone about me, to date, or not, I am now reaching out to you personally. So we are very clear, I want you to help me with a pardon.

You will be receiving a package from my attorney on appeal about the pardon issue. Her name is Cindy Goosen, and all the paperwork on my side should be in that package. She's a good lawyer, and you can talk to her. She knows what time it is. She ain't no idiot, like my trial lawyer was. Talking to her is talking to me.

However, I do have your phone number, and I will be calling you in a few days. So, do not be surprised if you receive a message like this in the near future, "**...You have a collect call that requires operator assistance ... Please hold for an operator ... Who's calling please ... Blume Loe ... Will you accept the charges?...**" Of course, it would be a good time to say, "... Yes ..." right about now. Anyway, I'll call you to discuss life in general. Please take my call.



RCC0002

I know this is extraordinary. I hate having to do it. Now, with that said, I need your help. I do not know any other way to put it. I think I was screwed, and I know that I will have done all my prison time before I get my appeal back. The Government has guaranteed that by getting extensions to answer by lawyer's brief until such time as I will have already done my time before I get an answer from the Court.

Therefore, I need this help to guarantee that the affect to this conviction and sentence will not last beyond my time here in prison. The only way to guarantee that is to get Bill to pardon me before he leaves office. I am sure you understand.

I now realize that I have not even asked how you are doing and how things are going for you? **I hope everything is good for you and your family.**

I also know that what I am requesting is extraordinary. While I know that you are trying to get one, I hope yours comes, if at all, at about the same time mine comes... if you know what I mean. I would not be approaching you with this if I was not desperate with no where else to turn. I need your help on this.

I do not know what else to tell you in this letter. I will be calling, and I hope you answer. I wish you all the luck in the world in your matter. I look forward to talking to you.

Thanking you in advance for your help, I remain,

Sincerely,

Blume Lee
Reg. No. [redacted]

cc: FILE

BL/jbl

FedEx Express USA Airbill FedEx Tracking Number 826034464150

Form I.D. No. 0200 Sender's Copy

1 From *Please print and press hard.*

Date 1/5/2001 Sender's FedEx Account Number

Sender's Name Rita M. Lavelle Phone ([redacted]

Company Nu TECH

Address [redacted] Dept./Floor/Suite/Room

City [redacted] State [redacted] ZIP [redacted]

2 Your Internal Billing Reference First 24 characters will appear on invoice.

3 To

Recipient's Name Kathy Hatton Phone (202) 616-6000

Company Pardon Attorney - US DOJ

Address 500 First Street, NW 4th Floor

To "HOLD" at FedEx location, print FedEx address. We cannot deliver to P.O. boxes or P.O. ZIP codes.

Dept./Floor/Suite/Room

City Washington State DC ZIP 20530

Questions? Visit our Web site at www.fedex.com
or call 1-800-Go-FedEx® (800)463-3339.

By using this Airbill you agree to the service conditions on the back of this Airbill and in our current Service Guide, including terms that limit our liability.

4a Express Package Service *Packages up to 150 lbs.* Delivery commitment may be later in some areas.

- [X] FedEx Priority Overnight — Next business morning
- [ ] FedEx Standard Overnight — Next business afternoon
- [ ] FedEx First Overnight — Earliest next business morning delivery to select locations
- [ ] FedEx 2Day* — Second business day
- [ ] FedEx Express Saver* — Third business day

* FedEx Envelope/Letter Rate not available. Minimum charge: One-pound rate

4b Express Freight Service *Packages over 150 lbs.* Delivery commitment may be later in some areas.

- [ ] FedEx 1Day Freight* — Next business day
- [ ] FedEx 2Day Freight — Second business day
- [ ] FedEx 3Day Freight — Third business day

* Call for Confirmation:

5 Packaging * Declared value limit $500

- [X] FedEx Envelope/Letter*
- [ ] FedEx Pak*
- [ ] Other Pkg. — Includes FedEx Box, FedEx Tube, and customer pkg.

6 Special Handling — Include FedEx address in Section 3.

- [ ] SATURDAY Delivery — (RESTRICTIONS) Available only for FedEx Priority Overnight and FedEx 2Day to select ZIP codes
- [ ] SUNDAY Delivery — (RESTRICTIONS) Available only for FedEx Priority Overnight to select ZIP codes
- [ ] HOLD Weekday at FedEx Location — (RESTRICTIONS) Not available with FedEx First Overnight
- [ ] HOLD Saturday at FedEx Location — (RESTRICTIONS) Available only for FedEx Priority Overnight and FedEx 2Day to select locations

Does this shipment contain dangerous goods? One box must be checked.

- [X] No
- [ ] Yes — As per attached Shipper's Declaration
- [ ] Yes — Shipper's Declaration not required
- [ ] Dry Ice — Dry Ice, 9, UN 1845 ____ x ____ kg
- [ ] Cargo Aircraft Only

Dangerous Goods cannot be shipped in FedEx packaging.

7 Payment *Bill to:* Enter FedEx Acct. No. or Credit Card No. below

- [ ] Sender — Acct. No. in Section 1 will be billed
- [ ] Recipient
- [ ] Third Party
- [X] Credit Card
- [ ] Cash/Check

FedEx Acct. No. or Credit Card No. [redacted]

Total Packages	Total Weight	Total Declared Value†	FedEx Use Only
		$ .00	16.50

† Our liability is limited to $100 unless you declare a higher value. See back for details.

8 Release Signature *Sign to authorize delivery without obtaining signature.*

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

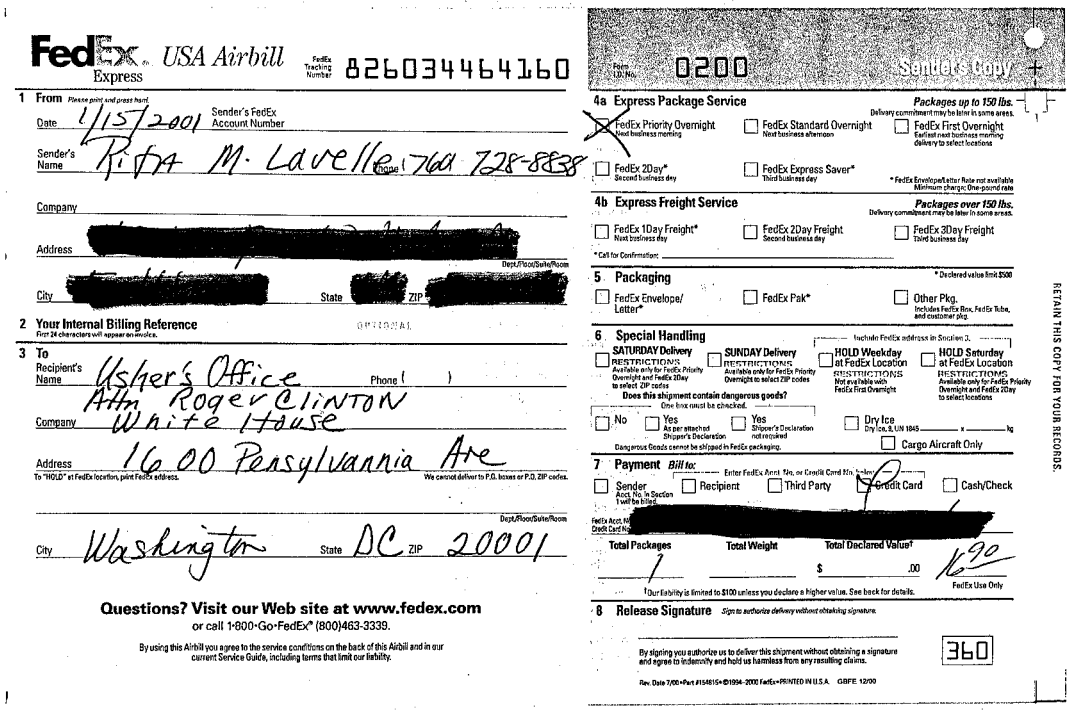
360

Rev. Date 7/00 • Part #156915 • ©1994–2000 FedEx • PRINTED IN U.S.A. GBPE 12/00

RETAIN THIS COPY FOR YOUR RECORDS.

PENGAD-Bayonne, N.J.

EXHIBIT 98



FedEx Express USA Airbill

FedEx Tracking Number 826034464160

Form ID No. 0200 Sender's Copy

1 From Please print and press hard.

Date 1/15/2001 Sender's FedEx Account Number

Sender's Name Rita M. Lavelle Phone (703) 728-8838

Company

Address [redacted] Dept./Floor/Suite/Room

City [redacted] State [redacted] ZIP [redacted]

2 Your Internal Billing Reference
First 24 characters will appear on invoice. OPTIONAL

3 To

Recipient's Name Usher's Office Phone ( )
Attn Roger CLINTON

Company White House

Address 1600 Pensylvania Ave
To "HOLD" at FedEx location, print FedEx address. We cannot deliver to P.O. boxes or P.O. ZIP codes.

Dept./Floor/Suite/Room

City Washington State DC ZIP 20001

Questions? Visit our Web site at www.fedex.com
or call 1-800-Go-FedEx® (800)463-3339.

By using this Airbill you agree to the service conditions on the back of this Airbill and in our current Service Guide, including terms that limit our liability.

4a Express Package Service — Packages up to 150 lbs. Delivery commitment may be later in some areas.

- [X] FedEx Priority Overnight — Next business morning
- [ ] FedEx Standard Overnight — Next business afternoon
- [ ] FedEx First Overnight — Earliest next business morning delivery to select locations
- [ ] FedEx 2Day* — Second business day
- [ ] FedEx Express Saver* — Third business day

* FedEx Envelope/Letter Rate not available. Minimum charge: One-pound rate

4b Express Freight Service — Packages over 150 lbs. Delivery commitment may be later in some areas.

- [ ] FedEx 1Day Freight* — Next business day
- [ ] FedEx 2Day Freight — Second business day
- [ ] FedEx 3Day Freight — Third business day

* Call for Confirmation:

5 Packaging — * Declared value limit $500

- [ ] FedEx Envelope/Letter*
- [ ] FedEx Pak*
- [ ] Other Pkg. — Includes FedEx Box, FedEx Tube, and customer pkg.

6 Special Handling — Include FedEx address in Section 3.

- [ ] SATURDAY Delivery — RESTRICTIONS: Available only for FedEx Priority Overnight and FedEx 2Day to select ZIP codes
- [ ] SUNDAY Delivery — RESTRICTIONS: Available only for FedEx Priority Overnight to select ZIP codes
- [ ] HOLD Weekday at FedEx Location — RESTRICTIONS: Not available with FedEx First Overnight
- [ ] HOLD Saturday at FedEx Location — RESTRICTIONS: Available only for FedEx Priority Overnight and FedEx 2Day to select locations

Does this shipment contain dangerous goods? One box must be checked.

- [ ] No
- [ ] Yes — As per attached Shipper's Declaration
- [ ] Yes — Shipper's Declaration not required
- [ ] Dry Ice — Dry Ice, 9, UN 1845 ____ x ____ kg

Dangerous Goods cannot be shipped in FedEx packaging.

- [ ] Cargo Aircraft Only

7 Payment Bill to: — Enter FedEx Acct. No. or Credit Card No. below

- [ ] Sender — Acct. No. in Section 1 will be billed
- [ ] Recipient
- [ ] Third Party
- [X] Credit Card
- [ ] Cash/Check

FedEx Acct. No. or Credit Card No. [redacted]

Total Packages	Total Weight	Total Declared Value†	
1		$ .00	1.90

†Our liability is limited to $100 unless you declare a higher value. See back for details. FedEx Use Only

8 Release Signature — Sign to authorize delivery without obtaining signature.

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

360

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RETAIN THIS COPY FOR YOUR RECORDS.

002

1156

PETITION FOR PRESIDENTIAL PARDON AFTER COMPLETION OF SENTENCE

PETITIONER: Rita M. Lavelle
[redacted]
Ph: [redacted]

ATTENTION: Ms. Kathy Hatton
Pardon Attorney
US Department of Justice
500 First Street, N.W. 4th Floor
Washington, D.C. 20530
Ph: 202-616-6070

003

PETITION FOR PARDON AFTER COMPLETION OF SENTENCE

Please read accompanying instructions carefully before beginning. Typewrite or print the answers in ink. Each question must be answered fully, truthfully, and accurately. If the space for any answer is insufficient, petitioner may complete answer on a separate sheet of paper and attach it to the petition. Submission of material, false information is punishable by imprisonment of up to five years and a fine of not more than $250,000. 18 U.S.C. §§ 1001 and 3571.

TO THE PRESIDENT OF THE UNITED STATES:

The undersigned petitioner prays for a pardon and in support thereof states as follows:

1. Full name: RITA MARIE LAVELLE

Address: [redacted] (Number / Street / City / State / Zip Code)

Telephone Number (include area code): [redacted]

Social Security No.: [redacted] Date and place of birth: PORTSMOUTH, VA

Sex: F Height: 5'5 Weight: 160 Hair Color: BLND Eye Color: GREEN

Are you a United States citizen? ☒ yes ☐ no If not, state nationality and give alien registration number: _____. If naturalized U.S. citizen, furnish date and place of naturalization: _____

State in full every other name by which you have been known, including name under which you were convicted, the reason for the use of another name, and the dates during which you were so known (for example, include your maiden name, name(s) by a former marriage(s), alias(es), and nickname(s)).

_____

Offense(s) For Which Pardon Is Sought

2. Petitioner was convicted on a plea of NOT GUILTY (guilty, not guilty, nolo contendere) in the United States District Court for the _____ (Northern, Western, etc.) District of _____ (identify state) of the crime of:

SEE ATTACHED FOR EXACT REFERENCES
(Describe specific offense)

and was sentenced on _____, 19___ to ☒ imprisonment for 6 MONTHS, ☒ probation for 5 YRS, ☒ a fine of $10,000, and/or ☐ restitution of $_____.

Petitioner was 35 years of age when the offense was committed.

3. Petitioner began service of the sentence of ☒ imprisonment ☐ probation on _____, 1985, was released on SEPT?, 19 85 from _____ (Federal institution); and was finally discharged by expiration of sentence on _____, 19___. Petitioner ☐ did ☐ did not appeal the conviction.

Indicate the date(s) on which the fine, restitution or special assessment was paid. If the fine, restitution, or assessment have not been paid in full, explain why. If appealed, please provide the date of decision(s) by the Court of Appeals and, if applicable, the Supreme Court. Please also provide citations to any published judicial opinion(s) or a copy of unpublished opinion(s). (An optional continuation page is provided.)

_____

_____

CHARGES AGAINST RITA

Reported Decision: U.S. of America vs. Rita M. Lavelle, 751 F.2d 1266 (D.C. Cir. 1985)

Appellate Case No. 84-5060

Original Case: (D.C. Crim. No. 83-0184)

Count 1 – Execution and Certification of False and Misleading Statement Violation of 18 U.S.C. Section 1001 (1982)

Count 2 – Obstructing a Congressional Committee by Causing False Statement to be Submitted Violation of 18 U.S.C. Section 1505 (1982)

Count 3 – False Testimony and Perjury before U. S. Senate Committee 18 U.S.C. Section 1621 (1982)

Count 4 – False Testimony and Perjury before House Oversight Subcommittee 18 U.S.C. Section 1621 (1982)

Sentence: $10,000. fine 6 months jail and 5 years Probation with community service

005

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
PROBATION OFFICE

ROBERT M. LATTA
CHIEF PROBATION OFFICER

600 U.S. COURT HOUSE
312 N. SPRING STREET
LOS ANGELES 90012

May 24, 1990

PLEASE REPLY TO:
24000 Avila Road
First Floor
Laguna Niguel, CA 92656

Ms. Rita M. Lavelle
[redacted]

Docket No. 83-00184

Dear Ms. Lavelle:

You will note from the enclosure that the U. S. District Court, District of Columbia, has terminated your period of probation as of May 8, 1990.

It is no longer necessary for you to report to this office.

Best wishes for your success and happiness.

Very truly yours,

Henry Garcia
HENRY GARCIA
U. S. Probation Officer

HG:sp

Enclosure

006

PROBATION FORM No. 35
(February 1964)

Report and Order Terminating Probation
Prior to Original Expiration Date

United States District Court
FOR THE

DISTRICT OF COLUMBIA

FILED
MAY 10 1990
JAMES F. DAVEY
CLERK

UNITED STATES OF AMERICA

v.

LAVELLE, Rita M.

Crim. No. 83-184

On 1/9/84 the above named was placed on probation for a period of 5 years. She has complied with the rules and regulations of probation and is no longer in need of probation supervision. It is accordingly recommended that she be discharged from probation.

Respectfully submitted,

U.S. Probation Officer

United States District Court
for the District of Columbia
A TRUE COPY 5-10-90
JAMES F. DAVEY, CLERK,
By: Thomas S. Hilton
Deputy Clerk

ORDER OF COURT

Pursuant to the above report, it is ordered that the defendant be discharged from probation and that the proceedings in the case be terminated.

Dated this 9th day of May, 1990.

United States District Judge

FPI-MH—4-3-73-20M-9105

007

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :

v. : Criminal No. 83-0184

RITA M. LAVELLE :

FILED

MAR 28 1985

JAMES F. DAVEY, Clerk

ORDER

Upon consideration of the judgment and mandate of the Court of Appeals filed in this court on March 26, 1985, affirming the judgment appealed from in this cause, it is this 28th day of March, 1985,

ORDERED that the stay of execution of sentence, entered on February 1, 1984, be, and hereby is, dissolved; and it is further

ORDERED that defendant Rita M. Lavelle be, and hereby is, directed to surrender voluntarily to the custody of the Attorney General when and as directed by the Probation Department of this court.

Norma Holloway Johnson
NORMA HOLLOWAY JOHNSON
UNITED STATES DISTRICT JUDGE

008

Mr. Roger Clinton
C/0 Michael Dodds

Dear Roger:

Thank you again for your willingness to consider this request for assistance with a very sensitive matter. As our dear friend Michael may or may not have told you I am asking for your assistance with a Presidential Pardon from your brother President Clinton.

Because both you and the President were not in the Washington DC area during the early 1980's, you may not readily recall the circumstances. However I will try to give you the "5-minute" edited version. Basically I was the victim of a political ambush by Congressman John Dingell and certain Republican Operatives all of whom had done things, which they did not wish to surface.

At the time I served President Ronald Reagan as Assistant Administrator of the US EPA --- specifically in charge of the Superfund and other "hazardous waste" programs. I was the first Administrator for this very important program and as such was constantly in the public eye, having to render decisions that immediately affected the public health and the environment, and that were critical to thousands of communities across our country. Also I was charged with administering the largest special funded domestic program of the 1980's, and had to develop the implementing policies for this Congressionally mandated high profile Program. I took this responsibility very seriously and worked continuously to ensure it was properly implemented in a responsive and responsible manner.

I am pleased to state that the program remains pretty much as we organized it in those early confrontational days and that by 1983 we had earned the respect of the majority of both parties as well as the executive, judicial and legislative branches. We were innovative, committed and firmly managed for measurable results. We were the energetic, brilliant "Rambo's" of the environmental cleanup business. Fueled by the gratitude of thousands who finally had some long overdue assistance with their abandoned hazardous messes, we were if anything guilty of being too brash in the righteousness of our assignments.

It was pretty heady stuff ... I concluded we were serving the people very well and solving some very serious problems. There were many late nights when I would be in my Office alone and would go over to the Jefferson Memorial for a "prayer and stress break" completely overwhelmed by the awesome responsibilities of the Program. .. so much to do so little time.

009

However now as I look back, I realize I failed the people who had problems I could have solved, and the people who worked for me. I failed because I did not understand the strength of forces with other agendas. In retrospect, I not only led a team that did an excellent job, but a team that perhaps did their jobs too well.

What we saw as an awesome responsibility, many others saw as a personal platform for more prestige, wealth and political power. Looking back, I failed to perceive the potential and power of those "dark forces" who crave power and prestige and are extremely envious of those whom they conclude have too much of it.

I was blinded by my education, training and experience in science and engineering which dictates that actions taken based on logic and deductive reasoning would be rationally examined and accepted as correct. Also blinding me was my strong Catholic upbringing which only sees "good" in others. I missed what is so obvious to so many others --- there are some really evil people in this world who do not deal with a full deck. Their only joy in life is destroying.

What Congressman Dingell and some Republican Insiders accomplished with their personal vendetta against me, has still not been fully disclosed or discussed. Dingell was the center of significant press and media attention for several months successfully upstaging the true hard working bi-partisan Congressmen and Senators who had demanded and designed environmental protection programs which were long overdue. With his feigned last minute "concern" Dingell and the other Republican Insiders effectively neutralized the EPA for 10-12 years and severely crippled executive branch recruiting ability for several future administrations. They also successfully displaced the microscope of public examination from their own self serving questionable activities and legally silenced the people who could shed light on how they had fed their self interests at the expense of the public good.

CHARGES

In February of 1983 after refusing bribes and not caving into threats to drop certain enforcement actions, Anne Burford the EPA Administrator announced "Rita Lavelle's resignation". In the next few days after promises to me by Meese, Deaver and Baker to the contrary, the President "Teminated" me with a "warmest personal regards...Ron" Letter issued to the media hours before it was delivered to me.

Smelling blood, the media sharks started circling. They knew that Burford was on "thin ice" with the Administration. They also knew I was the only one at the Agency who effectively had stopped the call for her removal by an irate Congress. In addition they theorized I was the "White House's Person" in the Agency who would be taking over once the President demanded her resignation.

0010

Burford had cut an unholy alliance with Dingell never approved or even discovered to this day by the White House. She would throw me to the wolves, he would bring charges out that had been simmering against her and claim that I had done them. The pact was sealed by their mutual love of publicity: Dingell will do anything to get on the front page of the Washington Post; Burford had ambitions for higher office.

On the Friday Burford was announcing my resignation, I was reaching a bi-partisan Agreement on the Times Beach Cleanup with Mr. Gephardt and other members of the Missouri Delegation. The Agreement was very sensitive and innovative. As part of it I agreed to let the Democrat Delegation announce the "Good News" that they had found money to clean-up the site. Thus I dodged the media delegation awaiting me outside the Congressional Offices as well as the group awaiting me outside my EPA Offices. I returned to my EPA Offices about 3:30 in the afternoon and just assumed the media wanted comments on the Times Beach Settlement. However that was not the case. Burford had held a Press Conference a few hours earlier announcing my resignation and Dingell was already fueling the flames of self-serving publicity

From that point on neither Speaker O'Neill nor the White House was able to gain control of the Dingell/Burford holocaust. They got all the publicity they wanted but the body count was high. In the process over 23 EPA political appointees were asked to leave, President Reagan appointed Rucklehaus as EPA Administrator (a do nothing appeaser), and Speaker O'Neill reduced Dingell's staff cutting back his committee assignments. The Speaker and the President's Staff were united in one thought though --- Lavelle can ride the storm and preserve both of our positions against these "loose cannons" (Dingell and Burford).

After hundreds of hours of hearings and several Grand Jury Meetings, I was charged with "Contempt for Congress" in late 1983 for failing to appear before Dingell's Committee while I was elsewhere consistent with the directive of Speaker O'Neil. One trial later I was found innocent of the charges. Everyone thought the chaos was over. I received congratulations from every corner and went home to California "to get a job".

No one however counted on the egos of Dingell and Burford who were still "unfettered and at large". Dingell returned to Congress (after he had appeared at my trial and testified against me). Crying the Reagan Administration could not and would not prosecute "its own" he introduced Articles of Impeachment against Attorney General William French Smith. The White House then held (as they had been doing all along) more meetings with me, asking very pointed questions on other Administration Officials as well as some members of the Legislature with whom I had interacted while in Office.

I then left and returned to California to look for a job. A few months later (while I was in the midst of a final job interview with Lockheed) Dingell had moved along from committee to the floor the Articles of Impeachment. His staff phoned Lockheed promising a Congressional Investigation if "they hired Lavelle". The next day the Justice Department phoned to state they had some important news for me --- please tune in the press conference scheduled for that day.

In the Press Conference, the Justice Department announced they had completed their "thorough and extensive" investigation of the "EPA Affair" and concluded "they would be bringing some indictments". On the basis of their briefing of Dingell he would be dropping his Articles of Impeachment against the Attorney General.

No words can describe my shock with the next series of events. Pushed by the media to disclose who would be facing possible indictments for what possible offenses, the staff begrudgingly answered "only one ... Lavelle for charges we will announce later". Even the media was surprised as Sam Donaldson stated "Rita ??? you have got to be kidding ....she's the only innocent one".

A few months later I was back in Washington before a Judge your brother knows as well --- Judge Norma Johnson. She at that time was a last minute President Carter Appointment to the Bench who was dramatically opposed by the Washington DC Bar. The opposition was mounted because she had never even been in a Courtroom and only had experience was as a Schedule A "Political Appointee" Attorney at DOJ. Unfortunately for me the head of the Washington DC Bar who had so dramatically opposed her nomination was my attorney --- James Bierbower.

It was now not a question of if I would be convicted of something but how fast the conviction would come down.

CONVICTION

Going into the trial I was charged with "using politics in Office" and lying about the date of a meeting. After a 27 day trial replete with both national and international media every day, I was found innocent of all charges except the following four felonies --- all of which relate to one event --- a date discrepancy between my calendars and my memory. Basically the Court held that I had lied about the date of a meeting and repeated the lie four times.

Reported Decision: U.S. of America vs. Rita M. Lavelle, 751 F.2d 1266 (D.C. Cir. 1985) Appellate Case No. 84-5060 Original Case: (D.C. Crim. No. 83-0184)

Count 1 – Execution and Certification of False and Misleading Statement to Congress --- Violation of 18 U.S.C. Section 1001 (1982).

Count 2 – Obstructing a Congressional Committee by Causing False Statement to be Submitted Violation of 18 U.S.C. Section 1505 (1982).

Count 3 – False Testimony and Perjury before U. S. Senate Committee 18 U.S.C. Section 1621 (1982).

Count 4 – False Testimony and Perjury before House Oversight Subcommittee 18 U.S.C. Section 1621 (1982).

Sentence: $10,000. fine; 6 months prison; and 5 years Probation with community service.

You should know that the meeting was one of several held in my Office where I was basically "kicking ***" because nothing had been done to solve a major California dumpsite problem --- "Stringfellow". The attorneys at the meeting (both EPA and DOJ) were not happy with me because I was pushing them to act on this and several other problems continually pointing out their mismanagement of significant cases, evidence and strategies. Out of the clear blue they stated I could no longer push them and had to "recuse" myself from the case because my former Employer --- Aerojet General was a "potentially responsible party" (or that they had reportedly dumped waste at the site). I demanded to see evidence that Aerojet was involved and dismissed the meeting.

Within the next 20 days I was pressured by these same Attorneys and (as I now know it) entrapped into signing a "recusal" statement for the Stringfellow matter. Thereafter I did recuse myself from the Stringfellow case (much to the dismay of the Stringfellow mothers who had to wait almost another year for any EPA money).

When asked by Congress during the many many hours of testimony following my "termination" from EPA, when I recused myself on Stringfellow I stated "when I first knew I had to". The attorneys were successful in baffling the Jury with the now infamous "20 day discrepancy". Using some truth (I had worked at Aerojet and I had recused myself from Stringfellow) the DOJ attorneys were able to put in the Jury's minds several false statements as well. If only we had known the truth at the time and were able to uncover their several misrepresentations of facts, we could possibly have mounted a much better defense:

#1. Aerojet was NEVER charged for dumping at Stringfellow --- because they never did.

0013

#2. I legally never had to recuse myself from any case --- it was only a personal promise I had made to the Senate Confirmation and Oversight Committee for any issues directly involving my former employer.

#3. Dingell, some of the very same DOJ attorneys as well as some of the Administration Insiders were involved (because of campaign contributions, or because they were Clients or former Employees) with named Stringfellow dumpers. These were the people who would economically benefit by stalling and de-railing EPA's cleanup orders as aggressively pursued by Lavelle.

We naturally appealed the conviction not knowing the true extent of the misrepresentations by DOJ, but stating that we had no reason to lie about the date, that the meeting was unimportant, and that at the worst I had been mistaken by 20 days --- or that maybe there had been more than one meeting on the subject matter.

The Appellate Court heard the case and very frankly we thought (as did everyone else) that because of their Questions, we had won and Judge Johnson's ruling and sentencing would be overturned.

Approximately three weeks after the Appellate Court Hearing, Senators Metzenbaum and Kennedy asked me to come to Kennedy's Office. They were on the Judiciary Committee and they wished me to testify against Ed Meese who was nominated for the new Attorney General. Having worked for Mr. Meese and President Reagan since the early days in California when Reagan was Governor, it was obvious to them I could evoke some "tantalizing" memories. At first they were charming then they got down to threats if I didn't co-operate. Finally Kennedy told me either I appear before his committee and testify against Meese or I would loose the Appeal and go to Jail. My Irish Pride and Catholic Optimism took over and after informing them there was only one innocent person in the room and she was leaving, Kennedy screamed the prophetic "and she is going to jail".

Several months later (to be specific the Friday before the Inauguration of Reagan for his second term) the Court made a "small" announcement that they were denying the Appeal with NO Comment. The three member Appellate Court Hearing was now reduced to two Democrats who had "No Comment". The one Republican Member had accepted a Sabbatical to England and had not provided comment prior to leaving.

Devastated, I was now convinced I would never get a fair hearing. Thus pushed by the media, I announced I would be surrendering to start serving my Prison sentence.

0014

When I was released from Prison and started my five years of over-supervised probation, Senator Peter Rodino announced that he and his committee were requesting a Special Prosecutor be appointed to "investigate the Lavelle and EPA Matter". Attorney Alexis Morrison was appointed and after several protracted confrontations with then Attorney General Ed Meese, finally released her findings that "Lavelle was framed".

Still on Probation, I was promised by Administration Officials that if I would remain quiet through the Bush Election Effort I would receive a Pardon from Reagan as he left Office. I remained "quiet" for my own reasons and will continue to do so for the same reasons, but needless to say I never got my Pardon from Reagan who stated "George could do it". I thought earlier of petitioning your Brother for a Pardon but realized he had campaigned "on those convicted Reagan/Bush Administration felons" and had his own problems to deal with.

Here I am almost 15 years after getting out of prison still suffering the damages from my "Felony Conviction". Believe me there still are damages and hurdles to my mental, emotional and physical well being.

I am asking for your Brother's compassionate forgiveness and formal Pardon for what I have been convicted of. I believe this will be a popular decision for him while it could be a hard one for President-Elect Bush.

I also believe that the following members or former members can answer any questions he might have or verify my editorialized rendition of the events as they occurred. Hopefully they will also state your consideration and forgiveness is well deserved.

Vice President Gore	Senator Peter Rodino
Senator Orin Hatch	Senator Jesse Helms
Senator John Laxault	Senator Fred Thompson
Senator Jennings Randolph	Senator Daniel Moynihan
Former Governor Jim Florio	Former Attorney General Edwin Meese

Former Special Prosecutor Alexis Morrison

If I could suggest that the top two people with the most insight into my character as well as the veracity of the above events would be Vice President Gore and Senator Peter Rodino (973) 642-8851. I would have stated Senator Randolph but unfortunately this hero to me died in 1998 ... he was one of the few who went out of his way to help.

0015

Thank you again for your consideration and your presentation to your Brother of this request. I have completed the formal "Pardon Package" as suggested by the DOJ. I have been informed that together with this Letter the President can grant the Pardon without having to justify or explain his actions.

Sincerely,

Rita M. Lavelle
4749 Oceanside Blvd., Suite J
Oceanside, CA 92056
Ph: 760-631-0631
Hm: 760-728-8838

0016

Biographical Information

6. Current marital status: ☐ Never Married ☐ Married ☒ Divorced ☐ Widowed ☐ Separated ANNULED 1976

For each marriage give the following: name of spouse, date and place of spouse's birth, date and place of marriage, and, if applicable, date and place of divorce, and current or last known address and telephone number of each former spouse:

WILFRED T. HALL, DDS ~~I BELIEVE HE RESIDES IN REDDING CA~~
name of spouse *date/place of birth*
I AM NOT SURE IF HE IS STILL LIVING
full address including Zip code *telephone number, including area code*

date/place of marriage *date/place of divorce*

name of spouse *date/place of birth*

full address including Zip code *telephone number, including area code*

date/place of marriage *date/place of divorce*

7. List your children by name and furnish date and place of birth for each:
(If you do not have custody of any minor children, indicate whether you pay child support.)
NONE.
name of child *date/place of birth*

name of child *date/place of birth*

name of child *date/place of birth*

8. List the complete address of all schools you have attended since your conviction, beginning with the most recent and working backward. Indicate the type of degree/diploma received and give the name of an instructor, counselor, or other school official who knew you well. (An optional continuation page is provided if necessary.) NONE SINCE CONVICTION —— SEE ATTACHED RESUME

School	*From (month/year)*	*To (month/year)*
Number and Street	*Degree*	*Month/year awarded*
City	*State*	*Zip Code*
Name of school official	*Telephone number of school official*	

Residences

9. List every place you have lived since the conviction, beginning with the present and working back. *(All periods must be accounted for below.)* List the physical location of your residence: do not use a post office box as an address. If you lived in an apartment complex, list your apartment number. (An optional continuation page is provided if necessary.)

Date you moved to present address (month/year): 6/92	Number and Street [redacted]		Apartment Number
	City [redacted]	State [redacted]	Zip Code [redacted]

From (month/year): 1990	Number and Str[redacted]		Apartment Number
To (month/year): 1992	City [redacted]	State [redacted]	Zip [redacted]

From (month/year): 1989	Numb[redacted]		Apartment Number
To (month/year): 1990	City [redacted]	State [redacted]	Zip Code [redacted]

0017

Optional Continuation Page for
Petition for Pardon After Completion of Sentence

Residences

From (month/year):	Number and Street		Apartment Number
1990	[redacted]		
To (month/year):	City	State	
1988	[redacted]	[redacted]	[redacted]

From (month/year):	Number and Street		Apartment Number
1988			
To (month/year):	City		Zip Code
1985	[redacted]	[redacted]	

La Mesa Area Sorry I do not remember

From (month/year):	Number and Street		Apartment Number
To (month/year):	City	State	Zip Code

From (month/year):	Number and Street		Apartment Number
To (month/year):	City	State	Zip Code

Employment History

(Please see attached)

Employer	NuTECH Enterprises		Telephone (include area code) 760-632-0631
Began (month/year): 1985	Number and Street 4749 Oceanside Blvd # J		
Ended (month/year): Present	City Oceanside	State CA	Zip Code 92056
Type of business	Position Pres/Owner	Supervisor	Supervisor's telephone number

Employer			Telephone (include area code)
Began (month/year):	Number and Street		
Ended (month/year):	City	State	Zip Code
Type of business	Position	Supervisor	Supervisor's telephone number

Employer			Telephone (include area code)
Began (month/year):	Number and Street		
Ended (month/year):	City	State	Zip Code
Type of business	Position	Supervisor	Supervisor's telephone number

Employer			Telephone (include area code)
Began (month/year):	Number and Street		
Ended (month/year):	City	State	Zip Code
Type of business	Position	Supervisor	Supervisor's telephone number

0018

Civil and Financial Information

12. (a) Are you in default or delinquent in any way in the performance or discharge of any debt or obligation imposed upon you? ☐ yes ☒ no

(b) Since the conviction, have any liens (including federal or state tax liens) or any lawsuits been filed against you, or have you filed for discharge of your debts in bankruptcy? ☒ yes ☐ no

(c) Do you have pending any judicial or administrative proceedings with the federal, state, or local governments? ☐ yes ☒ no

If you answered yes to any question, explain fully on the optional continuation page.

Military Record

13. (a) Have you ever served in the armed forces of the United States? ☐ yes ☒ no

Dates of service:_____ Branch(es):_____

Serial numbers:_____ Type of discharge:_____

Decorations (if any):_____

If other than honorably discharged, specify type and circumstances surrounding your release(s) (use optional continuation page) and attach copy of your separation papers (Form DD-214.

(b) While serving in the armed forces, were you the recipient of non-judicial punishment or the defendant in any court-martial? ☐ yes ☐ no

If yes, state fully the nature of the charge, relevant facts, disposition of the proceedings, the date thereof, and the name and address of the authority in possession of the records thereof. If you were convicted of an offense by court-martial, provide a copy of the court-martial promulgating order and on a separate sheet provide the same information with respect to each conviction that is required in questions 2 through 4 of this application.

_____

_____

Civil Rights and Occupational Licensing

14. Have you ever been granted or denied restoration of your civil rights (for example, a state pardon, a certification of restoration of civil rights, or a certificate of discharge)? ☐ yes ☒ no
Attach a copy of the document(s) evidencing the state's action.

15. Have you ever been granted or denied removal of your federal or state firearms disabilities? ☐ yes ☒ no
Attach a copy of the document(s) evidencing the federal or state action.

16. Since the conviction, have you been granted or denied any type of business or professional license, including the reinstatement of any licenses that were revoked or denied, in which your conviction was a consideration? (see attached) ☒ yes ☐ no

If yes, attach a copy of the document(s) evidencing the action, including any explanation of the reasons for such action. If not available, provide the name, full address, and telephone number of the relevant authority taking the action, the nature of the license, the disposition of your request, and the date of the disposition. Use optional continuation page if necessary.

0019

AUTHORIZATION FOR RELEASE OF INFORMATION

Carefully read this authorization to release information about you, then sign and date it in ink.

I authorize any investigator, special agent, or other duly accredited representative of the Federal Bureau of Investigation, the Department of Defense, and any authorized Federal agency, to obtain any information relating to my activities from schools, residential management agents, employers, criminal justice agencies, retail business establishments, or other sources of information. This information may include, but is not limited to, my academic, residential, achievement, performance, attendance, disciplinary, employment history, criminal history, arrest, conviction, medical, psychiatric/psychological, health care, and financial and credit information.

I understand that, for financial or lending institutions and certain other sources of information, a separate specific release may be needed (pursuant to their request or as may be required by law), and I may be contacted for such a release at a later date.

I further authorize the Federal Bureau of Investigation, the Department of Defense, and any other authorized agency, to request criminal record information about me from criminal justice agencies for the purpose of determining my suitability for a government benefit.

I authorize custodians of records and sources of information pertaining to me to release such information upon request of the investigator, special agent, or other duly accredited representative of any Federal agency authorized above regardless of any previous agreement to the contrary.

I understand that the information released by records custodians and sources of information is for official use by the Federal Government only for the purposes provided in this form, and may be redisclosed by the Government only as authorized by law.

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for three (3) years from the date signed.

Signature (sign in ink) Rita M. Lavelle		
Full Name (type or print legibly) RITA M. LAVELLE		*Date Signed* 1-7-2004
Other Names Used NONE		
Street Address [redacted]		
City [redacted]	*State* [redacted]	*ZIP Code* [redacted]
Home Telephone Number (include area code) [redacted]	*Social Security Number* [redacted]	

May 1996

0020

United States Department of Justice
Office of the Pardon Attorney
Washington, D.C. 20530

CHARACTER AFFIDAVIT

on behalf of

_____
(print or type name of petitioner)

In support of the application of the above named petitioner to the President of the United States for pardon, I, _____,
(print or type name of affiant)

residing at _____
Number Street City State Zip Code

_____, whose occupation is _____
Telephone (include area code)

certify that I have personally known the petitioner for _____ years. Except as otherwise indicated below, petitioner has behaved since the conviction in a moral and law-abiding manner. My knowledge of petitioner's reputation, conduct and activities, including whether the petitioner has been arrested or had any other trouble with public authorities and has been steadily employed, is as follows:

_____

_____

_____

_____

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_____

I do solemnly swear that the foregoing information is true and correct to the best of my knowledge and belief.

_____
(signature of affiant)

Subscribed and sworn to before me this _____ day of _____, 19 ____.

_____
Notary Public

0021

United States Department of Justice
Office of the Pardon Attorney
Washington, D.C. 20530

CHARACTER AFFIDAVIT
on behalf of

_____
(print or type name of petitioner)

In support of the application of the above named petitioner to the President of the United States for pardon, I, _____,
(print or type name of affiant)

residing at _____,
Number Street City State Zip Code

_____, whose occupation is _____
Telephone (include area code)

certify that I have personally known the petitioner for _____ years. Except as otherwise indicated below, petitioner has behaved since the conviction in a moral and law-abiding manner. My knowledge of petitioner's reputation, conduct and activities, including whether the petitioner has been arrested or had any other trouble with public authorities and has been steadily employed, is as follows:

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_____

I do solemnly swear that the foregoing information is true and correct to the best of my knowledge and belief.

_____
(signature of affiant)

Subscribed and sworn to before me this _____ day of _____, 19 ___.

_____
Notary Public

United States Department of Justice
Office of the Pardon Attorney
Washington, D.C. 20530

CHARACTER AFFIDAVIT

on behalf of

_____
(print or type name of petitioner)

In support of the application of the above named petitioner to the President of the United States for pardon, I, _____
(print or type name of affiant)

residing at _____
Number Street City State Zip Code

_____, whose occupation is _____
Telephone (include area code)

certify that I have personally known the petitioner for _____ years. Except as otherwise indicated below, petitioner has behaved since the conviction in a moral and law-abiding manner. My knowledge of petitioner's reputation, conduct and activities, including whether the petitioner has been arrested or had any other trouble with public authorities and has been steadily employed, is as follows:

_____

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_____

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_____

_____

_____

I do solemnly swear that the foregoing information is true and correct to the best of my knowledge and belief.

_____
(signature of affiant)

Subscribed and sworn to before me this _____ day of _____, 19 ___.

_____
Notary Public

0022

FROM : J. Ballis FAX NO. : [redacted] Jan. 09 1999 09:04PM P1

CLEMENCY REQUEST

JOHN BALLIS - [redacted] - USA
Phone [redacted] - Fax [redacted]

January 09, 1999

Roger Clinton
[redacted]

Dear Roger,

It was so nice finally getting to meet you. I trust you had a nice trip home and are getting ready to go to D.C. I wanted to get you the information on the commutation request so you would be able to familiarize yourself with it before your trip.

As you can imagine, trying to make a synopsis of my case is rather difficult since it has literally consumed the last 10 years of my life, but I will try to give you a brief outline of the major points I believe are important in a commutation consideration.

I entered into a plea agreement with the government. As a result I was given a 2-year probated sentence and required to complete 160 hours of community service. Weeks after I completed my probation and community service, the government cancelled my plea agreement and indicted me on everything I told them about in my debriefings along with several counts of obstruction of justice. I was subsequently tried, convicted and sentenced to 12 1/2 years in prison.

As you know, I have served my prison time and am currently in the half-way house until March 10, 1999. I will remain under the jurisdiction of the justice system until 2004 when my sentence ends. I am also required to pay fines and restitution in excess of 4 1/2 million dollars.

Roger, the Federal Judge who took my original plea agreement wrote The President a letter requesting him to grant me clemency. Judge Lynn Hughes states that the plea agreement I made before his court should have covered everything that the government used later to justify additional charges. He goes on to characterize my prosecution as a "bureaucratic manipulation". He continues, " The only value he (Ballis) has is as a statistic for a savings and loan case successfully prosecuted." ..."There is more to justice than numbers. Ruthless over-reaction is not justice it merely spreads fear of the government and destroys an individual."

My clemency application is full of documents backing up the statements of Judge Hughes. The head of the Bank Fraud division investigating my case gave an affadavit stating that the government set out to "trick me". Assistant United States Attorney John Smith, a career government prosecutor came forward with this information in an affadavit to the Office of Professional Responsibility after my conviction.

Another document in my clemency application file is a settlement with the FDIC. Shortly after I pled guilty and received probation, my attorney advised me to clear up my financial problems with the government. I turned over all my remaining assets - $3.2 million in cash - to get a general release from the FDIC. Despite this effort, I am now faced with an extraordinary debt to the government,again.

EXHIBIT
99
FENSAO-Bayonne,N.J.

RCC0016

I could go on and on about the injustices in my case, but, I'd rather put it all behind me and rebuild my life. I'm hoping you can help me do this by assisting me in getting Executive Clemency. This would eliminate future parole supervision -which lasts until 2004 -and do away with the fine and restitution portion of my semence.

I read last week that The President granted clemency in 120 federal ~~criminal~~ cases. ~~I would be very surprised if many or any of those cases had a clemency request from the federal judge who presided over them.~~

Roger, ~~my ability~~ to rebuild my future depends on what you can get done. I know you will do all that you can. I so appreciate your taking the time and concern you already have in my situation. I look forward to hearing from you when you return from D.C.

My sincerest thanks,

John Ballis

November 21, 1994

Dearest President Clinton,

I hope you will seriously consider this plea for clemency.

I don't know what a "usual" case is in this matter, but I cannot believe it is usual for a federal judge, who was involved in the case, to request and recommend clemency.

This is a very unusual case. It involves continuing fraud and deception on the part of the United States Government.

John and I were married in 1989 – only after I was assured John's problems were over due to his plea bargain agreement with the government. As per the agreement, John pled guilty to a 2 year felony offense in exchange for information given to the government on several bank and S & L cases. John was sentenced to 2 years probation and 160 hours of community service.

John and I got on with our lives. We started a family – we have a 4-year old daughte Lacy, and a 1½-year old son, John, Jr.

Ten days after John fulfilled his probation and community service obligations, the government indicted him on the ve same information he had given them in ex for his plea bargain 4 years earlier.

EXHIBIT 100

RCC0022

This is obviously a "thumbnail-sketch" of the case.

I have met with Bruce Lindsey on this after. He can show you the documents and fill you in on the details. He can also tell you about Representative Jack Brooks' interest and involvement in the case.

I know this is not an easy one for you... but, I also know you can at least relate to it after what you've gone through with Whitewater.

I've had a tremendous admiration and respect for you for a long time — actually, ever since you turned one of my "tough" questions around on me during your first campaign for governor. You probably don't remember it, but I do — it taught me to do my homework.

I've done my homework on this. As you can well imagine, I've lived it for the last 5 years. It's just not right. The government shouldn't be allowed to make a deal without any intent of keeping it.

John Smith, a career government prosecuto testified in court that the assistant U.S. attor in John's case told him he planned to "trick" John from the start.

You would think that the court system would remedy such an injustice. In this case, it did not.

RCC0023

The judge called John Smith's testimony "reasonous" and ruled the jury wasn't allowed to hear any testimony about the government's trickery".

Now, You're the only one who can correct this powerful injustice.

I know you will do the right thing. It's just not fair for my children to grow up without a father because of government fraud and deceit.

I'm aware the demands on your time are overwhelming and if it were not for our friendship you'd probably never see this letter. However friendship aside, this situation is one that warrants your consideration.

I, of course, will understand whatever decision you make.

As always,

Joni

joni anderson-fallis
[redacted]

RCC0024

November 21, 1994

Dearest Bruce,

Things have gotten worse instead of better in John's case.

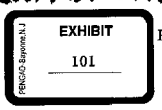
We lost the 5th circuit appeal and John's motion to stay out on bond pending his appeal to the Supreme Court has been denied.

There are, however, some "bright spots" in the case. United States Federal Judge Lynn Hughes, the judge who first heard John's plea and gave him 2 years probation and 160 hours of community service, has once again become involved in the case. He has written President Clinton a letter suggesting clemency. Representative Jack Brooks is also writing a letter to President Clinton on John's behalf.. a follow-up to his previous letter to OPR.

We are currently putting our clemency package together.

Time is critical. As it stands now, John will probably have to report to prison next week.

I would like to meet with you or President Clinth to fill you in on the latest developments in the case as well as seek your advice. I know how valuable your time is, so I can be available



RCC0025

to meet you at anytime or place - in or out of the office.
Please let me know if this is possible.
Thank you so much for your consideration.

As always -
joni

joni anderson-ballis
[redacted]

TEL: Dec 01,94 12:53 No.001 P.0

Roger the Dodger –

I can't tell you how much your help means to me – I'm sure you understand.

Here are the letters I sent to Bill and Bruce – along with the letter from the Federal Judge. Please ask Bill if he got the letter and also get any advice on how I should proceed with this. Mention to him that Prime Time Live is interested in doing a piece at this point (Rick Nelson is the contact there) – I'm sending them documents today.

Let me know what you find out ASAP. I know Christmas won't be easy for you this year, but I can't imagine Christmas without John

I love you, buddy!

Joan Anderson Ballis

[redacted]

Joni

EXHIBIT 102

RCC0021

October 28, 1994

The President
The White House
Washington, D. C. 20500

Re: John Addison Ballis

PENGAD-Bayonne,N.J.
EXHIBIT
103

Dear Mr. President:

I suggest that Ballis deserves clemency.

I do not comment directly on the merits of his case that may still be on appeal. Ballis was a crook. He appeared before me and pleaded guilty to a violation of federal banking laws. I found that the facts supported his admission. He was charged with borrowing on false grounds to assist the officers of a savings and loan association. At the time of his plea before me, he disclosed his wrong-doing in connection with the savings and loan association, whose offices were in the Eastern District of Texas rather than this district, the Southern. I felt then that Ballis's problems should have been over.

Later, he was charged in the Eastern District. He is still being investigated in this district. The government in this district has convinced another judge that Ballis breached his plea agreement; the putative breach was misstating a detail of the substantive transaction that he was convicted of before me. He has been sentenced to twelve and one-half years for violations that he had told the government about when he pleaded before me. The plea bargain should have covered all of the subsidiary entries that were used later as "new" charges.

All of this is bureaucratic manipulation. The banking collapse cost the government and the economy hundreds of billions of dollars. A small fraction of that loss was attributable to fraud, especially criminal fraud. Ballis is being ground to pieces by a system that wants statistics rather than actual solutions to the fraud losses. There is no social utility in continuing to prosecute Ballis. The only value he has is as a statistic for a "savings and loan case successfully prosecuted". That statistic then is used to justify staffing and funding.

Ballis was not a fiduciary of an association. He was a dumb-to-venal guy in business that got caught as a small player in a national disgrace. His small role is

being subdivided into numerous separate offenses that are then being prosecuted serially. He should pay for his crime, but he should not bear a disproportionate share of the burden of government's attempt to blame someone for the whole debacle.

There is more to justice than numbers. Ruthless over-reaction does not generate respect for law; it merely spreads fear of the government and destroys an individual.

Thank you.

Yours very respectfully,

Lynn N. Hughes

U.S. Department of Justice

Pardon Attorney

Washington, D.C. 20530

JAN 6 1995

The Honorable Lynn N. Hughes
Judge of the United States District Court
for the Southern District of Texas
515 Rusk Avenue
Houston, Texas 77002

Dear Judge Hughes:

This responds further to your letter of October 31, 1994, to the President concerning John Addison Ballis. White House Counsel Abner Mikva provided us with a copy of his letter to you of December 21, 1994.

As Mr. Mikva suggests, Mr. Ballis may apply for executive clemency after the conclusion of his judicial appeals. While executive clemency is an extraordinary remedy which is rarely granted, we will carefully consider Mr. Ballis' application if he decides to submit one. In this context we will certainly also take into account the concerns you have raised about the fairness of his sentence.

Thank you for writing to the President.

Sincerely,

Margaret Colgate Love
Pardon Attorney

EXHIBIT
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RCC0028

LOIS A. FRANCO
Criminal Justice Consultant

December 19, 1997

URGENT
TRANSMITTED VIA FAX TO 310.316.3236

Roger Clinton
[redacted]

Dear Roger:

Following your conversation with John Ballis yesterday, he called and asked that I prepare and send you a FAX in which information you'd asked for be provided. I hope this helps. . . .

John's Initial Parole Hearing was conducted this past Monday morning, December 16, by a Hearing Examiner of the United States Parole Commission, Sam Robertson. Prior to the hearing, per usual procedure, John was provided a copy of the PreHearing Assessment worksheet prepared in the usual course of business and prehearing preparation by another Commission staff member/ Hearing Examiner, Dorothy Beale, and thus learned that the preliminary rating of the severity of his offense was classified by her as "Category Seven", that is, an offense involving fraud/losses in excess of $5M or more. (As you can see in the text of the report I prepared and which follows this letter, we believed the fraud/losses should have been rated as Category Six severity for the reasons set forth in my report. Both United States Probation Officers who prepared reports in the cases which discuss the offense conduct agreed that the $3.1 M should be the loss figure, and even the prosecutor believed it was $4.6M. The critical point is that there was agreement that the fraud/losses figure was *less than $5M*, the threshold of the higher severity of the Commission's rules. Thus, we believed that the guidelines for parole were to be 40 to 52, rather than the 52 to 80 determined in the pre-review.)

As John told you, after the hearing began and Mr. Robertson listened to John's statement about the offense, Mr. Robertson concluded that the offense severity rating should be Category Six, in agreement with our position (and the USPOs' and prosecutor's), and so recommended to the Regional Commissioner. He further recommended that John be paroled from the parolable term to the non-parolable consecutive 30 month term on the date John becomes legally eligible (i.e., when he has served the required 1/3, or 40 months). Mr. Robertson's recommendation means he recognized that all together, John will serve a total of approximately 65 months in custody. That is 13 months *above the top* of the Category Six guidelines.

Now that the hearing has been held, additional reviewers will become involved. The Commission's rules provide that "the concurrence of two examiners, of a hearing examiner and the Executive Hearing Examiner, shall be required to obtain a panel recommendation to the

3555 South El Camino Real, Suite 305 • San Mateo, California 94403 • 415 / 574-8400

FRANCO-Exhibit.PJ
EXHIBIT
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Regional Commissioner. A panel recommendation is required in each case decided by a Regional Commissioner after the holding of a hearing."

[Important note: John Simpson (former Secret Service, Bush appointee) is the officially designated Regional Commissioner; Michael Gaines is the Chairman of the United States Parole Commission. In Mr. Simpson's absence, either the Chairman or the Vice Chairman/Chairman of the National Appeals Board (Edward Reilly - a Dole/Bush appointee) can and do perform "Regional Commissioner" functions on an "acting" basis.]

Now that the hearing has been completed, the process will now occur is as follows:

* Following the hearing, Mr. Robertson dictated the Hearing Summary which is sent to the Commission's office and is transcribed. It becomes the written record of the hearing. Although the hearing was taped, rarely are the actual tapes of the hearing considered during the review process. It is the Hearing Summary which subsequent reviewers (the next examiner or Executive Hearing Examiner, as well as the Commissioner) consider when deciding whether they agree or disagree with the recommendation Mr. Robertson has made.

* The dictation is returned to the Parole Commission's offices with the case file for transcription and review.

* When the dictated Hearing Summary is transcribed (usually is done within the week after the hearing) the case is assigned to the next Hearing Examiner for review and recommendation.

* When there are two concurring recommendations, the case file is passed to the Commissioner for review and final decision. Regardless of the recommendation of the Examiner panel, the Regional Commissioner may, on his own motion, 1) modify or reverse the recommendation of the panel that is outside the guidelines to bring the decision closer to (or to) the nearer limit of the appropriate guideline range, or 2) modify the recommendation of a panel to bring the decision to a date not to exceed six months from the date recommended by the panel. Thus, depending on the decision that actually reaches the Commissioner for final decision, he has some flexibility in making that final decision. (If the second examiner and Commissioner agree with Mr. Robertson's recommendation, this information is irrelevant. It is only if there is disagreement that this would become important!)

* The governing statute and Commission's rules provide that the Commission complete their review and decision within 21 days of the hearing.

* Upon completion of the Commissioner's review and order of parole, a Notice of Action recording and transmitting that decision to the prisoner is sent via FAX to the institution's records office, and is to be immediately passed on to the prisoner.

If the Chairman or the Regional Commissioner wishes to review John's case on an expedited basis, a priority must be placed on the transcription of the dictation of the Hearing Summary, to enable him to review Mr. Robertson's assessment and basis for his recommendation. If a expedited decision (as we hope for) is to occur, a request by either the RC or Chairman for an expedited assignment and review by the second Examiner is required. Unless this process is

expedited by request of either the RC or Chairman, it is highly unlikely there will be any decision until sometime into the first week in January.

Roger, I know you'll be on travel beginning tomorrow morning, but if you have any questions feel free to call me. While I have appointments away from my office beginning at noon, I plan (!) to return to my office late this afternoon; if I'm not here when you call, let me know where I can reach you and how late, etc., is acceptable.

Best wishes for a successful and enjoyable trip. As you can see by my report, I do believe that what we are asking for John is professionally responsible and well justified; concurrence of the Commission would be a wonderful outcome!

Thanks again for your help.

Very truly yours,

Lois A. Franco

Enclosure: Copy of text of my letter to Commission in support of parole, dated November 24, 1997

FAX: BALLIS to RC, Page 3 of 12 transmitted

Roger

1/15/98

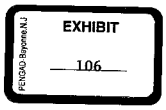
I finally got my copy of the Notice of Action - I was here the whole time - they just couldn't locate it - if you believe that bull shit

But, anyway, thought you might like to see the result of your help & work.

I can't thank you enough. I sure hope you meeting w/ Disney went OK & that you have a good trip to Korea.

I'll call you Tuesday -

Good luck



RCC0014

U.S. Department of Justice
United States Parole Commission
5550 Friendship Boulevard
Chevy Chase, Maryland 20815-7201

Notice of Action

Name: BALLIS, John Addison

Register Number: 59856-079 Institution: Beaumont FCC

In the case of the above-named, the following parole action was ordered:

Parole Effective after service of 40 months (3/26/98) to the consecutive non-parolable sentence.

THE ABOVE DECISION IS NOT APPEALABLE.

REASONS:

Your offense behavior has been rated as Category Six severity because you committed fraud causing loses in excess of $1,000,000 but less than $5,000,000. Your salient factor score (SFS-95) is 10. You have been in federal confinement as a result of your behavior for a total of 37 months as of 12/26/97. Guidelines established by the Commission indicate a range of 40-52 months to be served before release for cases with good institutional adjustment and program achievement. After review of all relevant factors and information presented, a decision outside the guidelines at this consideration is not found warranted.

SALIENT FACTOR SCORE (SFS-95): Your salient factor score items have been computed as shown below. For an explanation of the salient factor score items, see the reverse side of this form.

ITEM A[3]; B[2]; C[2]; D[1]; E[1]; F[1]; G[0] Total[10]

cc: U.S. Probation Officer
Southern District of Texas
Post Office Box 61207
Houston, TX 77208-1207

OPTIONAL FORM 99 (7-90)
FAX TRANSMITTAL # of pages ▸
To S. KAZ From N Lambaren
Dept./Agency CAMP Phone # [redacted]
Fax # [redacted] Fax #
NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

1998 JAN 14 P 12:15
FCC BEAUMONT-CAMP

Date: January 6, 1998 Clerk: dlw

EXHIBIT
107
PENGAD-Bayonne,NJ

Draft
Pending Clemency Matters
12-7-00

I. Commutations

Name	Offense	Significant Facts	Referred/Contacted by	Status
John Adamson			Rec by John Sweeney (AFL-CIO)	
Willie Mays Aikens	Cocaine distribution; firearm offense (sentenced to 248 months in 1994)	Substance abuse problem at time; arg that race played role b/c of crack v. powder	Former sports mgmt firm (was major league baseball player); Jim Harmon referred as well (no strong rec.)	Applied Spring 2000
John Ballis	Aiding and abetting all of the following: bank fraud; bank bribery; illegal participation; conspiracy to violate federal law; misapplication by S&L employee; false entries; obstruction of justice (sentenced in 1993 to 12 ½ years and ordered to pay $4.5 M restitution; paroled in 1999)	Pled guilty to one count of making a false statement and helped convict another S&L person; later prosecuted again, for offenses he argues were covered by the original plea agreement; disparate sentencing arg.; sentencing judge who presided over plea agreement supports clemency	Atty, Don Clark of Houston, dropped of papers personally; BRL?	Applied November 2000
Ron Blackley	Failing to disclose income on SF 278; sentenced by Judge Lamberth in 1998 to 27 months (to be released	Was COS to Sec'y Espy; prosecuted by IC investigating Espy	Harvey Joe Sanner and Mrs. Blackley have contacted our ofc., POTUS was approached and asked that we respond	Applied in October 2000

PENGAD-Bayonne,N.J
EXHIBIT
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	10/16/2001)			
Kenneth Michael Conley	Perjury; obstruction of justice; sentenced to 34 months in 1998	Policeman who said he didn't witness an attack by a white police officer on an undercover black police officer	Cong. Moakley advocated commutation in Fall 1999; nothing to WH since	Never applied
Billy Wayne Cox	Bank fraud (filing false loan documents) -- $600K in restitution	Primary argument is humanitarian – daughter recently committed suicide; acc. to OPA there isn't much else	Friend of Hal Hunnicutt; POTUS asked us to check out	Pending; applied June 2000
Linda Sue Evans	Three convictions: harboring a fugitive and possessing a weapon as a felon (S.D. NY) (1985) (5 years); making false statements to purchase (4) firearms (LA) (1985) (30 years); conspiracy to bomb govt bldgs (US Capitol bombing) (DC) (5 years). Has served 15 years (has completed NY & DC sentences and is serving only LA sentence)	Obtained BA in prison, is working on master's degree; acc. to NY prosecutor, no evidence she committed violent acts, but knew it was a potential consequence of her actions; arg is that other members of capitol bombing conspiracy are now out (but unclear whether they had add'l convictions)	LA sentencing judge, NY prosecutor rec release; CBC members recommended release on parole (1996); "Release 2000" campaign (Ogletree et al)	Pending
Fernando Fuentes-Coba	Conspiracy to violate Trading with the Enemy Act/Cuban Assets Control regulations (1982)	Never reported to serve one-year sentence; lives in Mexico. Convicted for transporting goods (app. minor – 4 soda machines, other equipment, food,	Daughter is Vivian Mannerud (AR); Joe Velazquez spoke to POTUS who asked that we look into.	Just applied; application forwarded to OPA.

		perfume) to Cuba.		
Dorothy Gaines	Conspiracy with intent to distribute crack cocaine, possession with intent to distribute crack cocaine (1995) (sentenced to 19 years 7 months and 5 years supervised release)	Similar to other "girlfriend" drug sentencing cases; then-boyfriend was driver for drug ring; kingpin sentenced to 12 years; sentencing judge does not object.	Sentencing judge does not object; Release 2000 campaign (others?)	Pending at OPA
Bob Griffin			Fmr. Cong. Alan Wheat;	Commutation denial pending here
Peter MacDonald				Commutation denial pending here. Navajo Nation has been discussing possible transfer w/ BOP; if issues w/AZ govt are worked out transfer shd occur. Nation still advocating for his release.
Howard Mechanic	Violating anti-riot act (threw bomb in Viet Nam war demonstration)	Did not report to serve sentence; changed identity; decided to run for city council under fake name; was discovered –currently serving sentence for ID fraud (lying to get SS card)	Missouri state legislators; Sen. Durbin	Petition pending; OPA suggests BOP route if we consider
Michael Monus	Conspiracy, mail fraud, wire fraud, bank fraud, transportation of stolen property (checks) (1999) (sentenced to 139		Monte Friedkin (to BRL)	Applied August 2000

	months' imprisonment, $500,000 fine, and 5 years' probation).			
Oscar William Olson	Illegal monetary transactions involving criminally derived property; sentenced to 121 months; $10M restitution (1997)	73 years old; many health problems	Son is head of Random House; referred by Pat Schroeder through JDP	Applied November 2000; case closed b/c he decided to appeal

Leonard Peltier	Murder of a federal official (1977); escape (1980); felon in possession of firearm (1980); sentenced to two consecutive terms of life imprisonment on murder charge, plus seven more (consecutive) for escape and firearms charges			Denial pending here
Don Pennington	Aiding and abetting in mail fraud and aiding and abetting in engaging in monetary transaction (June 23, 1997) (E.D. Arkansas). Sentenced to 48 months' imprisonment, $25,000 fine, and 2 years' supervised release.		Jerry W. Davis, Chairman, President, and CEO of Affiliated Foods Southwest (Little Rock, AR).	Application filed Oct. 23, 2000.
Mel Reynolds			Significant Congressional interest; may be possible to transfer	Could use clemency power to xfer to halfway house; OLC to report on whether POTUS can direct AG to xfer (possible statutory impediment)
Dorothy Rivers	Misappropriation of govt funds (HUD?) (has served 30 months of a 70 month sentence)		Cong. Bobby Rush; Rev. Jesse Jackson	No application
Noah Robinson		?? relative of Jesse Jackson		Pending; applied in

Draft

Susan Rosenberg	Conspiracy to receive and possess unreg. Firearms; unlawful possession of destructive devices; unlawful possession of sawed-off shotgun; unlawful possession with intent to use false ID; unlawful transportation of explosives (Pto Rican independence, black power activist) 1985 (given 58 year sentence)	Allegation she's been unfairly denied parole based upon alleged but unprosecuted offense	Jerry Nadler, "Release 2000 campaign" (law profs incl. Ogletree)	Pending; applied in August 2000
Donald R. Smith	Conspiracy to manufacture methamphetamine (1995). Sentenced to 102 months' imprisonment.	Requests that he be allowed to participate in the Bureau of Prisons' Voluntary 500-Hour Residential Drug Treatment Program, and—assuming his successful completion of it—to receive a one-year reduction of his sentence.	John William Simon	
Kemba Smith	Conspiracy to distribute cocaine (1995) (sentenced to 24.5 years' imprisonment).	Sentenced to 24.5 years for participation in boyfriend's drug ring	Many Congressional, other recommendations/inquiries	Pending
Harvey Weinig	Conspiracy to commit money laundering; criminal forfeiture; misprision of felony		Rep. By Reid Weingarten; JDP	

Draft

II. Pardons

Name	Offense	Significant Facts	Referred/Contacted by	Status
Garran Barker	Wire fraud Bank fraud 1986	Co-defendant of Carl David Hamilton (pardoned by POTUS) – granted state pardon by then-Gov Clinton contingent on federal pardon	self	Applied July 2000
Charles Besser	2 counts of Mail fraud Pled Guilty 4 years probation $2,000 fine restitution of $62,000 450 hours of community service	Acting as a lawyer incorporated a company and handled various transactions for said company that was eventually found to have overbilled $1,000,000. Company's co-founders pointed to Mr. Besser as the mastermind thereby for reduced sentences.	Eleanor Mondale called BRL	April 1999
Mario Biaggi	Racketeering, conspiracy, extortion, bribery, gratuity, mail fraud, and perjury (1998). Sentenced to 8 years' imprisonment, $242,000 fine, and $350,000		Cong. Rangel has inquired about; JDP has been contacted as well	Pending; OPA likely to rec denial

	restitution.			
Harlan Richard Billings	Conspiracy to posses marijuana with intent to distribute; sentenced in 1985 to three years' probation, 200 hrs. community svc., and fined $5K	Atty reports that U.S.Atty and presiding judge (as well as other law enforcement officers in area) support pardon	Contacted by Severin Beliveau; George Mitchell	Denied by POTUS in 1998 (DOJ had recommended favorably)
Bill Borders	Convicted of offering bribe to Alcee Hastings (who was acquitted then impeached) sentenced in 1982 to 20 years (served 31 months)	Is now counsel to Cong. Earl Hilliard	Significant Cong. Interest, particularly CBC; Martin Luther King III and other religious orgs	Applied March 2000 (shd be to DAG soon)
Preston Bynum	1. Bribery concerning programs receiving federal funds (1995). 2. False declaration before a grand jury (1997). 1. Sentenced to 24 months' imprisonment. 2. Sentenced to 24 months' imprisonment and $25,000 fine.	Bynum caused Stephens to pay off loans for a Florida county official (whose board awarded municipal bonds to Stephens); then was convicted for lying to grand jury investigating bribes.	Support from Arkansans including Jim Pledger, Beverly and Burton Elliott, Joe Yates, Tommy Robinson, Bill Lancaster; new mailing includes Gov. Huckabee, Marion Berry, Jimmie Lou Fisher	Applied May 1999; OPA told him he was out of time New application mailed to our ofc. December 4, 2000 BRL??
Thomas Kimbel Collinsworth			Recommended by Floris Tatom	Pending; applied October 2000
Harley Cox			Support from Jay Bradford	Pending; applied December 2000
Marsha Louisa Dickson	Sentenced in 1995		Recommended by Floris Tatom; (relative of POTUS?) Hasn't applied;	Has not applied

			MC explained process to F. Tatom and had forms sent; not sure why no app.	
Irving Drobny	Aiding and abetting securities fraud (1983)	Seeks pardon so conviction won't interfere with insurance underwriting business; also for forgiveness (is 65+ and has health problems)	Sheldon Drobny to BRL	Applied June 1999
William Dennis Fugazy	Perjury (1997). Sentenced to 2 years' probation and $2,400 fine.		Eliot Spitzer, Attorney General of New York Rep. Charles B. Rangel	pending
Philip Grandmaison	Mail fraud (guilty plea) (sentenced to one year and one day) 1996	As Alderman, recused self from a contracting decision but lobbied and gave extremely small gifts to other Aldermen; have hundreds of letters of reference	Joe Grandmaison's brother; has also spoken to Bill M.; contacted by Severin Beliveau	Applied August 2000; OPA told them they were premature
Steven M. Griggs			Daley McDaniel strongly supports; acc. To McDaniel, Roger Clinton also supports	Pending at OPA ??
John Haley	Aiding and abetting in the willful failure to provide information; sentenced to 3 years' probation, $40K restitution; $30K fine(1998)			
Walter G. Hall,		Waiver of 5 yr.	James P. Simpson, attorney	Application filed May 6,

Jr.		requirement denied.	for Mr. Hall	1999.
J.R. "Rick" Hendrick	Mail fraud (1997) (sentenced to one year home detention, probation, fine) (as Honda dealer, gave gifts to Honda execs to get preferential dealership rights and access to vehicles)	Has leukemia; extensive community/charitable involvement, incl. Starting fndtn to find marrow donors, esp. minorities; very successful car dealer and has big NASCAR racing operation	Many North Carolinians have written, incl. Jim Hunt; Lt.Gov. Dennis Wicker; Hugh McColl; E.D. of N.C. Bar Assn; Harvey Gantt; Sue Myrick; Pat McCrory (mayor of Charlotte); JDP; POTUS has asked about (approached by Jim Hunt)	Applied recently; OPA hasn't decided whether to consider out of time
David Herdlinger	Mail fraud (1986) (sentenced to three years' imprisonment)(as the City Attorney for Springdale, AR, and Municipal Judge for Johnson, AR, solicited and accepted payments from individuals charged in Springdale with driving while intoxicated. In return, he dismissed or reduced the charges against the defendants.	Sen. Hutchinson, former Sen. Pryor; Ed Matthews recommend	David Matthews recommends; POTUS interested in granting	BRL?? We have summary denial recommendation from DOJ.
Judd Blair Hirschberg	Mail Fraud (sentenced to 3 years probation 1993)	Prosecuted for conspiring with friend to defraud insurance co.; he says friend actually stole his car. Seeks pardon to resume commodities trading. Also has been disciplined for trading impropriety.	Brother of Jeff Hirschberg, who sent to BRL	Pardon; pending at DAG

?	Marty Hughes	Aiding and abetting falsification of union records; aiding and assisting in submission of false docs to IRS; causing the filing of false docs with Dept. of Labor (sentenced to 5 years probation; fine; prohibition on service in union position)	Pardon denied by POTUS in 1995; US Atty, sentencing judge oppose	Current petition supported by Dick Celeste, Judge George White; Judge Thomas Lambros, Judge Henry Woods; John Sweeney (AFL-CIO) POTUS has been asked about	Pending here – we have a denial recommendation BRL?
?	*Stanley Pruet Jobe*	Bank fraud, conspiracy to commit bank fraud (TX) 1997 (probation only; first month in ½ way house, then 5 mos. Home detention)	Seeks clemency for forgiveness and b/c of negative effects of conviction on business	Silvestre Reyes; JDP	Applied 2000 Pending
?	*Kimberly A. Johns*	Possession of firearm w/no serial number (approx. 1985)	Earlier application denied in 1995; has since rec'd medal of valor for saving a man drowning in a flood; seeks pardon to obtain visas so he can travel for his business	Cong. David Wu; rep'd by Brian Busey;	Current App. Filed in April 1998; pending at OPA
	Mark Johnson			Son of Floyd Johnson; rec. by James Baker of Dept. of Ag. (Arkansan?)	No application
?	*Ruben H. Johnson*	Bank fraud; sentenced in 1989 to 8 years, served 5 ($4.6M in restitution)	Arg. that regulators were aware of and approved activity for which he was convicted – and evidence wasn't admitted at trial	Lady Bird Johnson; Jake Pickle; Walter Cronkite; Liz Carpenter; POTUS interested	Applied Feb. 1999; pending
	Larry Killough	Distributing controlled	First petition denied by	Medical director of Wilbur	Applied October 2000

	substance for non-medical purpose; sentenced to 20 months and fined $40K (paid in full) (1985)	POTUS; as Gov., BC granted pardon conditioned on removal of federal firearm disabilities	Mills rehab center in Searcy; sent app. Through Kay Goss	
Russell Wayne Lee	Conspiracy to commit mail fraud; sentenced to 20 months (1986) (billed city of Little Rock for legal services never rendered – approx. $20K)	Prior application denied in December 1998; seeks pardon to return to practice of law; rec'd conditional pardon from then-Gov BC; firearms privs have been restored	Jay Bradford, Sandra Hicks King, Ray Jacks support;	OPA not processing b/c premature
Salim Bonnor "Sandy" Lewis	Violating §10(b) of the Securities Exchange Act and SEC margin and record-keeping regulations; sentenced in 1989 to three years' probation and fined ~$250K		Represented by Douglas Eakeley and Nicholas Katzenbach	Applied March 2000; shd be expedited
John Francis McCormick	Racketeering (charged along w/several Boston police officers w/ shaking down night club owners); served just over a year in prison plus home detention (1987)	Now traveling secretary for Boston Red Sox;	Rep by Tom Dwyer	Pending at DAG (denial)
Ari Merretzzon	Bank robbery (incarcerated approx. 30 years)		Philip K. Lyon	No application pending
Michael Milken	Securities fraud; aiding and abetting securities fraud; assisting in filing			Applied October 2000

	false tax return; sentenced to 10 years in prison (reduced to 34 months) and fined $200M			
Charles W. Morgan	Distribution of cocaine; sentenced to three years (1984)	Fully admits mistake – related to substance abuse problem at time (since overcome); has volunteered to help others with substance abuse problems (AA and NA); sentencing judge recommends pardon; extensive driving record, and several business-related lawsuits	Rep.by Bill Kennedy; George Billingsley (father) requests; POTUS interested in granting	Pending at OPA
Walter L. Nixon	Impeached	Was acquitted of criminal charges, but then impeached; has been reinstated to MS bar	John Coale (?)	Just arrived here as rec denial BRL?
David C. Owen	Filing false tax return (involved improper political contribs); sentenced to one year and one day and fined $6K 1993		Jim Hamilton client Seeks pardon to hunt	Applied June 2000
Robert William Palmer	Conspiracy to make false statements; sentenced to 3 years' probation and fined $5K (1995) (worked at appraisal company that gave		Catlett firm (John Yancey)	Applied September 2000

	backdated appraisals to Madison Guaranty S&L)			
Peggy Potter	Charge based on scheme to defraud the federal government of tuition (Ms. Potter was supplied with a tower and wind study report that was 95% identical to her doctoral thesis by Dr. Walter Frost, a full-time professor and Chairman of the Department of Engineering Science and Mechanics at the U. of Tennessee Space Institute and owner of FWG Associates, a private atmospheric science research firm. In turn, she improperly assisted FWG in contract assistance.		Brian DeWyngaett, Executive Assistant to the National President of the American Federation of Government Employees (via Karen Tramontano).	No application pending
Hobart O. Pardue, Jr.	Willfully making and subscribing a false tax return (June 16, 1995) Sentenced to 3 years' probation, $20,000 fine,	Waiver of 5 yr. requirement denied by OPA on June 21, 1999.		Application filed February 5, 1999.

	and restitution of taxes due.			
Edmund Reggie	Bank fraud (1995)	Asked for a waiver of regulatory waiting period due to ill health	Rep'd by daughter, Victoria Reggie Kennedy	Application withdrawn
Dan Rostenkowski	Mail fraud (1996); sentenced to 17 months in prison and fined $100K		Cong. John Lewis recommends	No application pending
Otha Anthony Smith	Fraud and false statements under 26 U.S.C. 7206 (1) (1997) Sentenced to 3 years' probation.	Supporter claims many jobs will be lost in AR if Smith can not travel internationally for his business	C.C. Barnett	pending
Jim Guy Tucker	Two cases: "Hale" case (sentence completed and restitution paid); Tax case (will be on probation 2 ½ more years)	Charged by the Whitewater Independent Counsel; severe health problems; args he is actually innocent	Attorneys for Mr. Tucker, Stanley M. Brand and Margaret Colgate Love	No application pending at DOJ.
Dan Walker	Bank fraud; perjury; executing false financial statements (1987); sentenced to seven years' imprisonment (reduced to 18 months) and five years' probation, including 500 hrs.	Former governor of IL	Dale Bumpers contacted BRL	Application pending at DOJ

	community service			
Thomas Andrew Warrant	Conspiracy to import marijuana (shortly after being admitted to the Florida Bar, stopped by U.S. Coast Guard en route to Columbia from Florida to purchase marijuana; agents found $41,500 in U.S. currency and approx. $1,500 in pesos on board). (December 8, 1975) Sentenced to 18 months' imprisonment.	Previous pardon request denied in 1997.		No application pending at DOJ.
Thomas K. Welch and David R. Johnson	Not yet convicted; indicted for conpiracy, violations of Travel Act, mail fraud, wire fraud, deprivation of honest services (mail fraud), and aiding and abetting	Indicted for giving gifts to members of Int'l Olympic Cmte in order to get winter games in Salt Lake City; charges based on Utah commercial bribery statute	Rep'd by Bill Taylor	
Harrison Williams	Bribery (?)	Former Senator; ABSCAM		Application pending
Jack Weinstein			Sen. Harry Reid (contacted our ofc. and POTUS)	In DAG's ofc.
Jack Williams	Making a false statement (to FBI) (1998) Fined $5K	Convicted by IC investigating Mike Espy; co-defendant of Archie Schaffer	Character affiants are Dale Bumpers, John Breaux, Billy Tauzin	Applied; does OPA have?

Ask DW:

Thomas Bhatka			Martha Heguewood (to Beurrie)	
Regener Boards	Unfavorable pardon recommendation-1995			
Gregory Crosby	Favorable Pardon Recommendation 2000			
Kenneth Dausterman	Favorable Pardon recommendation 1999			
Thomas Tony George	Please see note			
Joseph Lett			John Saxon Brian Greenspun	
William R. McGuire	Recommended pardon December 14, 1999		Rep. Miller; Sen. Boxer et al.	
Allen L. McMurrey II	Seeking a pardon Breaking into a post office box; possession of counterfeit devices; dealing counterfeit U.S. Treasury Checks; forging US Treasury checks Pled not guilty Sentenced to 27 months in jail; 3 years probation; $300 fine; $1,700 restitution	He felt he was entrapped. Takes full responsibility for his actions; seeking pardon for professional reasons only.	Rep. Patrick Kennedy (his cousin)	
Joseph Stone	Seeking a pardon. Criminal Action #1536 Sentenced to: 5-10 years at Wyoming State Prison	He claims he was unknowingly intoxicated from a Dr.'s prescription. In addition, he claims he	Skip Rutherford	N/A

Draft

	Served: 3 yrs. 8 months	had inadequate legal counsel.		
Frank Vennes	Seeking a Pardon. Conspiracy to launder money (guilty). Sale to nonrresident by firearms dealer (nolo contendere); use of telephone to facilitate drug transaction (nolo contendere). 5 years imprisonment restitution: $100,000	Was being investigated by an undercover IRS agent for money laundering. While in Switzerland to deposit $100,000 from agent, he lent it to his Swiss lawyer who said he needed it for an insurance premium, promising to repay it in two or three days. It was never repaid. The agent told Mr. Vennes that he was a member of the Chicago underworld and would have his family killed if Vennes didn't return the money. To recoup the loss, Mr. Vennes tried to sell firearms and drugs.	John D. Raffaelli (to BRL) Sen. Reid	
Dan Walker			Dale Bumpers	
Melvin Williams	Seeking a pardon. Statutory Rape, charged on July 30, 1959 2 years probation Fined $100	He claims that when the woman he was dating at the time that he was going to marry another lady, she told her family he raped her.	Bob Nash	

Draft
December 17, 2000

MEMORANDUM FOR THE PRESIDENT

FROM: BETH NOLAN
BRUCE LINDSEY
MEREDITH CABE

SUBJECT: Executive Clemency

Except where noted, the Department of Justice has not forwarded its recommendation to you in the following cases. We nonetheless recommend you consider granting clemency to these individuals.

1. Commutations



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NAME/DISTRICT	OFFENSE	RATIONALE	RECOMMENDED ACTION
John Ballis E.D. Texas (1997) S.D. Texas (1990 and 1993) Age: 53	Aiding and abetting all of the following: bank fraud; bank bribery; illegal participation; conspiracy to violate federal law; misapplication by S&L employee; false entries; obstruction of justice. Three convictions: 1. 1990 (S.D. TX) orig. plea agreement. 2 years' probation and community svc. 2. 1993 (S.D.TX) sentenced to 150 months 3. 1997 (E.D. TX) sentenced to 41 months (concurrent) (Began serving in 1994. Paroled in 1999. 4 years remain of sentence. Owes bulk of $250K fine and $4.5M restitution)	Pled guilty to one count of making a false statement and helped convict another S&L person; later prosecuted twice more, for offenses he argues were covered by the original plea agreement. Sentencing judge who presided over plea agreement supports clemency, agrees that conduct shd have been covered by orig. plea agreement.	
Dorothy Gaines S.D. Alabama (1995) Age: 42	Conspiracy with intent to distribute crack cocaine, possession with intent to distribute crack cocaine. Sentenced to 235 months' imprisonment and 5 years' supervised release.	Was involved in a relationship with a drug courier. Despite minor role, received a sentence twice the average sentence of more substantial participants in drug conspiracy. Only evidence of participation by petitioner in specific transaction was one-time delivery of small amount of crack cocaine, and tolerance of boyfriend's activity (occasionally in her home). Sentencing judge does not object.	
Bob Griffin	Bribery and mail fraud	Seeks commutation to	

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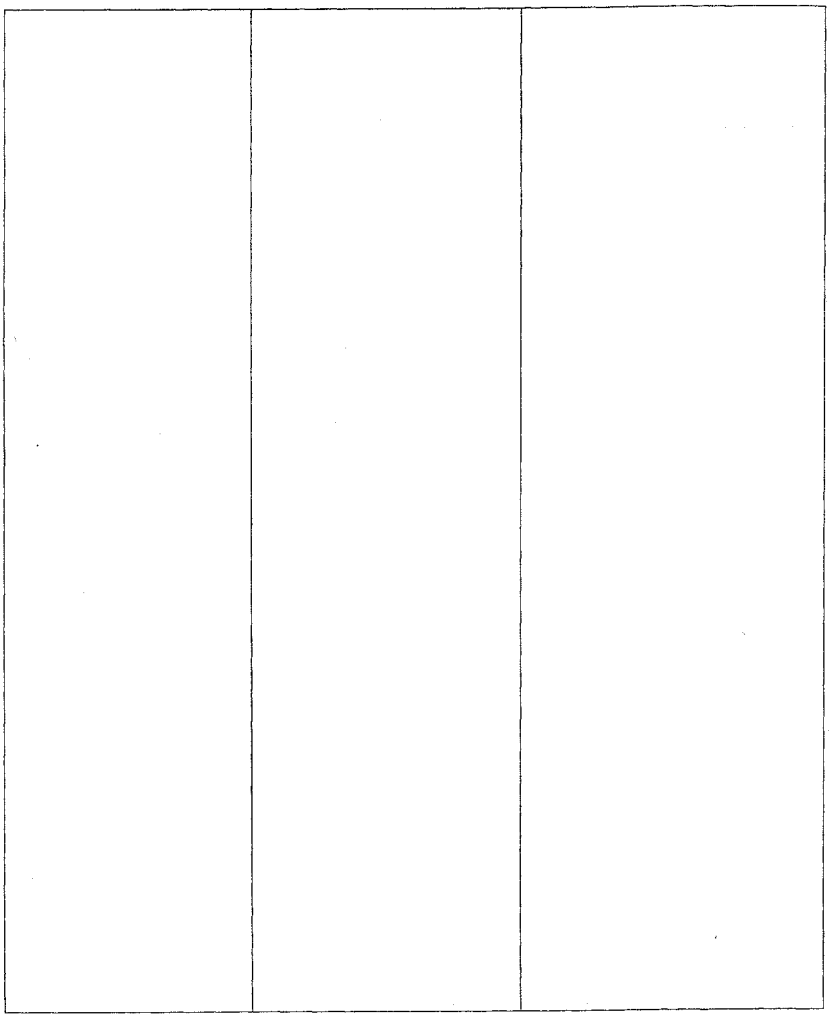
W.D. Missouri (1997) Age: 65	(as Speaker of Missouri House of Representatives, received money from co-defendant (a consultant and lobbyist) in exchange for his steering clients to her) Sentenced to 48 months and 1 day in prison, three years' supervised release, and fined $7,500. Projected for release in July 2001.	allow him to care for wife, who is immobilized and unable to speak following a stroke; admits wrongdoing and expresses sincere remorse; former Rep. Alan Wheat, all Democratic members of Missouri Senate, at least 20 members of Missouri House of Representatives, former Sen. Thomas Eagleton, Rep. Pat Danner, and other state and local officials from Missouri support clemency. Note: The Deputy Attorney General recommends against clemency.	
Peter MacDonald			
Kemba Smith E.D. Virginia (1994) Age: 29	Conspiracy to distribute and possess with intent crack cocaine; conspiracy to launder money; making false statements to a federal agent. Pled guilty. Sentenced to 294 months' imprisonment and five years' supervised release.		
Harvey Weinig S.D.N.Y. (1996) Age: 52	Conspiracy to commit money laundering; misprision of felony. Sentenced to 135 months' imprisonment, three years' supervised release, and criminal forfeiture. Has served 56 months of his sentence.	The U.S Attorney for the Southern District of New York opposes commutation.	

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II. Pardons

NAME/DISTRICT	OFFENSE	RATIONALE
Garran Barker E.D. Arkansas (1986) Age: 44	Conspiracy to commit wire fraud. Sentenced to 20 months, reduced to 15 months. Released December 1987.	

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Charles Besser		
Harlan Richard Billings (?)		
Charles Boggs (?) E.D. Arkansas (1977) Age: 74	Receipt of stolen motor vehicle that was part of interstate commerce. Sentenced to 60 days in jail, 22 months' probation, and fined $1500.	
Bill Borders S.D. Florida (1982) Age: 61	Convicted of offering bribe to Alcee Hastings (who was acquitted, then subsequently impeached). Sentenced to 5 years' imprisonment on four counts, to run concurrently, and fined $35,000.	
Ernest Harley Cox (?) E.D. Arkansas (1991) Age: 70	Conspiracy to defraud a federally insured S&L; misapplication of federally insured funds. Sentenced to 36 months (reduced to 16 months) and fined $70,000.	
Irving Drobny W.D. Texas (1983) Age: 66	Aiding and abetting securities fraud. Sentenced to four years' imprisonment.	
Philip Grandmaison D. New Hampshire (1996) Age: 50	Mail fraud. Sentenced to one year and one day.	
Rick Hendrick W.D. N.C. (1997) Age: 51	Mail fraud. Sentenced to three years' probation, with the condition of home detention for twelve months, fined $250,000, and	Suffers from CML, a rare form of leukemia.

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	ordered to pay restitution.	
David Herdlinger W.D. Arkansas (1986) Age: ? – no application	Mail fraud. Sentenced to three years' imprisonment.	
Judd Blair Hirschberg		
Marty Hughes		
Ruben H. Johnson		
Larry Killough		
Salim Bonnor Lewis (?)		
Charles W. Morgan		
Archibald Schaffer III		
Thomas Andrew Warren		
Jack Weinstein		

DECISION:

GRANT AS RECOMMENDED: _____

DENY: _____

DISCUSS: _____

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Draft
December 20, 2000

MEMORANDUM FOR THE PRESIDENT

FROM: BETH NOLAN
BRUCE LINDSEY
MEREDITH CABE

SUBJECT: Executive Clemency

Except where noted, the Department of Justice has not forwarded its recommendation to you in the following cases. We nonetheless recommend you consider granting clemency to these individuals.

I. Commutations

NAME/DISTRICT	OFFENSE	RATIONALE	RECOMMENDED ACTION
John Ballis E.D. Texas (1997) S.D. Texas (1990 and 1993) Age: 53	Aiding and abetting all of the following: bank fraud; bank bribery; illegal participation; conspiracy to violate federal law; misapplication by S&L employee; false entries; obstruction of justice. Three convictions: 1. 1990 (S.D. TX) orig. plea agreement. 2 years' probation and community svc. 2. 1993 (S.D.TX) sentenced to 150 months 3. 1997 (E.D. TX) sentenced to 41 months (concurrent) (Began serving in 1994. Paroled in 1999. 4 years remain of sentence. Owes bulk of $400K in fines and $4.5M restitution)	Pled guilty to one count of making a false statement and helped convict another S&L person; later prosecuted twice more, for offenses he argues were covered by the original plea agreement. Sentencing judge who presided over plea agreement supports clemency, and agrees that all conduct shd have been covered by orig. plea agreement.	Commute remaining period of sentence of confinement (for which he is currently paroled), and remit fine, leaving intact the obligation to pay restitution.

CLINTO
PHO

PERGAD-Bayonne,N.J.

EXHIBIT
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Dorothy Gaines S.D. Alabama (1995) Age: 42	Conspiracy with intent to distribute crack cocaine, possession with intent to distribute crack cocaine. Sentenced to 235 months' imprisonment and 5 years' supervised release. Has served approx. 6 ½ years; projected for release in 2012.	Was involved in a relationship with a drug courier. Despite minor role, received a sentence twice the average sentence of more substantial participants in drug conspiracy. Only evidence of participation by petitioner in specific transaction was one-time delivery of small amount of crack cocaine, and tolerance of boyfriend's activity (occasionally in her home). Sentencing judge does not object to commutation.	Commute sentence to time served, leaving intact the period of supervised release.
Bob Griffin W.D. Missouri (1997) Age: 65	Bribery and mail fraud (as Speaker of Missouri House of Representatives, received payments from co-defendant (a consultant who lobbied the legislature) in exchange for his steering business to her). Sentenced to 48 months and 1 day in prison, three years' supervised release, and fined $7,500. Projected for release in July 2001.	Admits wrongdoing and expresses sincere remorse; seeks commutation to allow him to care for wife, who is immobilized and unable to speak following a stroke; former Rep. Alan Wheat, all Democratic members of Missouri Senate, at least 20 members of Missouri House of Representatives, Sen. Thomas Eagleton, Rep. Pat Danner, former Missouri Supreme Court Chief Justice Albert Rendlen, and other state and local officials from Missouri support clemency. Note: the Deputy Attorney General recommends against clemency.	Commute sentence to time served, leaving intact period of supervised release and any remaining financial obligations.

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Peter MacDonald D. Arizona (1992 & 1993) Age: 71	1.Racketeering; racketeering conspiracy; extortion by an Indian tribal official; mail fraud; wire fraud; interstate transportation in aid of racketeering. 2. Conspiracy to commit kidnapping, third degree burglary. 1. Sentenced to 60 months' imprisonment and three years' supervised release; fined $10,000; ordered to pay $1,500,000 restitution to the Navajo Nation; and required to pay $800 in felony assessments. 2. Sentenced to 175 months' imprisonment and five years' supervised release; fined $5,000; ordered to pay $4,431.03 restitution to the Navajo Nation; and required to pay $100 in felony assessments. Projected for release in October, 2005.	Petitioner suffers from serious health problems; impt. to Navajo spiritual tradition for petitioner to be on land sacred to tribe; petition has received substantial support from the Navajo community, including the Navajo Code Talkers Association; Navajo Nation Tribal Council has pardoned petitioner; has support of Senators Domenici, Bingaman, and Goldwater, Representative Udall, and President Carter. Note: the Deputy Attorney General recommends against clemency.	Commute sentence to time served, leaving intact period of supervised release and any remaining financial obligations.

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Kemba Smith E.D. Virginia (1994) Age: 29	Conspiracy to distribute and possess with intent to distribute crack cocaine; conspiracy to launder money; making false statements to a federal agent. Sentenced to 294 months' imprisonment and five years' supervised release. Has served 6 years 3 months; projected for release in 2016.	Minor role in offense, committed because involved in abusive relationship with drug dealer (petitioner was of college age at time). Because boyfriend was killed, petitioner lost the opportunity to cooperate with authorities and receive a lesser sentence. Extremely lengthy sentence disproportionate to minor role. Support from numerous groups and individuals, include Kurt Schmoke, Representatives Clyburn and Cummings (on behalf of CBC), and the NAACP Legal Defense Fund.	Commute sentence to time served, leaving intact period of supervised release.
Harvey Weinig S.D.N.Y. (1996) Age: 52	Conspiracy to commit money laundering; misprision of felony (extortion scheme involving kidnapping). Assisted law partner in processing wire transfers for partner's client (who he later discovered was a drug dealer). Sentenced to 135 months' imprisonment, three years' supervised release, and criminal forfeiture of house and other assets. Has served 56 months of his sentence (scheduled for release in 2006).	More culpable co-defendants, including the law partner who directed the kidnapping, received shorter sentences and have been released. Note: the Deputy Attorney General recommends against clemency.	Commute to 108 months? Since he agreed in guilty plea range should be 108-135 months?

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II. Pardons

NAME/DISTRICT	OFFENSE	RATIONALE
Garran Barker E.D. Arkansas (1986) Age: 44	Conspiracy to commit wire fraud. (As account executive, participated in illegal scheme to transfer funds into an investment account.) Sentenced to 20 months, reduced to 15 months. Released December 1987.	Since offense, petitioner has led law-abiding and productive life. Recently granted pardon to co-defendant, Carl David Hamilton; as governor, granted conditional state pardon. Successor to victim bank does not object. Petitioner expresses deep remorse; very involved in community; favorable character recommendations, including from Bill Bowen, state rep. Mary Anne Salmon.
Charles Boggs E.D. Arkansas (1977) Age: 74	Receipt of stolen motor vehicle that was part of interstate commerce (purchased stolen bulldozer). Sentenced to 60 days in jail, 22 months' probation, and fined $1500.	Remoteness and minor nature of offense. Since conviction has led law-abiding and productive life; favorable character references; expresses remorse; seeks restoration of civil rights so that he can once again hunt.

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Bill Borders S.D. Florida (1982) Age: 61	Conspiracy to corruptly solicit and accept money for influencing the official acts of a federal district judge (Alcee Hastings) and to defraud the United Stated in connection with performance of lawful government functions. Obstruction of justice and aiding and abetting obstruction of justice. Traveling interstate with intent to commit bribery. (Convicted of attempting to influence then-Judge Alcee Hastings.) Sentenced to 5 years' imprisonment on four counts, to run concurrently, and fined $35,000. (Released on parole after 31 months).	Since conviction, has led stable, productive, and law-abiding life. Now serving as general counsel to Rep. Earl Hilliard. Very favorable character recommendations, including from National Bar Association, Congressional Black Caucus, Dean Bullock of Howard Law School, Reps. Hilliard and Thompson, Martin Luther King, III, and Walter Fauntroy, President of National Black Leadership Roundtable. Accepts responsibility and expresses sincere remorse; active involvement in community service. Note: the Deputy Attorney General recommends against clemency.
Ernest Harley Cox E.D. Arkansas (1991) Age: 70	Conspiracy to defraud a federally insured S&L; misapplication of federally insured funds. (As director of FirstSouth, borrowed $25.2 M through his companies and used funds to purchase delinquent FirstSouth loans, resulting in preparation of false loan documents containing overstated bank income.) Sentenced to 36 months (reduced to 16 months) and fined $70,000.	Favorable character references, including Louis Ramsey, Jay Bradford. Offense appears to be aberration in otherwise law-abiding life; active involvement in community. Seeks pardon to regain law license and to hunt.
Irving Drobny W.D. Texas (1983) Age: 66	Aiding and abetting securities fraud. (Participated in illegal transaction through which corporation's funds were used to allow petitioner's associate to obtain controlling interest in same corporation.) Sentenced to four years' imprisonment.	Remoteness of offense. Seeks pardon to avoid adverse effects of conviction on current employer, a regulated insurance company. Honorable service in U.S. Army. Involved in charitable activities. Offense appears to be aberration in otherwise law-abiding life. Expresses remorse.

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Philip Grandmaison D. New Hampshire (1996) Age: 50	Mail fraud. (As Alderman, recused self from contracting decision involving his employer and lobbied and gave extremely small gifts, such as paying for a golf game and restaurant gift certificates, to other Aldermen). Sentenced to one year and one day.	Offense appears to be aberration in otherwise law-abiding life. Extensive community involvement, including strong commitment to public service. Accepts responsibility and expresses sincere remorse.
J. R. "Rick" Hendrick W.D. N.C. (1997) Age: 51	Mail fraud. (As Honda dealer, gave gifts to Honda executives to get preferential dealership rights and access to vehicles.) Sentenced to three years' probation, with the condition of home detention for twelve months, fined $250,000, and ordered to pay restitution.	Suffers from CML, a rare form of leukemia. Extensive involvement in community and charitable activities, particularly with regard to illnesses like leukemia, including funding efforts to locate and encourage minority marrow donors. Very favorable character references, including Governors Jim Hunt and Mike Easeley, Harvey Gantt, Mayor Pat McCrory of Charlotte, and Rep. Sue Myrick. Expresses genuine remorse.
David Herdlinger W.D. Arkansas (1986) Age: 51	Mail fraud. (As City Attorney for Springdale, AR, and Municipal Judge for Johnson, AR, accepted payments from individuals charges with driving while intoxicated in return for reducing or dismissing charges.) Sentenced to three years' imprisonment.	Has lived stable, law-abiding life since conviction; very favorable character references, including Senators David Pryor and Tim Hutchinson, David Matthews, and Ed Matthews. Note: the Deputy Attorney General recommends denial.

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Judd Blair Hirschberg N.D. Illinois (1991) Age: 48	Mail fraud. (Prosecuted for conspiring with friend to defraud insurance company by falsely claiming car was stolen; petitioner claims friend stole car.) Sentenced to three years' probation and ordered to pay restitution of $20,000. (Probation terminated early).	Offense appears to be an aberration in otherwise law-abiding life. Seeks pardon to resume career as commodity trader (lost CFTC registration after conviction). Actively involved in community and charitable endeavors. Note: the Deputy Attorney General recommends denial.
Marty Hughes N.D. Ohio (1987) Age: 80	Aiding and abetting the falsification of union records; aiding and assisting in the preparation and submission of false documents to the IRS; causing the filing of false reporting documents with the Department of Labor. (Engaged in scheme where false expense and wage vouchers were submitted to Communication Workers of America; cash was then directed to political candidates and campaign workers.) Sentenced to five years' probation, ordered to pay a $10,000 fine, and prohibited for 13 years from serving in a union position or with a union-sponsored employee benefit plan.	Remoteness of offense, from which petitioner did not profit personally; since conviction, has lived productive, law-abiding life. Decorated for his service in Army during World War II. Very favorable character references, including President Carter, Senators Glenn and Metzenbaum, Governor Voinovich, Ambassador Celeste; Judges George White, Thomas Lambros, and Henry Woods; and Morton Bahr, president, CWA. Seeks pardon for forgiveness and to have civil rights restored. Note: the Deputy Attorney General recommends denial of clemency in this matter.

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Ruben H. Johnson W.D. Texas (1989) Age: 70	Theft and misapplication of bank funds by a bank officer or director. (While CEO and Chairman of a bank and owner of bank building, required tenants, including bank, to use contracting company which then made payments to petitioner.) Sentenced to eight years' imprisonment (released after five years) and five years' probation, with a condition of 500 hours of community service. Fined $65,000 and ordered to pay restitution of $4,566,298.	Petitioner argues that prosecution was unusual because the practice was common. Very favorable character references, including from Lady Bird Johnson, Congressmen Jake Pickle, Gary Mauro, Walter Cronkite, Dr. Ruth Bain, and Liz Carpenter. Accepts responsibility and expresses remorse. Note: the Deputy Attorney General recommends against clemency.
Larry Killough E.D. Arkansas (1985) Age: 65	Distributing controlled substance for non-medical purpose. (As physician, wrote prescriptions for demerol for non-medical purposes.) Sentenced to 20 months' imprisonment and fined $40,000.	Remoteness of offense, which appears to be isolated event in otherwise law-abiding life; active in church and community activities. As Governor, you gave petitioner conditional pardon. Accepts responsibility and expresses sincere remorse. DEA has reinstated petitioner's license to prescribe controlled substances. Seeks pardon to be able to hunt with sons.

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Salim Bonnor Lewis S.D.N.Y. (1989) Age: 61	Violating Section 10(b) of the Securities and Exchange Act. (In order to prevent the now-illegal practice of short selling prior to a secondary offering and stabilize price of stock, authorized an individual to purchase large amount of stock and promised to cover any attendant losses.) Sentenced to 3 years' probation and fined $250,150 (paid in full).	Petitioner did not stand to profit personally from offense, which was designed to thwart short-selling of stock. Extensive community and charitable activities, with particular emphasis on schools and at-risk youth, including the Orthogenic School of the University of Chicago, a residential facility for emotionally disturbed children, of which petitioner is an alumnus. Favorable character references, including from Douglas Eakley, Dr. Bruno Bettelheim, Expresses deep regret and seeks pardon to ameliorate stigma of conviction.
Charles W. Morgan W.D. Arkansas (1984) Age: 44	Conspiracy to distribute cocaine. Sentenced to three years' imprisonment.	Remoteness of offense; petitioner fully admits mistake, related to substance abuse problem he has since overcome. Has lived stable, productive live since offense. Judges Jimm Larry Hendren and Franklin Waters (sentencing judge) submitted character affidavits supporting pardon. Involved in community, including volunteering with AA and NA and speaking to church and youth groups.

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PETITION FOR COMMUTATION OF SENTENCE

Print or type legibly

Relief sought: *(check one)*
☒ Reduction of Prison Sentence Only ☐ Reduction of Prison Sentence and Remission of Fine
☐ Remission of Fine Only ☐ Other_____

TO THE PRESIDENT OF THE UNITED STATES:

PETITIONER, Steven Michael Griggs, a Federal prisoner, Reg. No. 22276-044, confined in the Federal Institution at FTC, Oklahoma City, Ok., in seeking a commutation of sentence, states that he was born on [redacted], [redacted] and has Social Security No. [redacted]. (If not a United States citizen, indicate country of citizenship:_____.)

PETITIONER was convicted on a plea of Guilty (guilty, not guilty, nolo contendere) in the United States District Court for the Eastern District of Missouri of the crime of: conspiracy to manufacture and possess 100 grams or more of a substance containing a detectable amount of methamphetamine-a violation of Title 21, U.S.C. § 841(a).

(Describe the offense(s) of which you were convicted; provide citation of statute(s) violated, if known.)

involving the following circumstances: In 1990, Griggs provided his codefendant (Bruce Harington), with the funds by which to obtain listed chemicals with which to manufacture methamphetamine. Methamphetamine was manufactured on several occasions.

(Describe accurately what you did, including your role in the offense.)

and was sentenced on September 23, 1994, to imprisonment for 292 months (length of sentence) and/or to pay a (☐ fine ☐ restitution) of $ n/a (check one - do not include special assessment) and/or to supervised release or special parole for 60 months (length of sentence) and/or to probation for n/a (length of sentence).

My (☐ fine ☐ restitution) (☐ has ☐ has not) been paid; the balance owed is $ n/a.

PETITIONER began the service of his sentence on January 2, 1994. He will be released from confinement on September 5, 2013. If eligible for parole, he (☐ was ☐ will be) eligible on n/a, n/a, and his application for parole was (☐ granted ☐ denied).

April 1994

FENCAD Bayonne, NJ

EXHIBIT
111

If your conviction or sentence was appealed or otherwise challenged, complete the following paragraph:

PETITIONER appealed to the United States Court of Appeals, where the judgment was affirmed on November 30, 1995. A petition for a writ of certiorari (☐ was ☒ was not) sought from the Supreme Court, and (☐ granted ☐ denied) on n/a, 19___. Petitioner (☐ did ☐ did not) challenge his conviction or sentence under 28 U.S.C. §2255 (habeas corpus). (Provide citations to court opinions, if known: 71 F.3d 276 (8th Cir. 1995); No. 4:97cv780DJS.)

In this paragraph, list every arrest, either as a juvenile or an adult, whether or not resulting in a conviction. For each incident list date, nature of offense charged, law enforcement authority involved, location, and disposition, if known.

PETITIONER'S criminal record, other than the instant offense, is as follows:

(1) 12/21/89 Attempted burglary of a building, arrested by Fort Worth P/D on 12/21/89, pled nolo contendere on 9/15/92, placed on 6 months probation, discharged on 3/14/93; (2) in 1989 or 1990, Griggs was arrested at his residence by Fort Worth P/D for possession of a firearm, charges were dismissed as no law was violated.

PETITIONER respectfully prays that he be granted clemency for the following reasons:

See Attached Memorandum in Support of Steven Michael Griggs' Petition for Commutation of Sentence.

The statements contained herein are true to the best of my knowledge and belief, and I understand that any misstatements of material fact contained herein may subject me to criminal prosecution and/or cause adverse action on my petition for executive clemency.

June 20, 2000
Date

Steven Michael Griggs
Signature of Petitioner

If space is insufficient, additional pages may be added. Letters and/or other supporting material may be submitted with petition.

Northern Cherokee Nation
518 E Hwy 7
Clinton, MD 64735

Copy of Cabe Policies

1-3-1

The White House
C/o The Ushers Office
ATTN: Roger Clinton
1600 Pennsylvania Ave.
Washington, DC 20500

CLINTON LIBRARY
PHOTOCOPY

EXHIBIT
112

1992 ... 071

PETITION FOR PARDON AFTER COMPLETION OF SENTENCE

Please read accompanying instructions carefully before beginning. Typewrite or print the answers in ink. Each question must be answered fully, truthfully, and accurately. If the space for any answer is insufficient, petitioner may complete answer on a separate sheet of paper and attach it to the petition. Submission of material, false information is punishable by imprisonment of up to five years and a fine of not more than $250,000. 18 U.S.C. §§ 1001 and 3571.

TO THE PRESIDENT OF THE UNITED STATES: NOV 23 1993

The undersigned petitioner prays for a pardon and in support thereof states as follows:

1. Full name: PHILLIP (First) DAVID (Middle) YOUNG (Last)

Address: [redacted] (Number, Street) (City) [redacted] (State) [redacted] (Zip Code)

Telephone Number (include area code): ([redacted]

Social Security No: [redacted] Date and place of birth: [redacted] LITTLE

Sex: M Height: 5'11" Weight: 200 Hair Color: BLK Eye Color: BROWN

Are you a United States citizen? ☑ yes ☐ no If not, state nationality and give alien registration number: _____. If naturalized U.S. citizen, furnish date and place of naturalization: _____

State in full every other name by which you have been known, including name under which you were convicted, the reason for the use of another name, and the dates during which you were so known (for example, include your maiden name, name(s) by a former marriage(s), alias(es), and nickname(s)).

_____

RECEIVED DEPT OF JUSTICE 93 NOV 23 PARDON ATTORNEY

Offense(s) For Which Pardon Is Sought

2. Petitioner was convicted on a plea of GUILTY (guilty, not guilty, nolo contendere) in the United States District Court for the WESTERN (Northern, Western, etc.) District of LOUISIANA (identify state) of the crime of: 16 USC § 3372 (a)(2)(A) & 16 USC § 3373 (d)(1)(B) (Describe specific offense)

and was sentenced on AUGUST 20, 1992 to ☑ imprisonment for 10 MONTHS, ☑ probation for 3 YEARS, ☐ a fine of $ 0, and/or ☑ restitution of $ 50.00 assessment (suspended/released)

Petitioner was 38 years of age when the offense was committed.

3. Petitioner began service of the sentence of ☑ imprisonment ☐ probation on NOV 23, 1992 was released on JULY 23, 1993 from MILLINGTON NAVAL AIR STATION (Federal Institution); and was finally discharged by expiration of sentence on (HALFWAY HOUSE) SEPT 23, 1993. Petitioner ☐ did ☑ did not appeal the conviction.

Indicate the date(s) on which the fine, restitution or special assessment was paid. If the fine, restitution, or assessment have not been paid in full, explain why. If appealed, please provide the date of decision(s) by the Court of Appeals and, if applicable, the Supreme Court. Please also provide citations to any published judicial opinion(s) or a copy of unpublished opinion(s). (An optional continuation page is provided.)

_____

_____

_____

United States Department of Justice
Office of the Pardon Attorney
Washington, D.C. 20530

PENGAD-Bayonne, N.J.

EXHIBIT 113

4. Give a complete and detailed account of petitioner's offense(s), including dates (or time span) of the offense, names of codefendants and, when applicable, amount of money involved. Petitioner is expected to describe the factual basis of her/his offense completely and accurately and not rely on criminal code citations or name references only. If the conviction resulted from a plea agreement, petitioner should describe fully the extent of her/his total involvement in the criminal transaction(s), in addition to the charge(s) to which she/he pled guilty.

Petitioner was charged with two counts of illegally transporting across State lines 3,882 Crappie, a federally protected fish in violation of Louisiana Wildlife statutes. Said value of the federally protected game fish was in excess of $3500. Petitioner owned a fish restaurant in North Little Rock, Arkansas and was transporting them for the purpose of sale at his restaurant. Petitioner never plead guilty to Count II and was sentenced to imprisonment for a period of ~~two~~ ten months

Prior and Subsequent Criminal Record

5. Have you ever been arrested, taken into custody, held for investigation or questioning, or charged by any law enforcement authority, whether federal, state, local or foreign, either as a juvenile or adult for any incident, aside from the offense for which pardon is sought? ☐ yes ☑ no

For each incident list date, nature of charge, factual circumstances, law enforcement authority involved, location, and disposition. You must list every violation, including traffic violations that resulted in an arrest or criminal charge; for example, driving under the influence. Any omission will be considered a falsification. (An optional continuation page is provided if necessary.)

Biographical Information

6. Current marital status: ☐ Never Married ☐ Married ☑ Divorced ☐ Widowed ☐ Separated
For each marriage give the following: name of spouse, date and place of spouse's birth, date and place of marriage, and, if applicable, date and place of divorce, and current or last known address and telephone number of each former spouse:

REBECCA JANE MCDANIELS — [redacted] — LITTLE ROCK
name of spouse — *date/place of birth*

full address including Zip code — *telephone number, including area code*

GRANBRIER, AR. AUG 18, 1973 — AUGUST 18, 1993 — LITTLE ROCK
date/place of marriage — *date/place of divorce*

name of spouse — *date/place of birth*

full address including Zip code — *telephone number, including area code*

date/place of marriage — *date/place of divorce*

7. List your children by name and furnish date and place of birth for each:
(If you do not have custody of any minor children, indicate whether you pay child support.)

PAUL BRADY MICHELLE — [redacted] — LITTLE ROCK
name of child — *date/place of birth*

PHILLIP DAVID II — [redacted] — LITTLE ROCK
name of child — *date/place of birth*

name of child — *date/place of birth*

8. List the complete address of all schools you have attended since your conviction, beginning with the most recent and working backward. Indicate the type of degree/diploma received and give the name of an instructor, counselor, or other school official who knew you well. (An optional continuation page is provided if necessary.) NONE

School	*From (month/year)*	*To (month/year)*
Number and Street	*Degree*	*Month/year awarded*
City	*State*	*Zip Code*
Name of school official	*Telephone number of school official*	

Residences

9. List every place you have lived since the conviction, beginning with the present and working back. *(All periods must be accounted for below.)* List the physical location of your residence; do not use a post office box as an address. If you lived in an apartment complex, list your apartment number. (An optional continuation page is provided if necessary.)

Date you moved to your present address (month/year): 90	*Number and Street* [redacted]		*Apartment Number*
	City [redacted]	*State* [redacted]	*Zip Code* [redacted]

From (month/year):	*Number and Street*		*Apartment Number*
To (month/year):	*City*	*State*	*Zip Code*

From (month/year):	*Number and Street*		*Apartment Number*
To (month/year):	*City*	*State*	*Zip Code*

Employment History

10. List all periods of employment and unemployment since the conviction, beginning with the present and working backward. List all full and part-time work, self-employment, and periods of unemployment. For each period of unemployment, indicate your means of support. (An optional continuation page is provided.)

Present Employer: DOROTHY YOUNG d/b/a CATFISH YOUNG'S			Telephone (include area code): 501 945-5902
Date you began this employment (month/year):	Number and Street: 3415 E. 3RD STREET		
	City: NORTH LITTLE ROCK	State: AR	Zip Code: 72114
Type of business: RESTAURANT	Position: MANAGER	Supervisor: NONE	Supervisor's telephone number: SAME

Employer			Telephone (include area code)
Began (month/year):	Number and Street		
Ended (month/year):	City	State	Zip Code
Type of business	Position	Supervisor	Supervisor's telephone number

Employer			Telephone (include area code)
Began (month/year):	Number and Street		
Ended (month/year):	City	State	Zip Code
Type of business	Position	Supervisor	Supervisor's telephone number

(a) Since the conviction, have you been fired or left a job following allegations of misconduct or unsatisfactory job performance? ☐ yes ☑ no

(b) Have you failed to list the conviction, or any other arrest or conviction, on any employment or other application where requested to list such information? ☐ yes ☑ no

If you answered yes to either of the above questions, explain fully below. An optional continuation page is provided.

Substance Abuse and Mental Health Information

11. (a) Have you ever used any illegal drug or abused prescription drugs or alcohol? ☐ yes ☑ no
If you answered yes, on a separate sheet identify the drugs used, the dates of use, and the frequency of use.

(b) Have you ever been involved in the illegal sale or distribution of drugs? ☐ yes ☑ no
If you answered yes, on a separate sheet provide complete details and dates of your involvement.

(c) Have you ever sought or participated in counseling, treatment, or a rehabilitation program for drug use or alcohol abuse? ☐ yes ☑ no
If you answered yes, on a separate sheet specify the dates of treatment or counseling, and provide the name, full address, and telephone number of the treatment facility and of the doctor, counselor or other treatment provider.

(d) Have you ever consulted with a mental health professional (psychiatrist, psychologist, or counselor) or with another health care provider concerning a mental health-related condition? ☐ yes ☑ no
If you answered yes, on a separate sheet specify the dates of treatment and the name, full address, and telephone number of the counselor/treatment provider.

AUTHORIZATION FOR RELEASE OF INFORMATION

Carefully read this authorization to release information about you, then sign and date it in ink.

I authorize any investigator, special agent, or other duly accredited representative of the Federal Bureau of Investigation, the Department of Defense, and any authorized Federal agency, to obtain any information relating to my activities from schools, residential management agents, employers, criminal justice agencies, retail business establishments, or other sources of information. This information may include, but is not limited to, my academic, residential, achievement, performance, attendance, disciplinary, employment history, and criminal history record information.

I understand that, for financial or lending institutions, medical institutions, hospitals, health care professionals, and other sources of information, a separate specific release will or may be needed, and I may be contacted for such a release at a later date.

I further authorize the Federal Bureau of Investigation, the Department of Defense, and any other authorized agency, to request criminal record information about me from criminal justice agencies for the purpose of determining my suitability for a government benefit.

I authorize custodians of records and sources of information pertaining to me to release such information upon request of the investigator, special agent, or other duly accredited representative of any Federal agency authorized above regardless of any previous agreement to the contrary.

I understand that the information released by records custodians and sources of information is for official use by the Federal Government only for the purposes provided in this form, and may be redisclosed by the Government only as authorized by law.

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for three (3) years from the date signed.

Signature (sign in ink) Phillip Young		
Full Name (type or print legibly) PHILLIP DAVID YOUNG		*Date Signed* 11/3/98
Other Names Used		
Street Address [redacted]		
City [redacted]	*State* [redacted]	*ZIP Code* [redacted]
Home Telephone Number (include area code) [redacted]	*Social Security Number* [redacted]	

PETITION FOR PARDON AFTER COMPLETION OF SENTENCE

Please read accompanying instructions carefully before beginning. Typewrite or print the answers in ink. Each question must be answered fully, truthfully, and accurately. If the space for any answer is insufficient, petitioner may complete answer on a separate sheet of paper and attach it to the petition. Submission of material, false information is punishable by imprisonment of up to five years and a fine of not more than $250,000. 18 U.S.C. §§ 1001 and 3571.

TO THE PRESIDENT OF THE UNITED STATES:

The undersigned petitioner prays for a pardon and in support thereof states as follows:

1. Full name: Joseph (First) Jerome (Middle) McKernan, Jr. (Last)

Address: [redacted] (Number) (Street) (City) (State) (Zip Code)

Telephone Number (include area code): _____

Social Security No. [redacted] Date and place of birth: [redacted] Baton Rouge, LA

Sex: M Height: 6'2" Weight: 205 Hair Color: Brn Eye Color: Brn

Are you a United States citizen? ☒ yes ☐ no If not, state nationality and give alien registration number: _____. If naturalized U.S. citizen, furnish date and place of naturalization: _____

State in full every other name by which you have been known, including name under which you were convicted, the reason for the use of another name, and the dates during which you were so known (for example, include your maiden name, name(s) by a former marriage(s), alias(es), and nickname(s)).

"Jay" -- Nickname since childhood

Offense(s) For Which Pardon Is Sought

2. Petitioner was convicted on a plea of guilty (guilty, not guilty, nolo contendere) in the United States District Court for the Eastern (Northern, Western, etc.) District of Louisiana (identify state) of the crime of: violation of the Federal Controlled Substances Act (Describe specific offense)

and was sentenced on July 17, 1984 to ☒ imprisonment for one (1) year, special parole ~~☐ probation~~ for three (3) years, ☐ a fine of $0, and/or ☐ restitution of $0.

Petitioner was 24 years of age when the offense was committed.

3. Petitioner began service of the sentence of ☒ imprisonment ☐ probation on or about 8/1, 1994; was released on May 9, 1985 from F.C.I. Ft. Worth (Federal institution); and was finally discharged by expiration of sentence on 5/8, 1988. Petitioner ☐ did ☒ did not appeal the conviction.

Indicate the date(s) on which the fine, restitution or special assessment was paid. If the fine, restitution, or assessment have not been paid in full, explain why. If appealed, please provide the date of decision(s) by the Court of Appeals and, if applicable, the Supreme Court. Please also provide citations to any published judicial opinion(s) or a copy of unpublished opinion(s). (An optional continuation page is provided.)

Petitioner does not recall any fine being ordered and believes the special assessment statute had not taken effect at the time of his offense.

PENSAD-Bayonne,N.J

EXHIBIT
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4. Give a complete and detailed account of petitioner's offense(s), including dates (or time span) of the offense, names of codefendants and, when applicable, amount of money involved. Petitioner is expected to describe the factual basis of her/his offense completely and accurately and not rely on criminal code citations or name references only. If the conviction resulted from a plea agreement, petitioner should describe fully the extent of her/his total involvement in the criminal transaction(s), in addition to the charge(s) to which she/he pled guilty.

See Attachment #1

Prior and Subsequent Criminal Record

5. Have you ever been arrested, taken into custody, held for investigation or questioning, or charged by any law enforcement authority, whether federal, state, local or foreign, either as a juvenile or adult for any incident, aside from the offense for which pardon is sought? ☐ yes ☐ no
For each incident list date, nature of charge, factual circumstances, law enforcement authority involved, location, and disposition. You must list every violation, including traffic violations that resulted in an arrest or criminal charge; for example, driving under the influence. Any omission will be considered a falsification. (An optional continuation page is provided if necessary.)

See Attachment #1

Biographical Information

6. Current marital status: ☐ Never Married ☑ Married ☐ Divorced ☐ Widowed ☐ Separated

For each marriage give the following: name of spouse, date and place of spouse's birth, date and place of marriage, and, if applicable, date and place of divorce, and current or last known address and telephone number of each former spouse:

Tora Tilbury McKernan	[redacted]	Pasadena, California
name of spouse	*date/place of birth*	
[redacted]	[redacted]	[redacted]
full address including Zip code		*telephone number, including area code*
August 2, 1993	N/A	
date/place of marriage	*date/place of divorce*	
Sharon Palmer	unknown	
name of spouse	*date/place of birth*	
unknown		unknown
full address including Zip code		*telephone number, including area code*
1988, Baton Rouge, LA	1988, Baton Rouge, LA	
date/place of marriage	*date/place of divorce*	

7. List your children by name and furnish date and place of birth for each:

(If you do not have custody of any minor children, indicate whether you pay child support.)

Kaitlyn Jane McKernan	[redacted]	San Clemente, CA
name of child	*date/place of birth*	
Joseph J. McKernan III	[redacted]	San Clemente, CA
name of child	*date/place of birth*	
name of child	*date/place of birth*	

8. List the complete address of all schools you have attended since your conviction, beginning with the most recent and working backward. Indicate the type of degree/diploma received and give the name of an instructor, counselor, or other school official who knew you well. (An optional continuation page is provided if necessary.)

School N/A	*From (month/year)*	*To (month/year)*
Number and Street	*Degree*	*Month/year awarded*
City	*State*	*Zip Code*
Name of school official	*Telephone number of school official*	

Residences

9. List every place you have lived since the conviction, beginning with the present and working back. *(All periods must be accounted for below.)* List the physical location of your residence; do not use a post office box as an address. If you lived in an apartment complex, list your apartment number. (An optional continuation page is provided if necessary.)

Date you moved to present address (month/year): 5/98	*Number and Street* [redacted]		*Apartment Number*
	City [redacted]	*State* [redacted]	*Zip Code* [redacted]

From (month/year): 8/96	*Number and Street* [redacted]		*Apartment Number*
To (month/year): 5/98	*City* [redacted]	*State* [redacted]	*Zip Code* [redacted]

From (month/year): 5/94	*Number and Street* [redacted]		*Apartment Number*
To (month/year): 8/96	*City* [redacted]	*State* [redacted]	*Zip Code* [redacted]

Employment History

10. List all periods of employment and unemployment since the conviction, beginning with the present and working backward. List all full and part-time work, self-employment, and periods of unemployment. For each period of unemployment, indicate your means of support. (An optional continuation page is provided.)

Present Employer: McKernan Law Firm			Telephone (include area code): 504-926-1234
Date you began this employment: (month/year): 5/98	Number and Street: 8710 Jefferson Highway		
	City: Baton Rouge	State: LA	Zip Code: 70809
Type of business: law firm	Position: investigator	Supervisor: Jerry McKernan	Supervisor's telephone number: 504-926-1234

Employer: Local Grounds Coffee House			Telephone (include area code): 816-507-9119
Began (month/year): 8/96	Number and Street: 430 SW Ward		
Ended (month/year): 4/98	City: Lee's Summit	State: MO	Zip Code: 64081
Type of business: coffee house	Position: owner	Supervisor: N/A	Supervisor's telephone number: N/A

Employer: Golf & Travel International			Telephone (include area code): 714-489-7802
Began (month/year): 1/94	Number and Street: 35031 Camino Capistrano		
Ended (month/year): 8/96	City: Capistrano Bch	State: CA	Zip Code: 92624
Type of business: publishing	Position: Dir. of Sales	Supervisor: Jay Jenks	Supervisor's telephone number: 714-248-2369

(a) Since the conviction, have you been fired or left a job following allegations of misconduct or unsatisfactory job performance? ☐ yes ☒ no

(b) Have you failed to list the conviction, or any other arrest or conviction, on any employment or other application where requested to list such information? ☐ yes ☒ no

If you answered yes to either of the above questions, explain fully below. An optional continuation page is provided.

Substance Abuse and Mental Health Information

11. (a) Have you ever used any illegal drug or abused prescription drugs or alcohol? ☒ yes ☐ no

If you answered yes, on a separate sheet identify the drugs used, the dates of use, and the frequency of use. Please see Attachment No. 1

(b) Have you ever been involved in the illegal sale or distribution of drugs? ☒ yes ☐ no

If you answered yes, on a separate sheet provide complete details and dates of your involvement.
Please see Attachment No. 1

(c) Have you ever sought or participated in counseling, treatment, or a rehabilitation program for drug use or alcohol abuse? ☒ yes ☐ no

If you answered yes, on a separate sheet specify the dates of treatment or counseling, and provide the name, full address, and telephone number of the treatment facility and of the doctor, counselor or other treatment provider. Please see Attachment No. 1

(d) Have you ever consulted with a mental health professional (psychiatrist, psychologist, or counselor) or with another health care provider concerning a mental health-related condition? ☐ yes ☒ no

If you answered yes, on a separate sheet specify the dates of treatment and the name, full address, and telephone number of the counselor/treatment provider.

CONTINUATION PAGE #1

Optional Continuation Page for
Petition for Pardon After Completion of Sentence

Residences

From (month/year):	Number and Street	Apartment Number
10/91	[redacted]	
To (month/year):	**City**	**State** / **Zip Code**
5/94	[redacted]	

From (month/year):	Number and Street	Apartment Number
8/90	[redacted]	
To (month/year):	**City**	**State** / **Zip Code**
9/91	[redacted]	

From (month/year):	Number and Street	Apartment Number
7/89	[redacted]	
To (month/year):	**City**	**State** / **Zip Code**
8/90	[redacted]	

From (month/year):	Number and Street	Apartment Number
8/87	[redacted]	
To (month/year):	**City**	**State** / **Zip Code**
7/89	[redacted]	

Employment History

Employer			Telephone (include area code)
Pacific Golf Club			949-498-6004
Began (month/year):	**Number and Street**		
5/93	200 Avienda la Palata		
Ended (month/year):	**City**	**State**	**Zip Code**
12/93	San Clemente	CA	92672
Type of business	**Position**	**Supervisor**	**Supervisor's telephone number**
golf club	night food & bev. dir.	Mike (??)	

Employer			Telephone (include area code)
In treatment at Mainstream			
Began (month/year):	**Number and Street**		
2/93			
Ended (month/year):	**City**	**State**	**Zip Code**
5/93	San Clemente	CA	
Type of business	**Position**	**Supervisor**	**Supervisor's telephone number**

Employer			Telephone (include area code)
Orange Inn Cafe			(out of business)
Began (month/year):	**Number and Street**		
7/91	14872 Sand Canyon Rd.		
Ended (month/year):	**City**	**State**	**Zip Code**
1/93	Irvine	CA	92718
Type of business	**Position**	**Supervisor**	**Supervisor's telephone number**
cafe	Gen. Mgr.	John Jobe	

Employer			Telephone (include area code)
Rent-A-Chef			714-642-1900
Began (month/year):	**Number and Street**		
6/90	West 19th St.		
Ended (month/year):	**City**	**State**	**Zip Code**
7/91	Costa Mesa	CA	92627
Type of business	**Position**	**Supervisor**	**Supervisor's telephone number**
catering	sales	Hugo Hunsicker	

CONTINUATION PAGE #2

Optional Continuation Page for
Petition for Pardon After Completion of Sentence

Residences

From (month/year):	Number and Street	Apartment Number
6/85	[redacted]	
To (month/year):	**City**	**State**	**Zip Code**
8/87	[redacted]	[redacted]	[redacted]

From (month/year):	Number and Street	Apartment Number
5/84	[redacted]	
To (month/year):	**City**	**State**	**Zip Code**
6/85	[redacted]	[redacted]	[redacted]

From (month/year):	Number and Street	Apartment Number
To (month/year):	**City**	**State**	**Zip Code**

From (month/year):	Number and Street	Apartment Number
To (month/year):	**City**	**State**	**Zip Code**

Employment History

Employer			Telephone (include area code)
Five Points Bar & Grill			714-848-5463
Began (month/year):	**Number and Street**		
1/90	Beach Blvd.		
Ended (month/year):	**City**	**State**	**Zip Code**
6/90	Huntington Bch	CA	92648
Type of business	**Position**	**Supervisor**	**Supervisor's telephone number**
cafe	Gen. Mgr	Ron (???)	

Employer			Telephone (include area code)
Gourmet Productions			(out of business)
Began (month/year):	**Number and Street**		
6/87	Magnolia Ave.		
Ended (month/year):	**City**	**State**	**Zip Code**
12/89	Buena Park	CA	90621
Type of business	**Position**	**Supervisor**	**Supervisor's telephone number**
catering	Dir. of Sales	John Williams	

Employer			Telephone (include area code)
Sports Science Industries			(out of business)
Began (month/year):	**Number and Street**		
6/85	S. Croddy Way		
Ended (month/year):	**City**	**State**	**Zip Code**
6/87	Santa Ana	CA	92704
Type of business	**Position**	**Supervisor**	**Supervisor's telephone number**
fitness equipment	Dir. of Sales	Scott Waggoner	714-489-7802

Employer			Telephone (include area code)
MCKernan LLaw Firm			504-926-1234
Began (month/year):	**Number and Street**		
5/84	8710 Jefferson Highway		
Ended (month/year):	**City**	**State**	**Zip Code**
6/87	Baton Rouge	LA	70809
Type of business	**Position**	**Supervisor**	**Supervisor's telephone number**
law firm	investigator	Jerry McKernan	504-926-1234

Civil and Financial Information

12. (a) Are you in default or delinquent in any way in the performance or discharge of any debt or obligation imposed upon you? ☐ yes ☒ no

(b) Since the conviction, have any liens (including federal or state tax liens) or any lawsuits been filed against you, or have you filed for discharge of your debts in bankruptcy? ☐ yes ☒ no

(c) Do you have pending any judicial or administrative proceedings with the federal, state, or local governments? ☐ yes ☒ no

If you answered yes to any question, explain fully on the optional continuation page.

Military Record

13. (a) Have you ever served in the armed forces of the United States? ☐ yes ☒ no

Dates of service:_____ Branch(es):_____

Serial numbers:_____ Type of discharge:_____

Decorations (if any):_____

If other than honorably discharged, specify type and circumstances surrounding your release(s) (use optional continuation page) and attach copy of your separation papers (Form DD-214.

(b) While serving in the armed forces, were you the recipient of non-judicial punishment or the defendant in any court-martial? ☐ yes ☐ no

If yes, state fully the nature of the charge, relevant facts, disposition of the proceedings, the date thereof, and the name and address of the authority in possession of the records thereof. If you were convicted of an offense by court-martial, provide a copy of the court-martial promulgating order and on a separate sheet provide the same information with respect to each conviction that is required in questions 2 through 4 of this application.

_____

_____

Civil Rights and Occupational Licensing

14. Have you ever been granted or denied restoration of your civil rights (for example, a state pardon, a certification of restoration of civil rights, or a certificate of discharge)? ☒ yes ☐ no
Attach a copy of the document(s) evidencing the state's action.

15. Have you ever been granted or denied removal of your federal or state firearms disabilities?
Attach a copy of the document(s) evidencing the federal or state action. ☐ yes ☒ no

16. Since the conviction, have you been granted or denied any type of business or professional license, including the reinstatement of any licenses that were revoked or denied, in which your conviction was a consideration? ☐ yes ☒ no

If yes, attach a copy of the document(s) evidencing the action, including any explanation of the reasons for such action. If not available, provide the name, full address, and telephone number of the relevant authority taking the action, the nature of the license, the disposition of your request, and the date of the disposition. Use optional continuation page if necessary.

Reasons for Seeking Pardon

17. State your reasons for seeking a pardon. Please refer to paragraphs 4 and 11 in the attached Information and Instructions on Pardons. (As pointed out in paragraph 10 of the attached instructions, a pardon is a sign of forgiveness. Accordingly, in the usual request for pardon you should not reargue your case, assert innocence, or otherwise attack the validity of your conviction.)

Please see Attachment #1

Certification and Personal Oath

I hereby certify that all answers to the above questions and all statements contained herein are true, and I understand that any misstatements of material facts contained in this petition may cause adverse action on my petition for pardon, in addition to subjecting me to any other penalties provided by law.

In petitioning the President of the United States for pardon, I do solemnly swear that I will be law-abiding and will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I take this obligation freely and without any mental reservation whatsoever, So Help Me God.

Respectfully submitted this 10th day of July, 1998.

Joseph J. Mikos
(Signature of petitioner)

Subscribed and sworn to before me this 10 day of July, 1998.

Thomas L. Wash
Notary Public

JOSEPH J. McKERNAN, JR.
PETITION FOR PARDON AFTER COMPLETION OF SENTENCE
ATTACHMENT #1

Answer to Question No. 4 -- Petitioner's Offense

In late 1982 I flew to Fort Lauderdale, Florida and purchased approximately 75 ounces of cocaine from two brothers whose names I don't recall. I put the cocaine in a suitcase which I checked when I flew from Fort Lauderdale back to New Orleans. I had purchased two airline tickets and used the second ticket which was in a false name to check the suitcase. When I got off of the plane in New Orleans I thought I saw some agents in the area so I went into the bathroom and consumed as much of the coke which was on my person as I could and flushed the rest down the toilet. I also disposed of everything relating to my stay in Ft. Lauderdale. When I arrived in the baggage claim area I saw the same two agents, so I left the luggage. The agents stopped and questioned me, but then let me go so I then traveled to my home in Baton Rouge.

About two weeks later I was arrested by federal agents in Baton Rouge for this cocaine. They had learned my identity from items I had packed in the suitcase with the cocaine. I was charged with eleven counts all relating to cocaine possession and distribution and all related to this one trip to Fort Lauderdale (although I had made other such trips). I plead guilty to a single count and offered to cooperate with the government, but nothing came of it. I had no co-defendants and cannot now recall the amount of money involved in the offense inasmuch as I was addicted to cocaine and alcohol during this time.

Answer to Question No. 5 -- Prior and Subsequent Criminal Record

1/7/79 -- Contempt of Court -- Baton Rouge City Police Dept., Baton Rouge, Louisiana -- No disposition.

1/29/80 -- Contempt of Court -- Baton Rouge City Police Dept., Baton Rouge, Louisiana -- No disposition.

11/19/81-- Resisting Police -- Denver, Colorado -- -- charges dropped.

12/30/80 -- Theft by unauthorized use of credit card -- Baton Rouge City Police Dept., Baton Rouge, Louisiana -- I used my father's credit card to get money when I left the Chemical Dependency Unit in Baton Rouge before I had completed the program. My father filed the charges so that I would be picked up and he could return me to treatment. Ultimately, the charges were abandoned.

1982 -- Driving While Intoxicated -- Inglewood, California Police Department. I was place in the Inglewood City Jail and ultimately paid a $500 fine and was required to take a drug course.

10/25/82 -- Fugitive -- Jefferson Parish, Louisiana -- I believe this charge was filed by the agents who stopped me when I arrived in New Orleans with the cocaine (the New Orleans airport is actually in Jefferson Parish). Nothing ever came of this charge to my knowledge.

7/29/83 -- Driving While Intoxicated; No License -- Baton Rouge City Police Dept., Baton Rouge, Louisiana -- I believe these charges were dismissed.

1984 -- Possession of one ounce of cocaine (this was before my sentencing on the Ft. Lauderdale related charges) -- East Baton Rouge Parish, Louisiana Sheriff's Department -- Dismissed.

Answer to Question No. 11 -- Substance Abuse and Mental Health Information

(a) I began smoking marijuana in 1974 at the age of fifteen. My marijuana usage remained relatively constant (a few joints a week) until my incarceration. In 1977, I began sporadic use of cocaine. But, given the addictive nature of this drug over time my occasional use increased until 1980 when I was using it daily by either snorting or smoking it. By the time of my offense, I was up to one quarter ounce per day which was costing me about $500 a day.

(b) To support my coke habit and to make money on which to live, I began distributing cocaine in 1980 generally in pound quantities. This continued until my arrest following the trip to Fort Lauderdale. At that time, I tried both to quit using drugs and to quit selling them, but prior to going to prison around August 1, 1984 I got back on drugs and was selling again, but in smaller quantities. It was at that time that I was arrested in Baton Rouge for the sale of one ounce of cocaine. Those charges were dismissed because of an illegal search.

(c) Treatment Programs

In approximately 1980, I spent a total of 50 days as an inpatient at the Behavioral Health Care Chemical Dependency Unit, 2601 North Blvd. Baton Rouge, Louisiana 70810, phone 504-387-7900. The counselor there was Scott Mengshol. I left after twenty days, but then went back into the program for another thirty days. Unfortunately, I relapsed after leaving this program.

After my arrest in 1993, I checked into the Hazelden Foundation, P.O. Box 11, Center City, Minnesota 55012, phone 612-257-4010. I stayed there for thirty days and then went to a halfway house for six months. The halfway house was known as Progress Valley. It is located at 3033 Garfield Avenue South, Minneapolis, Minnesota 55408, phone 612-827-2517. My counselor was Bill Multrie. Unfortunately, I relapsed after leaving this program.

In 1993 I voluntarily spent three months at a treatment facility called Mainstream in San Clemente, California. I had completed my probation without any problems or dirty urines but felt that I still had serious addictive tendencies. Fortunately, I have not done drugs nor abused alcohol since leaving this facility.

d) I have not seen mental health professionals except in connection with my substance abuse treatment. However, I attend Alcoholics Anonymous meetings usually twice a week. Also, since returning to Baton Rouge I have been speaking to youth groups about the dangers of drugs.

Answer to Question No. 17 -- Reasons For Seeking Pardon

For eight years of my life from the age of 18 until I was sentenced at the age of 25, I was out of control. Prior to that, as the oldest of five children, maintaining a B average and serving as captain of my high school football team, I had the world by the tail. Why I let all of this slip away would require a book on my part. I did manage to struggle through two years of college and even played on the freshman football team, but that was the end of the line for me academically. The end of the line legally took somewhat longer.

Since my release from prison in 1985 I have led a quiet, law-abiding life but, the real turning point for me was completing the substance abuse program at Mainstream in 1993 and marrying my wife the same year. Together, we now have two beautiful children.

Unfortunately, I have not felt fulfilled in my employment because my lack of formal education has held me back. So, I recently decided to return to Baton Rouge with my family and to go to work in my father's law office with the thought

of finishing college and going on to law school. I have spoken to a representative of the state bar association and been told that a presidential pardon would greatly enhance my chances of being admitted to the practice of law in Louisiana.

Additionally, I am seeking this pardon because my children are nearing the age when I would like to discuss the dangers of drug usage with them. I want them to know of my mistakes and the price I paid for them. But, I would love to also be able to point out that I have now been forgiven for those mistakes.

Finally, I have very fond memories of hunting with my dad as I was growing up and I would like very much to take my son hunting with me when he is old enough. However, under present Louisiana law and practice, I'm told that the Louisiana Board of Pardons will not accept applications from federal felons to restore state firearms privileges. Also, I'm aware that there are federal firearms statutes which prohibit my possessing a hunting rifle unless I obtain a full Presidential pardon. I understand that a Presidential pardon will remove state firearms disabilities as well.

I will be happy to furnish any additional information which the Office of the Pardon Attorney may desire.

United States Department of Justice
Office of the Pardon Attorney
Washington, D.C. 20530

CHARACTER AFFIDAVIT

on behalf of

Joseph J. McKernan, Jr.
(print or type name of petitioner)

In support of the application of the above named petitioner to the President of the United States for pardon, I, Jonathan R. Jobe
(print or type name of affiant)

residing at [redacted]
Number Street City State Zip Code

[redacted], whose occupation is Restaurant Owner
Telephone (include area code)

certify that I have personally known the petitioner for 13 years. Except as otherwise indicated below, petitioner has behaved since the conviction in a moral and law-abiding manner. My knowledge of petitioner's reputation, conduct and activities, including whether the petitioner has been arrested or had any other trouble with public authorities and has been steadily employed, is as follows:

I have worked with or supervised Mr. McKernan as an employee for several years from 1980's to 1990's. I found Mr. McKernan Jobe respectful, loyal and honest. During the years I have known him Mr. McKernan has counseled many individuals on the dangers of substance and alcohol abuse including my brother who has now been sober for over seven years. During the last few years Mr. McKernan has been married and become a devoted husband and father. Whenever I am in need of assistance Mr. McKernan is always available and is one of my most reliable acquaintances and friends.

I do solemnly swear that the foregoing information is true and correct to the best of my knowledge and belief.

STACY BIGGS
Comm. # 1173648
NOTARY PUBLIC - CALIFORNIA
Orange County
My Comm. Expires Feb. 14, 2002

Jonathan R. Jobe
(signature of affiant)

Subscribed and sworn to before me this 18th day of May, 19 98

Stacy Biggs
Notary Public

United States Department of Justice
Office of the Pardon Attorney
Washington, D.C. 20530

CHARACTER AFFIDAVIT

on behalf of

Joseph J. McKernan JR.
(print or type name of petitioner)

In support of the application of the above named petitioner to the President of the United States for pardon, I, Jeff Criswell
(print or type name of affiant)

residing at [redacted]
Number Street City State Zip Code

[redacted], whose occupation is pro foot ball player K.C. chiefs
Telephone (include area code)

certify that I have personally known the petitioner for 10 years. Except as otherwise indicated below, petitioner has behaved since the conviction in a moral and law-abiding manner. My knowledge of petitioner's reputation, conduct and activities, including whether the petitioner has been arrested or had any other trouble with public authorities and has been steadily employed, is as follows:

In Appition to OUR being bussiness partners, we are best friends. Since his problems with Law enforcement officals years ago, he has become a man I'm proud to call my friend He's a good family man with a Loving wife and two great children. I truly enjoy my relationship with Mr McKernan on a daily basis. I Look foward to rearing our children together then spending our Golden years together! He is A solid sober member of our community!

I do solemnly swear that the foregoing information is true and correct to the best of my knowledge and belief.

Jeff Criswell
(signature of affiant)

Subscribed and sworn to before me this 26th day of May, 19 98.

Patricia Bliss
Notary Public

Patricia Bliss, Notary Public
Jackson County, State of Missouri
My Commission Expires 1/26/99

FROM : M PHONE NO. : 816 540 5393 May. 21 1998 03:37PM P1

United States Department of Justice
Office of the Pardon Attorney
Washington, D.C. 20530

CHARACTER AFFIDAVIT

on behalf of

JOSEPH J. McKERNAN, JR.
(print or type name of petitioner)

In support of the application of the above named petitioner to the President of the United States for pardon, I, KIRBY J. GUIDRY *(print or type name of affiant)*, residing at [redacted] *(Number Street City State Zip Code)*, [redacted] *(Telephone (include area code))*, whose occupation is ATTORNEY AT LAW certify that I have personally known the petitioner for 30 + years. Except as otherwise indicated below, petitioner has behaved since the conviction in a moral and law-abiding manner. My knowledge of petitioner's reputation, conduct and activities, including whether the petitioner has been arrested or had any other trouble with public authorities and has been steadily employed, is as follows:

SEE ATTACHED

I do solemnly swear that the foregoing information is true and correct to the best of my knowledge and belief.

(signature of affiant)

Subscribed and sworn to before me this 09 day of June 19 98

Notary Public

July 6, 1998

In the thirty years I have known Joseph "Jay" McKernan, I have seen him change from a bright-eyed, inquisitive, nine-year-old to a drug abuser, to a mature, confident adult.

Like many teenagers, Jay succumbed to the lure of chemical highs through the use of illicit substances. Jay began dealing drugs, which ultimately resulted in his arrest and incarceration. To see this happen to this young man was painful, but looking back, I believe it was the best thing that could have happened to him and I am certain he would agree.

In the thirteen years since his release from prison, Jay has not only been a law-abiding citizen, but has also been steadily employed and committed to maintaining his sobriety. He has also married and fathered two beautiful children which has strengthened his commitment to be a law-abiding and mentally health citizen, while at the same time bringing out those special qualities I saw in him thirty years ago.

I believe that a pardon for Jay McKernan would enable him to hold his head just a little bit higher and would provide an excellent example to his children and others that no one is perfect, but each of us has the opportunity to be recognized for our efforts to identify and correct our errors.

Sincerely,

Kirby Guidry

Subscribed and sworn to before me this 6th day of July, 1998.

STATE OF LOUISIANA
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS
DIVISION OF PROBATION AND PAROLE
BATON ROUGE, LOUISIANA

DATE: 01/18/95 LETTERE

VERIFICATION OF FIRST OFFENDER PARDON

MCKERNAN, JOSEPH J. Race/Sex: W/M
DOB: [redacted]
SID# 001015317
DOC# 00341399

Docket 83-486B

To Whom It May Concern:

It appearing to Louisiana Department of Public Safety and Corrections, Division of Probation and Parole, that MCKERNAN, JOSEPH was tried and sentenced, and on the 17TH day of JULY, 1984, was sentenced to 001 YEAR 00 MONTHS 00 DAYS by the Honorable FREDERICK HEEBE, Judge of U.S. DISTRICT COURT, EASTERN DIVISION OF LOUISIANA, under the above listed docket number(s), for the crime(s) of:

VIOLATING THE FEDERAL CONTROLLED SUBSTANCE ACT

And it further appearing that defendaht has completed this sentence and meets all of the requirements for an automatic first offender pardon, as outlined in R.S. 15:572.

Now, therefore, as provided by the constitution, this will certify and proclaim that effective 01-1895, MCKERNAN, JOSEPH is fully pardoned for the offense above stated and that all rights of citizenship and franchise are restored in Louisiana, except the right to receive, possess or transport a firearm.

The right to receive, possess or transport firearms is controlled by R.S. 14:95.1.

Morris E. Easley, Jr.
Probation and Parole Director

Edward G. Nick
District Administrator

AUTHORIZATION FOR RELEASE OF INFORMATION

Carefully read this authorization to release information about you, then sign and date it in ink.

I authorize any investigator, special agent, or other duly accredited representative of the Federal Bureau of Investigation, the Department of Defense, and any authorized Federal agency, to obtain any information relating to my activities from schools, residential management agents, employers, criminal justice agencies, retail business establishments, or other sources of information. This information may include, but is not limited to, my academic, residential, achievement, performance, attendance, disciplinary, employment history, and criminal history record information.

I understand that, for financial or lending institutions, medical institutions, hospitals, health care professionals, and other sources of information, a separate specific release will or may be needed, and I may be contacted for such a release at a later date.

I further authorize the Federal Bureau of Investigation, the Department of Defense, and any other authorized agency, to request criminal record information about me from criminal justice agencies for the purpose of determining my suitability for a government benefit.

I authorize custodians of records and sources of information pertaining to me to release such information upon request of the investigator, special agent, or other duly accredited representative of any Federal agency authorized above regardless of any previous agreement to the contrary.

I understand that the information released by records custodians and sources of information is for official use by the Federal Government only for the purposes provided in this form, and may be redisclosed by the Government only as authorized by law.

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for three (3) years from the date signed.

Signature (Sign in ink) Joseph J McKernan		
Full Name (type or print legibly) Joseph J McKernan JR		*Date Signed* 3/30/98
Other Names Used		
Street Address [redacted]		
City [redacted]	*State* [redacted]	*ZIP Code* [redacted]
Home Telephone Number (Include area code) [redacted]	*Social Security Number* [redacted]	

WALTER F. WIGGINS, JR.
ATTORNEY AT LAW
2820 HONOLULU AVENUE, PMB #262
VERDUGO CITY, CALIFORNIA 91046
TELEPHONE (818) 542-3604
FAX (818) 542-3603

January 2, 2001

Roger C. Clinton
C/O Usher's Office
THE WHITE HOUSE
1600 Pennsylvania Avenue
Washington, D.C. 20500

Re: Mark St. Pe'

Petition to the President of the United States
For Commutation of Sentence

Dear Roger:

As we have discussed previously, the case of Mark St. Pe' is a sympathetic one for the reasons outlined exhaustively in the materials transmitted herewith for your immediate review and consideration. Please bring this case to the attention of your brother, Bill Clinton, the President of the United States. This is truly an opportunity for you to have a direct impact in the cause of justice for Mr. St. Pe'.

As I have advised, the original Petition for Commutation of Sentence has been forwarded to the U.S. Department of Justice, Office of the Pardon Attorney, located at 500 First Street, N.W., Fourth Floor, Washington, D.C. 20530.

Please do not hesitate to let me know if you have any questions or comments, or if there are any additional materials or documents required by you in this matter. On behalf of myself and the entire St. Pe' family, thank you sincerely for your kind attention to this important matter.

Very truly yours,

Walter F. Wiggins, Jr.

WFW/cs

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115
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DELIVERY

URGENT!

FROM: Mr. Walter Wiggins, Jr.
2820 Honolulu Ave. PMB# 262
Verdugo City, California 91046
Tele: 818 542 [illegible]

TO: Mr. Roger Clinton
C/O USHER'S Office
The White House
1600 Penn. Ave. N.W.
Washington, DC

1-6-01

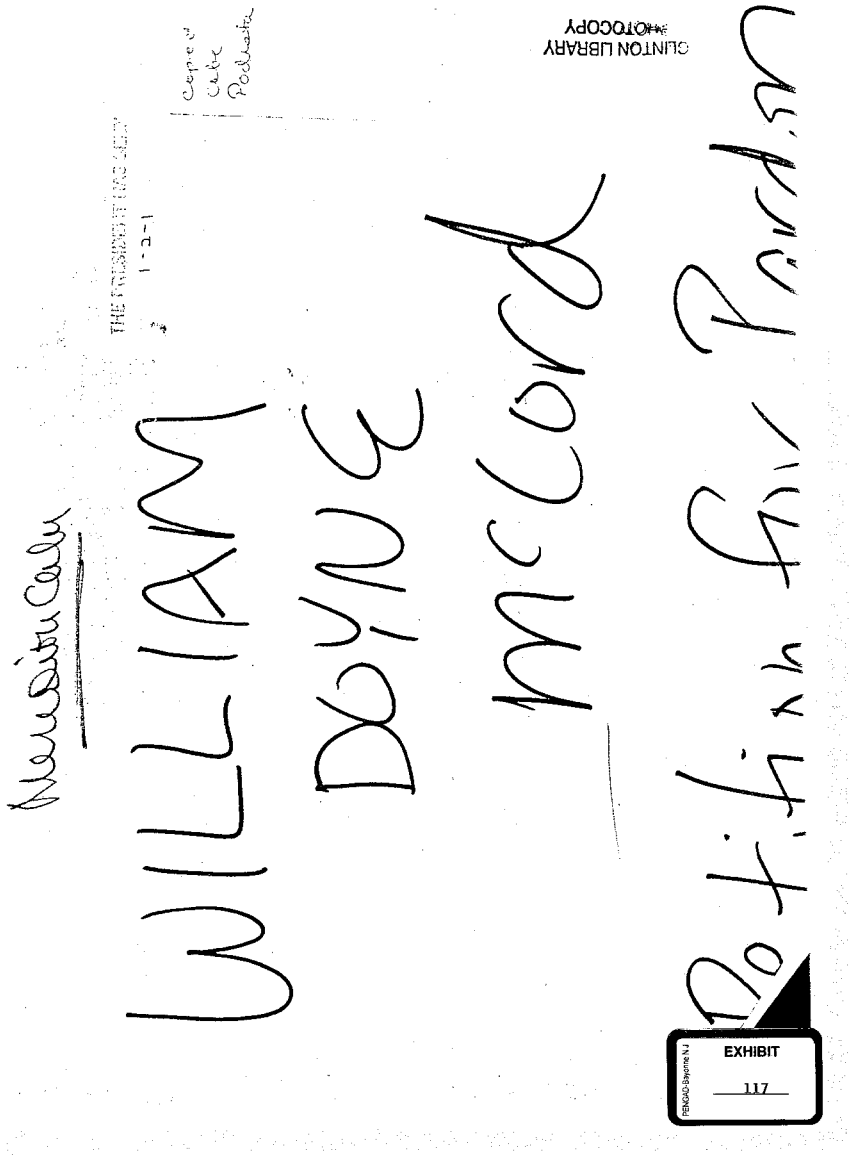
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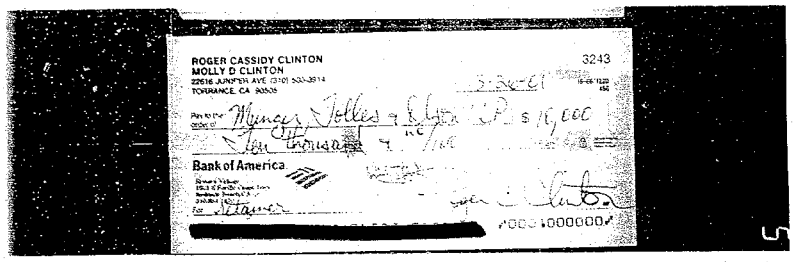
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— NO

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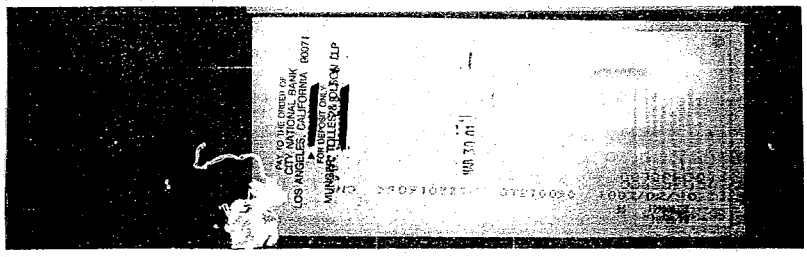

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