

THE CONTROVERSIAL PARDON OF
INTERNATIONAL FUGITIVE MARC RICH

HEARINGS

BEFORE THE

COMMITTEE ON
GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

FEBRUARY 8, AND MARCH 1, 2001

Serial No. 107-11

Printed for the use of the Committee on Government Reform



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CONTENTS

	Page
Hearing held on:	
February 8, 2001	1
March 1, 2001	279
Statement of:	
Dozoretz, Beth, former finance chair, Democratic National Committee	303
Fink, Robert	439
Holder, Eric, former Deputy Attorney General, U.S. Department of Justice	192
Libby, Lewis	438
Quinn, Jack, counsel to Marc Rich, former counsel to President Clinton; Beth Nolan, former counsel to the President; Bruce Lindsey, former assistant to the President and deputy counsel to the President; and John Podesta, former White House chief of staff	309
Quinn, Jack, counsel to Marc Rich, former counsel to President Clinton; Morris "Sandy" Weinberg, Jr., former assistant U.S. attorney, Southern District of New York; and Martin Auerbach, former assistant U.S. attorney, Southern District of New York	43
Letters, statements, etc., submitted for the record by:	
Barr, Hon. Bob, a Representative in Congress from the State of Georgia:	
Executive Grant of Clemency	133
Exhibit 1	208
Exhibit 45	259
Exhibit 63	247
Exhibit 67	250
Exhibit 127	349
Exhibit 136	494
Information from the U.S. Attorney's Manual	125
Letter dated February 6, 2001	136
Burton, Hon. Dan, a Representative in Congress from the State of Indiana:	
Exhibit 137	394
Letter dated February 7, 2001	3
Prepared statements of	7, 284
Cummings, Hon. Elijah E., a Representative in Congress from the State of Maryland, exhibit 138	402
Davis, Hon. Jo Ann, a Representative in Congress from the State of Virginia:	
Exhibit 65	265
Prepared statement of	277
Davis, Hon. Thomas M., a Representative in Congress from the State of Virginia, exhibit 155	416
Fink, Robert, prepared statement of	440
Holder, Eric, former Deputy Attorney General, U.S. Department of Justice, prepared statement of	196
LaTourette, Hon. Steven C., a Representative in Congress from the State of Ohio:	
Article dated February 5, 2001	150
Exhibit 15	115, 322
Exhibit 58	460
Exhibit 62	227, 463
Exhibit 67	465
Exhibit 69	229
Exhibit 79	223, 473
Exhibit 89	185

IV

	Page
Letters, statements, etc., submitted for the record by—Continued	
LaTourette, Hon. Steven C., a Representative in Congress from the State of Ohio—Continued	
Exhibit 96	221
Exhibit 101	117
Exhibit 102	122
Exhibit 130	447
Exhibit 135	368, 468
Lewis, Hon. Ron, a Representative in Congress from the State of Kentucky, exhibit 73	179
Morella, Hon. Constance A., a Representative in Congress from the State of Maryland, exhibits 97 and 98	170
Podesta, John, former White House chief of staff, prepared statement of	319
Putnam, Hon. Adam H., a Representative in Congress from the State of Florida:	
Exhibit 67	371
Exhibit 72	373
Quinn, Jack, counsel to Marc Rich, former counsel to President Clinton:	
Prepared statement of	47
Previous testimony submitted	310
Shays, Hon. Christopher, a Representative in Congress from the State of Connecticut:	
Exhibit 63	305
Exhibit 152	330
Waxman, Hon. Henry A., a Representative in Congress from the State of California:	
Exhibit 135	480
Minority staff report	11
Prepared statement of	39
Weinberg, Morris "Sandy", Jr., former assistant U.S. attorney, Southern District of New York, prepared statement of	94
Wilson, James C., chief counsel, Committee on Government Reform:	
Exhibit 62	434
Exhibit 69	508
Exhibit 70	510
Exhibit 137	514

THE CONTROVERSIAL PARDON OF INTERNATIONAL FUGITIVE MARC RICH

THURSDAY, FEBRUARY 8, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10:15 a.m., in room 2154, Rayburn House Office Building, Hon. Dan Burton (chairman of the committee) presiding.

Present: Representatives Burton, Barr, Morella, Shays, Horn, Davis of Virginia, Souder, LaTourette, Ose, Lewis, Jo Ann Davis of Virginia, Platts, Cannon, Putnam, Otter, Schrock, Waxman, Lantos, Towns, Kanjorski, Mink, Norton, Cummings, Kucinich, Davis of Illinois, Tierney, Allen, and Schakowsky.

Also present: Representatives Hutchinson and Jackson-Lee.

Staff present: Kevin Binger, staff director; James C. Wilson, chief counsel; David A. Kass, deputy counsel and parliamentarian; Mark Corallo, director of communications; M. Scott Billingsley, John Callender, and Andre Hollis, counsels; Pablo Carrillo, Jason Foster, and Kimberly A. Reed, investigative counsels; S. Elizabeth Clay and Nicole Petrosino, professional staff members; Kristi Remington, senior counsel; Gil Macklin, professional staff member and investigator; Robert A. Briggs, chief clerk; Robin Butler, office manager; Michael Canty and Toni Lightle, legislative assistants; Josie Duckett, deputy communications director; Scott Fagan, staff assistant; Leneal Scott, computer systems manager; John Sare, deputy chief clerk; Danleigh Halfast, assistant to chief counsel; Phil Schiliro, minority staff director; Phil Barnett, minority chief counsel; Kristin Amerling, minority deputy chief counsel; Michael Yang, minority counsel; Michael Yeager, minority senior oversight counsel; Ellen Rayner, minority chief clerk; Jean Gosa and Earley Green, minority assistant clerks; and Teresa Coufal, minority staff assistant.

Mr. BURTON. If we could ask everyone to take their seats, we will try to ask everyone in the audience to be as quiet as possible. The acoustics in this room, like all committee rooms, is not as good as we would like. It's better than it used to be. If you could bear with us, we would appreciate it.

We have a capacity audience here today, so the conversation is really a problem.

Well, once again, good morning, a quorum being present, the Committee on Government Reform will once again come to order.

I ask unanimous consent that all Members' and witnesses' written opening statements be included in the record. And without objection, so ordered.

I ask unanimous consent that all articles, exhibits and extraneous or tabular material referred to be included in the record. And without objection, so ordered.

I ask unanimous consent that a set of exhibits which was shared with the minority prior to the meeting be included in the record. And without objection, so ordered.

[NOTE.—The complete set of exhibits used in both hearings is printed at the end of this volume.]

Mr. BURTON. I also ask unanimous consent that questioning in this matter proceed under clause 2(j)(2) of House rule XI and committee rule 14, in which the chairman and ranking minority member allocate time to members of the committee as they deem appropriate for extended questioning not to exceed 60 minutes, equally divided between the majority and the minority. Without objection, so ordered.

I also ask unanimous consent that questioning in the matter under consideration proceed under clause 2(j)(2) of House rule XI and Committee Rule 14, in which the chairman and the ranking minority member allocate time to committee counsel as they deem appropriate for extended questioning, not to exceed 60 minutes divided equally between the majority and the minority. And without objection, so ordered.

Let me clarify that just a little bit. I talked to Mr. Waxman, the ranking minority member, and we have agreed that the extended questioning will be 60 minutes in total for each side, 30 minutes for the majority, 30 minutes for the minority; and then for counsel on each side, limited to 30 minutes. All other questioning will be under the 5-minute rule.

I now recognize my colleague, Mr. Waxman—excuse me 1 second.

[Pause.]

Mr. BURTON. Today, we're going to be looking into the pardon of Marc Rich. A few weeks ago on his last day in office, President Clinton pardoned 140 people. Some of these pardons were probably meritorious. Others we think were not. The Marc Rich pardon has been particularly controversial.

Our position is simple. The American people deserve to know the facts. At this point in time, we don't know all the facts. That's why we're holding this hearing.

Last night we received some news that I find troubling. Mr. Rich's ex-wife, Denise Rich, it's been well reported that she gave \$1 million to Democratic campaigns over the last decade. It's also been well reported that she sent the President a letter asking for this pardon. She also talked to the President about the pardon. We asked Mrs. Rich, through her lawyer, to answer a number of questions. Last night, we received a letter from her lawyer stating that Mrs. Rich is going to take the fifth amendment and not respond to our questions.

I ask unanimous consent that this letter be placed in the record. Without objection, so ordered.

[The information referred to follows:]

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February 7, 2001

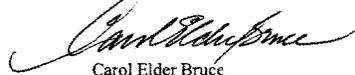
By facsimile (202) 225-3974
The Honorable Dan Burton, Chairman
Committee on Government Reform
2187 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing in response to your letter of February 5, 2001, in which you requested that my client, Ms. Denise Rich, respond by 12 noon tomorrow to certain questions in connection with the Committee's investigation into the pardons issued by former President Clinton to Marc Rich and Pincus Green. This is to inform you that, upon advice of counsel, 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.

I have met with your Chief Counsel, Jim Wilson, concerning this matter and understand that this letter should be sufficient to communicate my client's decision. Thank you very much for your consideration.

Sincerely,



Carol Elder Bruce

cc: The Honorable Henry A. Waxman, Ranking Minority Member

Mr. BURTON. I find it very, very troubling that in a case like this, where the public simply wants an explanation, a central figure would take the fifth amendment.

But that's not all. We were also informed by Mrs. Rich's lawyer that Mrs. Rich has given, "an enormous amount of money to the Clinton Presidential Library." We want to know how much is "enormous." That's something else we need to find out and how that plays in the overall scheme of things.

Let's step back and take a quick look at why Marc Rich and his pardon was controversial.

In 1983, he was indicted on more than 50 counts of wire fraud, tax evasion, racketeering and violating the Iranian oil embargo. He was accused of evading \$48 million in taxes. It was the largest tax fraud case in U.S. history. He faced up to 300 years in prison if he was convicted on all counts.

Mr. Rich fled the country, went to Switzerland and elsewhere to avoid prosecution. He renounced his U.S. citizenship and took up residence in Switzerland for 17 years. His companies were found in contempt of court and fined \$20 million for defying a judge's order. All told, they paid \$200 million in penalties. His aides were caught smuggling subpoenaed documents out of the country in trunks; I believe it was on a Swiss airplane.

He was a subject of hearings in this committee in 1991 and 1992. At that time, the Bush administration was accused of not doing enough to try to bring Marc Rich to justice. And at that time, the House was controlled by the opposition party, the Democrat Party, and as we feel today, they thought that more needed to be done to make sure that Mr. Rich be brought to justice.

On the surface, this doesn't look like a very good case for a pardon. So the question we have is, "How did it happen?" We asked this same question some time ago about the 14 Puerto Ricans who killed police in New York, who blew up restaurants with innocent citizens in them, and was involved in the largest armored car robbery in history. We didn't receive any information about that pardon either from the White House, and we just want an explanation. I think the American people would like to know what happened.

We don't know all the facts yet, and that's one of the main reasons we're here today. However, this much seems clear: There is a procedure that is usually followed to consider pardons; in this case, that procedure was not followed.

There is a pardon attorney at the Justice Department. Pardon applicants are submitted to the pardon attorney for review. After they've been thoroughly reviewed, the Justice Department then makes a recommendation and the application is sent to the President for a decision. In this case, none of that happened. Mr. Rich is represented today by Jack Quinn.

Mr. Quinn was President Clinton's White House counsel. They had a very close relationship. On December 11th, Mr. Quinn delivered Mr. Rich's application directly to the White House. It was never sent to the pardon attorney. And it was never reviewed by the Justice Department.

Why not? Why did the President make such an important decision without getting input from the pardon attorney or the prosecutors or the Justice Department?

We know from reading the newspapers that Mr. Quinn contacted the Deputy Attorney General, Eric Holder, to tell him that he was going to submit the application.

What did Mr. Holder do with that information? Did he contact the pardon attorney? Did he tell the prosecutors in New York who were responsible for the case? The fact is that we don't know exactly what Mr. Holder did. Mr. Quinn has suggested in the press that Mr. Holder was at least neutral, leaning toward this application, and that he may have communicated this to the White House. We haven't heard from Mr. Holder yet, but we want to have his side of the story as well.

Mr. Quinn and Mr. Holder are here today to testify voluntarily. We appreciate the fact that they've come, and we look forward to getting some of this information. We also want to know what advice was given to the President.

The White House had this application for over a month before the pardon was granted. What kind of a process did they follow? Is there a file there that we should have? What kind of information did they ask for? Who did they consult? We asked the counsel to the President, Beth Nolan, to testify today. We asked one of the President's closest advisors, Bruce Lindsey, to testify. They both turned us down, which I find very disappointing. But we will get their testimony some other time.

Did the White House ask our intelligence agencies for information about Mr. Rich? And this is very important: They did not. This week we learned that the White House apparently didn't even bother to consult intelligence agencies. Why not?

Mr. Rich was publicly reported to have traded with just about every enemy of the United States they have had over the last 20 years, and many of those countries were embargoed. One case that stands out glaringly is Iran. We had hostages over there at the time that Mr. Rich was trading with them. He violated the embargo.

He was working with the Iranians selling their oil, and our hostages, American citizens, were languishing under very difficult circumstances for a long, long time at that time.

The President should have taken an hour to get a briefing from our security agencies and from our intelligence agencies. Twenty minutes would have been enough.

After having been briefed by our intelligence agencies, my legal staff informed me about some of the things that were in those intelligence briefings. I believe that this pardon has been raised to a higher level because of the things that are in those intelligence reports.

We've asked that some of this information be declassified. I know many members of the media wants to know what's in those intelligence reports; and we're going to try to get them declassified so the American people can know exactly what happened, and I hope they will be. If those reports are declassified, I think it will be clear that the President failed to get all the facts that he should have before he pardoned Mr. Rich, or he ignored them.

We have two additional witnesses that I haven't mentioned. Appearing on our first panel will be Sandy Weinberg, Jr., and Martin

Auerbach. They were prosecutors in the U.S. Attorney's Office in New York. They worked on the Rich case.

Mr. Quinn has raised a number of issues with the indictments brought by the U.S. Attorney General's Office. On CNN last night, Mr. Quinn said that "the indictment that was brought was really, truly worthless." We asked Mr. Weinberg and Mr. Auerbach to be here today to talk about and defend their work.

We're looking forward to their testimony. I again want to thank all of our witnesses for being here.

I want to admonish the lawyers for the witnesses that only the witnesses may testify. The attorneys may consult with their clients for as long as needed, but under our procedures, only the witnesses may testify.

Let me stop here and wrap up my opening statement. It's obvious right now we have a lot more questions than answers. We have witnesses here who are prepared to answer questions, so I want to move forward.

I now yield to Mr. Waxman for his opening statement.
[The prepared statement of Hon. Dan Burton follows:]

**Opening Statement
Chairman Dan Burton
Committee on Government Reform
“The Controversial Pardon of International Fugitive Marc Rich”
February 8, 2000**

Today we're going to begin looking into the pardon of Marc Rich.

A few weeks ago, on his last day in office, the President pardoned 140 people. Some of these pardons were probably meritorious. Others, I think, were not.

The Marc Rich pardon has been particularly controversial. My position is simple. The American people deserve to know the facts. At this point in time, we don't know all the facts. That's why we're holding this hearing.

Last night, we received some news that I find troubling. Mr. Rich's ex-wife is Denise Rich. It's been well-reported that she gave \$1 million to Democratic campaigns over the last decade. It's been well-reported that she sent the President a letter asking for this pardon. She also talked to the President about this pardon. We asked Mrs. Rich, through her lawyer, to answer a number of questions. Last night we received a letter from her lawyer stating that Mrs. Rich is going to take the Fifth and not respond to our questions. I ask unanimous consent to place this letter in the record. I find it very, very troubling that, in a case like this, where the public simply wants an explanation, that a central figure would take the Fifth.

But that's not all. We were also informed by Mrs. Rich's lawyer that Mrs. Rich has given an "enormous" amount of money to the Clinton Presidential Library. How much is enormous? That's something we need to find out.

Let's step back and take a quick look at why the Marc Rich pardon was controversial.

- In 1983, he was indicted on more than 50 counts of wire fraud, tax evasion, racketeering and violating the Iranian oil embargo.
- He was accused of evading \$48 million in taxes. It was the largest tax fraud case in U.S. history.
- He faced up to 300 years in prison if he was convicted on all counts.
- Mr. Rich fled the country to avoid prosecution.
- He renounced his U.S. citizenship and took up residence in Switzerland for 17 years.
- His companies were found in contempt of court and fined \$20 million for defying a judge's order. All told, they paid \$200 million in penalties.
- His aides were caught smuggling subpoenaed documents out of the country.
- He was the subject of hearings in this Committee in 1991 and 1992. The Bush Administration was accused of not doing enough to try to bring Marc Rich to justice.

On the surface, this doesn't look like a very good case for a pardon. So the question we have is, "How did it happen?"

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Why did the President make such an important decision without getting input from the pardon attorney or the prosecutors?

We know from reading the newspapers that Mr. Quinn contacted the Deputy Attorney General -- Eric Holder -- to tell him that he was going to submit the application. What did Mr. Holder do with that information? Did he contact the pardon attorney? Did he tell the prosecutors in New York who were responsible for the case? The fact is that we don't know exactly what Mr. Holder did. Mr. Quinn has suggested in the press that Mr. Holder was at least "neutral, leaning towards" this application, and that he may have communicated this to the White House. We haven't heard from Mr. Holder yet, but we'd like to have his side of the story.

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We also want to know what advice was given to the President. The White House had this application for over a month before the pardon was granted. What kind of a process did they follow? What kind of information did they ask for? Who did they consult? We asked the Counsel to the President, Beth Nolan, to testify today. We asked one of the President's closest advisors, Bruce Lindsey, to testify. They both turned us down, which I find very disappointing. But we'll get their testimony another time.

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about every enemy the U.S. has had over the last twenty years. The President should have taken an hour to get a briefing. Twenty minutes would have been enough.

After having been briefed by our intelligence agencies, I think this pardon has been raised to a higher level. We've asked that some of this information be declassified. I hope it will be. If it is, I think it will be clear that the President failed to get all of the facts before he pardoned Mr. Rich -- or he ignored them.

We have two additional witnesses that I haven't mentioned. Appearing on our first panel will be Sandy Weinberg, Jr., and Martin Auerbach. They were prosecutors in the U.S. Attorney's office in New York. They worked on the Rich case. Mr. Quinn has raised a number of issues with the indictments brought by the U.S. Attorney's office. On CNN last night, Mr. Quinn said that the "indictment that was brought was really, truly worthless." We asked Mr. Weinberg and Mr. Auerbach to be here today to defend their work. We're looking forward to their testimony. I again want to thank all of our witnesses for being here. I want to admonish the lawyers for the witnesses that only the witnesses may testify. The attorneys may consult with their clients for as long as needed, but under our procedures, only the witnesses may testify.

Let me stop here and wrap up my opening statement. It's obvious that right now, we have a lot more questions than answers. We have witnesses here who are prepared to answer questions, so I'd like to move forward.

I now yield to Mr. Waxman for his opening statement.

Mr. WAXMAN. Over the last 8 years, President Clinton and his administration have been the target of a remarkable number of false accusations. In turn, these accusations have received a staggering amount of media attention. I've often spoken out about the unfairness of these smears, and at the end of the last Congress, I even compiled an analysis that attempts to collect many of the reckless accusations in one report.

I ask unanimous consent that this report be made part of this record. This report is entitled "Unsubstantiated Allegations of Wrongdoing Involving the Clinton Administration."

Mr. BURTON. Without objection.

[The information referred to follows:]



**UNSUBSTANTIATED ALLEGATIONS OF WRONGDOING
INVOLVING THE CLINTON ADMINISTRATION**

Prepared for Rep. Henry A. Waxman

**Minority Staff Report
Committee on Government Reform
U.S. House of Representatives**

October 2000

Over the past eight years, Chairman Dan Burton of the House Government Reform Committee and other Republican leaders have repeatedly made sensational allegations of wrongdoing by the Clinton Administration. In pursuing such allegations, Chairman Burton alone has issued over 900 subpoenas; obtained over 2 million pages of documents; and interviewed, deposed, or called to testify over 350 witnesses. The estimated cost to the taxpayer of investigating these allegations has exceeded \$23 million.¹

Chairman Burton or other Republicans have charged that Deputy White House Counsel Vince Foster was murdered as part of a coverup of the Whitewater land deal; that the White House intentionally maintained an “enemies list” of sensitive FBI files; that the IRS targeted the President’s enemies for tax audits; that the White House may have been involved in “selling or giving information to the Chinese in exchange for political contributions”; that the White House “altered” videotapes of White House coffees to conceal wrongdoing; that the Clinton Administration sold burial plots in Arlington National Cemetery; that prison tape recordings showed that former Associate Attorney General Webster Hubbell was paid off for his silence; that the Attorney General intentionally misled Congress about Waco; and that problems with the White House e-mail archiving system are “the most significant obstruction of Congressional investigations in U.S. history” and “reach much further” than Watergate.

This report is not intended to suggest that President Clinton or his Administration have always acted properly. There have obviously been instances of mistakes and misconduct that deserve investigation. But frequently the Republican approach -- regardless of the facts -- has been “accuse first, investigate later.” Further investigation then often shows the allegations to be unsubstantiated. In fact, FBI interviews showed that one widely publicized Republican allegation was based on nothing more than gossip at a congressional reception.

This approach has done great harm to reputations. The unsubstantiated accusations have frequently received widespread attention. For example, Chairman Burton’s allegation regarding White House videotape alteration received widespread media coverage. It was reported by numerous television news programs, including *CBS Morning News*,² *CBS This Morning*,³ *NBC News At Sunrise*,⁴ *NBC’s Today*,⁵ *ABC World News Sunday*,⁶ *CNN Early Prime*,⁷ *CNN Morning News*,⁸ *CNN’s Headline News*,⁹ *CNN’s Early Edition*,¹⁰ *Fox’s Morning News*,¹¹ and *Fox News Now/Fox In Depth*.¹² In addition, newspapers across the country, including the *Washington Post*,¹³ the *Las Vegas Review-Journal*,¹⁴ the *Houston Chronicle*,¹⁵ the *Commercial Appeal*,¹⁶ and the *Sun-Sentinel*,¹⁷ published stories focusing on the allegation. Two months later, when Senator Fred Thompson announced that there was no evidence that the videotapes had been doctored, there was minimal press coverage of his statement.¹⁸

The discussion below examines the facts -- and lack thereof -- underlying over 25 of the most highly publicized allegations.

Allegation: During 1994 and 1995, Chairman Burton suggested numerous times on the House floor that Deputy White House Counsel Vince Foster had been murdered and that

his murder was related to the investigation into President and Hillary Clinton's involvement in the Whitewater land deal.¹⁹

The Facts: Chairman Burton's allegations have been repeatedly repudiated.

On August 10, 1993, the United States Park Police announced the following conclusions of its investigation: "Our investigation has found no evidence of foul play. The information gathered from associates, relatives and friends provide us with enough evidence to conclude that . . . Mr. Foster was anxious about his work and he was distressed to the degree that he took his own life."²⁰ On June 30, 1994, Independent Counsel Robert Fiske issued his report stating that "[t]he overwhelming weight of the evidence compels the conclusion . . . that Vincent Foster committed suicide."²¹

More recently, on October 10, 1997, Independent Counsel Ken Starr concluded: "The available evidence points clearly to suicide as the manner of death."²²

Allegation: In 1995 and 1996, Republicans alleged that the White House fired the employees of the White House travel office so that White House travel business would be given to Harry Thomason, a political supporter of President Clinton. The Chairman of the House Committee on Government Reform and Oversight, William F. Clinger, said he saw the First Lady's "fingerprints" on efforts to cover up and lie about the travel office firings.²³ Discussing the travel office matter, Rep. Dan Burton said, "The First Lady, according to the notes we have, has lied."²⁴

The Facts: In June 2000, the Office of the Independent Counsel issued a press release announcing that its investigation into the Travel Office matter had concluded. Independent Counsel Robert Ray stated:

This Office has now concluded its investigation into allegations relating to . . . Mrs. Clinton's statements and testimony concerning the Travel Office firings and has fully discharged [her] from criminal liability for matters within this Office's jurisdiction in the Travel Office matter.²⁵

Allegation: In June 1996, Chairman Burton alleged that the White House had improperly obtained FBI files of prominent Republicans and that these files "were going to be used for dirty political tricks in the future."²⁶ Committee Republicans also released a report suggesting that the files were being used by the Clinton Administration to compile a "hit list" or an "enemies list."²⁷

The Facts: These allegations have been thoroughly investigated by the Office of the Independent Counsel and repudiated. The Independent Counsel had been charged with examining whether Anthony Marceca, a former White House detailee who had requested the FBI background files at issue, senior White House officials, or Mrs. Clinton had engaged in illegal conduct relating to these files.

According to the report issued by Independent Counsel Ray in March 2000, “neither Anthony Marceca nor any senior White House official, or First Lady Hillary Rodham Clinton, engaged in criminal conduct to obtain through fraudulent means derogatory information about former White House staff.” The Independent Counsel also concluded that “Mr. Marceca’s alleged criminal conduct did not reflect a conspiracy within the White House,” and stated Mr. Marceca was truthful when he testified that “[n]o senior White House official, or Mrs. Clinton, was involved in requesting FBI background reports for improper partisan advantage.”²⁸

Allegation: Beginning in 1996, Chairman Burton and other Republican leaders suggested that there was a conspiracy between the Chinese government and the Clinton Administration to violate federal campaign finance laws and improperly influence the outcome of the 1996 presidential election. In a February 1997 interview on national television, Chairman Burton stated:

If the White House or anybody connected with the White House was selling or giving information to the Chinese in exchange for political contributions, then we have to look into it because that’s a felony, and you’re selling this country’s security – economic security or whatever to a communist power.²⁹

Further, on the House floor in June 1997, Chairman Burton alleged a “massive” Chinese conspiracy:

We are investigating a possible massive scheme . . . of funneling millions of dollars of foreign money into the U.S. electoral system. We are investigating allegations that the Chinese government at the highest levels decided to infiltrate our political system.³⁰

The Facts: The House Government Reform Committee to date has spent four years and over \$8 million investigating these allegations. No evidence provided to the Committee substantiates the claim that the Administration was “selling or giving information to the Chinese in exchange for political contributions.”

The FBI obtained some evidence that China had a plan to try to influence congressional elections.³¹ However, no evidence was provided to the Committee that the Chinese government carried out a “massive scheme” to influence the election of President Clinton.

Allegation: In June 1997, Rep. Gerald Solomon, the Chairman of the House Rules Committee, claimed that he had “evidence” from a government source that John Huang, the former Commerce Department official and Democratic National Committee fundraiser, had “committed economic espionage and breached our national security.” This allegation was reported on national television and in many newspapers across the country.³²

The Facts: In August 1997, and again in February 1998, Rep. Solomon was interviewed by the FBI to determine the basis of Rep. Solomon’s allegations. During the first interview, Rep.

Solomon told the FBI that he was told by a Senate staffer at a Capitol Hill reception that the staffer "received confirmation that 'a Department of Commerce employee had passed classified information to a foreign government.'" According to the FBI notes on the Solomon interview, the Senate staffer did not say that the employee was John Huang, nor did he say that information went to China. Rep. Solomon did not know who the staffer was.³³

In his second interview with the FBI, Rep. Solomon recalled that what the staffer said to him was: "Congressman you might like to know that you were right there was someone at Commerce giving out information." Again in this interview, Rep. Solomon told the FBI that he did not know the name of the staffer who made this comment.³⁴

Allegation: In August 1997, several Republican leaders called for an independent counsel to investigate allegations by Democratic donor Johnny Chung that former Energy Secretary Hazel O'Leary had, in effect, "shaken down" Mr. Chung by requiring him to make a donation to the charity Africare as a precondition to a meeting with her. On national television, Republican National Committee Chairman Jim Nicholson stated, "[W]e need independent investigation made of people like Hazel O'Leary."³⁵ Rep. Gerald Solomon, the Chairman of the House Rules Committee, criticized the Attorney General for being "intransigent" in refusing to appoint an independent counsel.³⁶

The Facts: A Department of Justice investigation found "no evidence that Mrs. O'Leary had anything to do with the solicitation of the charitable donation."³⁷ In fact, it turned out that Secretary O'Leary's first contact with Mr. Chung occurred after Mr. Chung had made his contribution, making the allegation factually impossible.³⁸

Allegation: In September 1997, Chairman Burton suggested on national television that the Clinton Administration was engaging in an "abuse of power" by using the Internal Revenue Service (IRS) to retaliate against the President's political enemies.³⁹ *The Washington Times* also quoted the Chairman as stating: "One case might be a coincidence. Two cases might be a coincidence. But what are the chances of this entire litany of people -- all of whom have an adversarial relationship with the President -- being audited?"⁴⁰

The Facts: The Chairman's remarks related to allegations that the IRS was auditing conservative groups and individuals for political purposes. According to these allegations, several non-profit tax-exempt organizations that supported positions different from those of the Clinton Administration were being audited while other organizations favored by the Administration were not.⁴¹

The Joint Committee on Taxation conducted a three-year bipartisan investigation of these allegations. In March 2000, the Committee reported that it had found no evidence of politically motivated IRS audits.⁴² Specifically, the bipartisan report found there was "no credible evidence that tax-exempt organizations were selected for examination, or that the IRS altered the manner in which examinations of tax-exempt organizations were conducted, based on the views espoused by the organizations or individuals related to the organization." Further, the report

found “no credible evidence of intervention by Clinton Administration officials (including Treasury Department and White House officials) in the selection of (or the failure to select) tax-exempt organizations for examination.”⁴³

Allegation: In October 1997, Chairman Burton held a hearing which he claimed would produce evidence of “blatantly illegal activity by a senior national party official.”⁴⁴ The star witness at that hearing, David Wang, alleged that then-DNC official John Huang had solicited a conduit contribution from him in person in Los Angeles on August 16, 1996.⁴⁵

The Facts: It was Charlie Trie and his associate Antonio Pan, not John Huang, who solicited Mr. Wang. Unlike Mr. Huang, Mr. Trie and Mr. Pan were never “senior officials” at the DNC. Credit card records, affidavits, and other evidence conclusively demonstrated that Mr. Huang had been in New York, not Los Angeles, on the day in question.⁴⁶ Mr. Huang later testified before the Committee and denied Mr. Wang’s allegations.⁴⁷ On March 1, 2000, Democratic fundraiser Charlie Trie appeared before the Committee and acknowledged that it had been he and Mr. Pan, not Mr. Huang, who had solicited the conduit contribution.⁴⁸

Allegation: At an October 1997 hearing before the House Committee on Government Reform and Oversight, Chairman Burton publicly released a proffer from Democratic fundraisers Gene and Nora Lum. Chairman Burton stated that the proffer indicated that “the solicitation and utilization of foreign money and conduit payments did not begin after the Republicans won control of the Congress in 1994. Rather, it appears that the seeds of today’s scandals may have been planted as early as 1991.”⁴⁹ Specifically, the proffer suggested that President Clinton endorsed the candidacy of a foreign leader in exchange for campaign contributions.⁵⁰ This allegation was reported in the *Washington Post* in an article entitled “Story of a Foreign Donor’s Deal With ‘92 Clinton Camp Outlined,” and in other national media.⁵¹

The Facts: To investigate this allegation and other allegations concerning the Lums, Chairman Burton issued nearly 200 information requests that resulted in the receipt of over 40,000 pages of documents, 50 audiotapes, a videotape, and numerous depositions. After this extensive investigation, however, the Chairman was never able to produce any evidence to support the dramatic allegation in the proffer.

The proffer presented by Chairman Burton states that, during the 1992 campaign, the Lums arranged a meeting with a Clinton/Gore official for an individual who had proposed to arrange a “large donation in exchange for a letter signed by the Clinton campaign endorsing the candidacy of a man who is now the leader of an Asian nation.” The proffer states that the official “later provided a favorable letter over the name of Clinton,” that a “Clinton/Gore official signed then Governor Clinton’s name to the letter,” and that the individual who made the request for the letter then made a \$50,000 contribution that reportedly came from “a foreign person then residing in the United States.”⁵²

In its investigation, the only letter the Committee obtained that concerned then-Governor Clinton's position on an election in Asia is an October 28, 1992, letter on Clinton/Gore letterhead that pertains to the presidential election in Korea. This document specifically states that then-Governor Clinton does not believe it is appropriate for U.S. public officials to endorse the candidacies in foreign elections. The letter states:

Thank you for bringing to my attention the impact in Korea that my statement of September 17th has caused. I would appreciate your help in clarifying the situation in Korea through proper channels. My statement was a courtesy reply in response to an invitation to me to attend an event in honor of Chairman Kim Dae-Jung, and to extend to him my greetings. It was not meant to endorse or assist his candidacy in the upcoming presidential election in Korea. I do not believe that any United States government official should endorse a presidential candidate in another country.⁵³

Allegation: On October 19, 1997, Chairman Burton appeared on national television and suggested that the White House had deliberately altered videotapes of presidential fundraising events. On CBS's *Face the Nation*, he said "We think ma--maybe some of those tapes may have been cut off intentionally, they've been--been, you know, altered in some way." He also said that he might hire lip-readers to examine the tapes to figure out what was being said on the tapes.⁵⁴

The Facts: Investigations by the House Government Reform and Oversight Committee and the Senate Governmental Affairs Committee produced no evidence of any tampering with the tapes. Shortly after Chairman Burton made his allegation regarding tape alteration, the Senate Governmental Affairs Committee hired a technical expert, Paul Ginsburg, to analyze the videotapes to determine whether they had been doctored. Mr. Ginsburg concluded that there was no evidence of tampering.⁵⁵ In addition, Colonel Joseph Simmons, commander of the White House Communications Agency (WHCA), Colonel Alan Sullivan, head of the White House Military Office which oversees WHCA, and Steven Smith, chief of operations of WHCA, all testified under oath before the House Government Reform and Oversight Committee in October 1997 that they were unaware of any alteration of the videotapes.⁵⁶

Allegation: In November 1997, Republican leaders drew on unsubstantiated reports by conservative radio talk shows and publications to accuse the Clinton Administration of selling burial plots in Arlington National Cemetery for campaign contributions.⁵⁷ Republican Party Chairman Jim Nicholson accused the Administration of a "despicable political scheme," and several Republican leaders, including Chairman Burton, called for investigations.⁵⁸ Representative Gerald Solomon stated, "[t]his latest outrage is one more slap in the face of every American who ever wore the uniform of their country, who seem to be special objects of contempt in this administration."⁵⁹

The Facts: The Army has established restrictive eligibility requirements for burial at Arlington. Individuals who are eligible for Arlington National Cemetery burial sites include service members who died while on active duty, honorably discharged members of the armed forces who

have been awarded certain high military distinctions, and surviving spouses of individuals already buried at Arlington, among others. The Secretary of the Army may grant waivers of these requirements.⁶⁰

In January 1998, the General Accounting Office (GAO) concluded an independent investigation of the allegations that waivers were granted in exchange for political contributions. As part of this investigation, GAO analyzed the laws and regulations concerning burials at Arlington, conducted in-depth review of Department of Army case files regarding approved and denied waivers, and had discussions with officials responsible for waiver decisions.⁶¹

GAO's report stated: "[W]e found no evidence in the records we reviewed to support recent media reports that political contributions have played a role in waiver decisions." Further, GAO stated: "Where the records show some involvement or interest in a particular case on the part of the President, executive branch officials, or Members of Congress or their staffs, the documents indicate only such factors as a desire to help a constituent or a conviction that the merits of the person being considered warranted a waiver."⁶²

Allegation: In January 1998, Chairman Burton held four days of hearings into whether campaign contributions influenced the actions of Secretary of the Interior Bruce Babbitt or other Department of the Interior officials with respect to a decision to deny an Indian gambling application in Hudson, Wisconsin. During those hearings, Chairman Burton alleged that the decision was a "political payoff" and that it "stinks" and "smells."⁶³

The Facts: On August 22, 2000, Independent Counsel Carol Elder Bruce released the report of her investigation into the Hudson casino decision. She found that the allegations of political payoff were unsubstantiated, concluding:

A full review of the evidence . . . indicates that neither Babbitt nor any government official at Interior or the White House entered into any sort of specific and corrupt agreement to influence the outcome of the Hudson casino application in return for campaign contributions to the DNC.⁶⁴

Allegation: In April 1998, Chairman Burton suggested that President Clinton had created a national monument in Utah in order to benefit the Lippo Group, an Indonesian conglomerate with coal interests in Indonesia.⁶⁵ James Riady, an executive of the Lippo Group, was a contributor to the DNC. In June 1998, in a statement on the House floor, Chairman Burton reiterated his allegation: "[T]he President made the Utah Monument a national park. What is the significance of that? The largest clean-burning coal facility in the United States, billions and billions of dollars of clean-burning coal are in the Utah Monument. It could have been mined environmentally safely according to U.S. engineers. Who would benefit from turning that into a national park so you cannot mine there? The Riady group, the Lippo Group, and Indonesia has the largest clean-burning coal facility, mining facility, in southeast Asia. They were one of the largest contributors. Their hands

are all over, all over these contributions coming in from Communist China, from Macao and from Indonesia. Could there be a connection here?"⁶⁶

The Facts: In September 1996, President Clinton set aside as a national monument 1.7 million acres of coal-rich land in Utah under a 1906 law that allows the president to designate national monuments without congressional approval.⁶⁷ After two years of investigation, the Committee produced no evidence that there is any connection between the designation of this land as a monument and Riady group or any other contributions.⁶⁸

Allegation: In April 1998, Chairman Burton released transcripts of selected portions of Webster Hubbell's prison telephone conversations. According to these transcripts, if Mr. Hubbell had filed a lawsuit against his former law firm, it would have "opened up" the First Lady to allegations, and for this reason Mr. Hubbell had decided to "roll over" to protect the First Lady. These transcripts included a quote of Mrs. Hubbell saying, "And that you are opening Hillary up to all of this," and Mr. Hubbell responding, "I will not raise those allegations that might open it up to Hillary" and "So, I need to roll over one more time." These quotes were taken from a two-hour March 25, 1996, conversation between the Hubbells.⁶⁹

The Facts: Webster Hubbell was Assistant Attorney General until March 1994. Prior to that, he was a partner with Hillary Clinton at the Rose Law Firm in Little Rock, Arkansas. In December 1994, Mr. Hubbell pled guilty to tax evasion and mail fraud and went to prison for 16 months.

During his imprisonment, Mr. Hubbell's phone calls to his friends, family, and lawyers were routinely taped by prison authorities. Such taping is standard in federal prisons. These tapes were turned over to the Government Reform and Oversight Committee. Although the tapes are supposed to be protected by the Privacy Act, Chairman Burton released a document in April 1998 entitled the "Hubbell Master Tape Log," which contained what were purported to be excerpts from these tapes. However, it was subsequently revealed that many of these excerpts were in fact inaccurate or omitted exculpatory statements made by Mr. Hubbell that directly contradicted the allegations.⁷⁰

For example, while the "Hubbell Master Tape Log" quoted the above portions of the March 25, 1996, conversation between Mr. and Mrs. Hubbell, it omitted a later portion of the same conversation that appears to exonerate the First Lady. The later portion of that conversation follows, with the portions that Chairman Burton omitted from the "Hubbell Master Tape Log" underlined:

Mr. Hubbell: Now, Suzy, I say this with love for my friend Bill Kennedy, and I do love him, he's been a good friend, he's one of the most vulnerable people in my counterclaim. Ok?

Mrs. Hubbell: I know.

Mr. Hubbell: Ok, Hillary's not, Hillary isn't, the only thing is people say why didn't she know what was going on. And I wish she never paid any attention to what was going on in the firm. That's the gospel truth. She just had no idea what was going on. She didn't participate in any of this.

Mrs. Hubbell: They wouldn't have let her if she tried.

Mr. Hubbell: Of course not.

The "Hubbell Master Tape Log" released by the Chairman also included an underlined passage in which Mr. Hubbell allegedly said: "The Riady is just not easy to do business with me while I'm here." In fact, the actual tape states: "The reality is it's just not easy to do business with me while I'm here."

Allegation: In April 1998, Chairman Burton sought immunity from the Committee for four witnesses: Nancy Lee, Irene Wu, Larry Wong, and Kent La. He and other Republicans leaders, including Speaker Newt Gingrich, alleged that these witnesses had important information about illegal contributions from the Chinese government during the 1996 elections.⁷¹

Speaker Gingrich alleged that the four witnesses would provide information on "a threat to the fabric of our political system."⁷² Rep. John Boehner alleged that the witnesses had "direct knowledge about how the Chinese government made illegal campaign contributions" and stated that the decision regarding granting immunity "is about determining whether American lives have been put at risk."⁷³ Committee Republican Rep. Shadegg stated that one of the witnesses, Larry Wong, "is believed to have relevant information regarding the conduit for contributions made by the Lums and others in the 1992 fund-raising by John Huang and James Riady."⁷⁴

The Facts: In June 1998, the Committee provided these witnesses with immunity. After they were immunized, their testimony revealed that none had any knowledge whatsoever about alleged Chinese efforts to influence American elections. For example, Mr. Wong's primary responsibilities in working for Democratic donor Nora Lum were to register voters and serve as a volunteer cook.⁷⁵ Following is the total testimony he provided regarding James Riady:

Majority Counsel: Did Nora ever discuss meeting James Riady?

Mr. Wong: James who?

* * *

Majority Counsel: James Riady.

Mr. Wong: No.⁷⁶

Allegation: In May 1998, Rep. Curt Weldon suggested on the House floor that the President could have committed treason. Rep. Weldon's remarks involved allegations that the political contributions of the Chief Executive Officer of Loral Corporation, Bernard

Schwartz, had influenced the President's decision to authorize the transfer of certain technology to China. Rep. Weldon described this issue as a "scandal that is unfolding that I think will dwarf every scandal that we have seen talked about on this floor in the past 6 years," and said, "this scandal involves potential treason."⁷⁷ The *National Journal* reported this allegation in an article that referred to Rep. Weldon as "a respected senior member of the National Security Committee."⁷⁸

The Facts: The Department of Justice examined the allegations relating to whether campaign contributions influenced export control decisions and found them to be unfounded.⁷⁹ In August 1998, Lee Radek, chief of the Department's public integrity section, wrote that "there is not a scintilla of evidence – or information – that the President was corruptly influenced by Bernard Schwartz."⁸⁰ Charles La Bella, then head of the Department's campaign finance task force, agreed with Mr. Radek's assessment that "this was a matter which likely did not merit any investigation."⁸¹

A House select committee investigated allegations relating to United States technology transfers to China, and whether campaign contributions influenced export control decisions. In May 1999, the Committee findings were made public. The Committee's bipartisan findings also did not substantiate Rep. Weldon's suggestions of treason by the President.⁸²

Allegation: In September 1998, Rep. David McIntosh sent a criminal referral to the Department of Justice alleging that White House Deputy Counsel Cheryl Mills provided false testimony to Congress and obstructed justice.⁸³ He told the *Washington Post* that there was "very strong evidence" that Ms. Mills lied to Congress.⁸⁴

The Facts: Rep. McIntosh's claims were based on a run-of-the-mill document dispute. Ms. Mills believed that two documents out of over 27,000 pages of documents produced to the Government Reform and Oversight Committee were not responsive to a request from Rep. McIntosh, while Rep. McIntosh believed the two documents were responsive. Instead of viewing this disagreement as a difference in judgment, Rep. McIntosh charged that Ms. Mills was obstructing justice and that she lied to the Committee.⁸⁵ The Justice Department investigated Rep. McIntosh's allegations and found them to be without merit.⁸⁶

Allegation: In October 1998, Rep. David McIntosh alleged that the President, First Lady, and senior Administration officials were involved in "theft of government property" for political purposes. To support this claim, Rep. McIntosh claimed that the President's 1993 and 1994 holiday card lists had been knowingly delivered to others outside of the government, and that, with respect to the holiday card project, evidence suggested a "criminal conspiracy to circumvent the prohibition on transferring data to the DNC."⁸⁷

The Facts: The White House database, known as "WhoDB," is a computerized rolodex used to track contacts of citizens with the White House and to create a holiday card list. In putting together the holiday card list, the Clinton Administration followed the procedures established by previous administrations. A number of entities, including the White House and the Democratic

National Committee, created lists of card recipients, and the White House hired an outside contractor to merge the lists, and produce and mail the cards. As with past Administrations, the production and mailing costs of the holiday card project were paid for by the President's political party to avoid any appearance that taxpayer funds were being used to pay for greetings to political supporters.

The evidence showed that the contractor charged with eliminating duplicate names from the 1993 holiday card list failed to remove the list from its computer. This computer was subsequently moved – for unrelated reasons – to the 1996 Clinton/Gore campaign. The Committee uncovered no evidence that this list was ever used for campaign purposes. In fact, computer records showed that the Clinton/Gore campaign never accessed it, and it appears that the campaign was not aware that the computer contained this list.

With respect to the 1994 holiday card list, a DNC employee learned that the contractor charged with eliminating duplicate names from the list did not properly “de-dupe” the list. Therefore, she worked with her parents and several volunteers over a weekend to properly perform this task. The evidence indicates that neither the 1994 nor the 1993 holiday card list was used for any other purpose than sending out the holiday cards.⁸⁸

Allegation: In March 1999, Chairman Burton sent a criminal referral to Department of Justice alleging that Charles Duncan, Associate Director of the Office of Presidential Personnel at the White House, made false statements to the Committee regarding the appointment of Yah Lin “Charlie” Trie to the Bingaman Commission.⁸⁹

The Facts: Chairman Burton alleged that Mr. Duncan made false statements in his answers to Committee interrogatories in April 1998.⁹⁰ These answers included statements by Mr. Duncan that, to the best of his recollection, no one expressed opposition to him regarding the appointment of Mr. Trie to a trade commission known as the “Bingaman Commission.”⁹¹ The main basis for the Chairman’s allegation was that Mr. Duncan’s responses were “irreconcilable” with statements purportedly made by another witness, Steven Clemons.⁹²

Investigation revealed that Mr. Clemons’s statements were apparently misrepresented by Mr. Burton’s staff. Mr. Clemons was interviewed by two junior majority attorneys without representation of counsel. Immediately after the majority released the majority staff’s interview notes of the Clemons interview in February 1998, Mr. Clemons issued a public statement noting that he had never seen the notes, he had not been given the opportunity to review them for accuracy, and that “the notes have significant inaccuracies and misrepresentations . . . about the important matters which were discussed.”⁹³ The Department of Justice closed its investigation of Mr. Duncan without bringing any charges.⁹⁴

Allegation: In June 1999, Chairman Burton issued a press release accusing Defense Department officials of attempting to tamper with the computer of a Committee witness, Dr. Peter Leitner, of the Defense Threat Reduction Agency (DTRA), while he was testifying before the House Committee on Government Reform. The Chairman alleged, “While Dr.

Leitner was telling my committee about the retaliation he suffered for bringing his concerns to his superiors and Congress, his supervisor was trying to secretly access his computer. This smacks of mob tactics.” He further commented, “George Orwell couldn’t have dreamed this up.”⁹⁵

The Facts: Both the Committee and the Air Force Office of Special Investigations subsequently conducted investigations regarding the allegation of computer tampering. The Committee interviewed 11 DTRA employees, obtained relevant documents, and learned that the allegation was untrue. Instead, the incident was nothing more than a routine effort to obtain files in the witness's computer that were necessary to complete an already overdue project.

When Dr. Leitner was on leave to testify before the Committee on June 24, 1999, his superior, Colonel Raymond A. Willson, had reassigned a task of Dr. Leitner's to another DTRA employee. This reassignment -- responding to a letter from Senator Phil Gramm -- occurred because DTRA's internal due date for the project was passed and Dr. Leitner's draft response was not accurate. As part of reassigning the task, Col. Willson asked the office's technical division to transfer relevant files from Dr. Leitner's computer. The transfer never occurred, however, because the employee to whom the task was reassigned did not need Dr. Leitner's files to complete the task. Dr. Leitner's computer was not touched.⁹⁶

On July 12, 1999, the Committee also learned that the Air Force Office of Special Investigations had completed its investigation and found that Col. Willson had done nothing improper.

Allegation: In July 1999 testimony before the House Rules Committee, Chairman Burton stated that the House Committee on Government Reform had received information indicating that the Attorney General “personally” changed a policy related to release of information by the Department of Justice so that an attorney she knew “could help her client.”⁹⁷

The Facts: One year after Chairman Burton testified before the Rules Committee, the House Government Reform Committee took testimony from the relevant witnesses at a July 27, 2000, hearing.

Chairman Burton's allegations concerned efforts by a Miami attorney, Rebekah Poston, to obtain information for her client, who had been sued in a Japanese court for libel by a Japanese citizen named Nobuo Abe. The alleged statements at the heart of this lawsuit related to whether Mr. Abe had been arrested or detained in Seattle in 1963. Mr. Abe maintained that he had never been detained and that statements to the contrary made by Ms. Poston's client were defamatory.⁹⁸ In order to support her client's interests in this lawsuit, Ms. Poston filed Freedom of Information Act (FOIA) requests with several components of the Department of Justice in November 1994 seeking records that established that her client's statement were true and that Mr. Abe had, in fact, been arrested or detained.

In response to Ms. Poston's FOIA requests, the INS, Bureau of Prisons, and Executive Office of the United States Attorneys informed Ms. Poston that no records on Mr. Abe existed.⁹⁹ The Department of Justice, however, initially informed Ms. Poston that it was its policy not to confirm or deny whether the Justice Department maintains such files on an individual unless the individual authorizes such a confirmation or denial.¹⁰⁰ After Ms. Poston appealed this decision and threatened litigation on the matter, the Justice Department reversed its decision and confirmed to her that no records on Mr. Abe existed. This decision to confirm the lack of records was legal and it was damaging to Ms. Poston's client. The Justice Department official who directed this decision testified that he believed it was appropriate because it precluded potential litigation and did not deprive anyone of privacy rights because no release of records was involved.¹⁰¹

Although the Chairman suggested that the Attorney General "personally" changed Department policy to allow release of information, the records produced to the Committee show that the Attorney General recused herself from the decision.¹⁰² John Hogan, who was Attorney General Reno's chief of staff at the time of Ms. Poston's FOIA request, testified before the House Government Reform Committee that the Attorney General "had no role in this decision whatsoever, initially or at any stage."¹⁰³

Allegation: In August and September 1999, Chairman Burton alleged that Attorney General Reno had intentionally withheld evidence from Congress on the use of "military rounds" of tear gas, which may have some potential to ignite a fire, during the siege of the Branch Davidian compound in Waco, TX. Specifically, on a national radio news broadcast in August 1999, he stated that Attorney General Reno "should be summarily removed, either because she's incompetent, number one, or, number two, she's blocking for the President and covering things up, which is what I believe."¹⁰⁴

Further, on September 10, 1999, Chairman Burton wrote the Attorney General regarding a 49-page FBI lab report that on page 49 references the use of military tear gas at Waco. He stated that the Department had failed to produce that page to the Committee on Government Reform during the Committee's Waco investigation in 1995, and asserted that this failure "raises more questions about whether this Committee was intentionally misled during the original Waco investigation."¹⁰⁵ In a subsequent television interview, Chairman Burton stated, "with the 49th page of this report not given to Congress when we were having oversight investigations into the tragedy at Waco and that was the very definitive piece of paper that could have given us some information, it sure looks like they were withholding information."¹⁰⁶

The Facts: Evidence regarding the use of "military rounds" of tear gas was in Chairman Burton's own files at the time he alleged that the Department of Justice had withheld this information. Within days after Chairman Burton's allegations, the minority staff found several documents provided by the Department of Justice to Congress in 1995 that explicitly describe the use of military tear gas rounds at Waco on April 19, 1993.¹⁰⁷

Further, contrary to Chairman Burton's allegations, the Department of Justice in fact had

produced to the Committee copies of the FBI lab report that did include the 49th page. Former Senator John Danforth, whom the Attorney General appointed as a special counsel to conduct an independent investigation of Waco-related allegations, recently issued a report that commented as follows on document production to congressional committees:

[W]hile one copy of the report did not contain the 49th page, the Committees were provided with at least two copies of the lab report in 1995 which did contain the 49th page. The Office of Special Counsel easily located these complete copies of the lab report at the Committees' offices when it reviewed the Committees' copy of the 1995 Department of Justice production. The Department of Justice document production to the Committees also included several other documents that referred to the use of the military tear gas rounds, including the criminal team's witness summary chart and interview notes. The Special Counsel has concluded that the missing page on one copy of the lab report provided to the Committees is attributable to an innocent photocopying error and the Office of Special Counsel will not pursue the matter further.¹⁰⁸

Allegation: In November 1999, Chairman Burton appeared on television and claimed that FBI notes of interviews with John Huang show that the President was a knowing participant in an illegal foreign campaign contribution scheme. According to the Chairman, "Huang says that James Riady told the President he would raise a million dollars from foreign sources for his campaign," that "\$700,000 was then raised by the Riady group in Indonesia," and that "that money was reimbursed by the Riadys through intermediaries in the United States. All that was illegal campaign contributions." He further stated: "[T]his \$700,000 that came in – the President knew that James Riady was doing it. He knew it was foreign money coming in from the Lippo Group in Jakarta, Indonesia, and he didn't decline it. He accepted it, used it in his campaign, and got elected."¹⁰⁹

The Facts: The FBI interview notes do not support the Chairman's allegation. The FBI notes of interviews with Mr. Huang do indicate that Mr. Riady, who was a legal resident at the time, told President Clinton that he would like to raise one million dollars.¹¹⁰ The notes do not indicate, however, that Mr. Riady discussed the source of the contributions he intended to raise, and Mr. Huang told the FBI that he personally never discussed individual contributions or the sources of such contributions with the President.¹¹¹

In December 1999, John Huang appeared before the Committee. He testified that he had no knowledge regarding whether President Clinton knew of foreign money coming from the Lippo group to his campaign, and that he did not believe that the President knew about it. He further stated that he had no knowledge that Mr. Riady indicated to the President the source of the money he intended to raise.¹¹² In addition, Mr. Huang testified that, as far as he knew, President Clinton had not participated in or had any knowledge of efforts to raise illegal foreign campaign contributions.¹¹³

Allegation: In December 1999, Chairman Burton alleged that the White House prevented White House Communications Agency (WHCA) personnel from filming the President

meeting with James Riady, a figure from the campaign finance investigation, at an Asia-Pacific Economic Cooperation (APEC) summit meeting in New Zealand in September 1999. During a December 15, 1999, hearing entitled “The Role of John Huang and the Riady Family in Political Fundraising,” Chairman Burton showed the two tapes made by the WHCA personnel, and then showed a video filmed by a press camera. Of the third tape, the Chairman said:

That shows a little different picture. The White House tapes don’t show it, but President Clinton really did pay some special attention to Mr. Riady. This White House is so consumed with covering things up that their taxpayer-funded photographer wouldn’t even allow a tape to be made of the President shaking Mr. Riady’s hand. No one minded the President meeting Mr. Riady. They just didn’t want anyone to know how warmly he was greeted because of the problems surrounding Mr. Riady.¹¹⁴

The Facts: President Clinton shook James Riady’s hand in a rope line in New Zealand in September 1999. One of the WHCA cameras filming the President from the side stopped filming as the President greeted Mr. Riady. The other camera, filming the President head-on, panned away from the President as he moved down the rope line and did not return to him until he moved past Mr. Riady. The third camera, the camera Chairman Burton claimed was operated by a member of the press, captured the whole exchange between the President and Mr. Riady. This exchange lasted approximately 10 seconds and consisted of a handshake and a brief, inaudible conversation.

Committee staff interviewed Jon Baker, the person who operated the camera filming the President from the side, and Quinton Gipson, the person who operated the camera filming the President head-on. Mr. Baker told staff that no one instructed him not to film the President and Mr. Riady and he did not know who Mr. Riady was. Similarly, Mr. Gipson said he did not know who James Riady was and that he did not get any guidance about taping the event from anyone.

WHCA policy is to film any remarks the President gives, but not necessarily to film every move the President makes. WHCA camera operators do not take direction from the White House about how to cover events. Mr. Baker told Committee staff that he stopped filming when he did because he had to pack up his equipment and rush to join the motorcade and it was a coincidence that neither he nor the other cameraman captured the full exchange between the President and Mr. Riady.

Allegation: In July 2000, Chairman Burton said a videotape of a December 15, 1995, coffee at the White House indicates that Vice President Gore suggested that DNC issue advertisements be played for Democratic donor James Riady, who has been the subject of campaign finance probes. According to the Chairman, Vice President Gore “apparently

states: “We oughta, we oughta, we oughta show Mr. Riady the tapes, some of the ad tapes.”¹¹⁵

The Facts: Chairman Burton played the videotape at a July 20, 2000, hearing of the Government Reform Committee. However, it was not possible to determine what was said on the tape. Further, it was impossible to determine to whom the Vice President was speaking because he was not on camera during the alleged comment. A *Reuters* reporter describing the playing of the videotape at the hearing wrote, “Gore’s muffled words were not clear.”¹¹⁶

When Chairman Burton played the tape on Fox Television’s program *Hannity and Colmes*, the person whose job it is to transcribe the show transcribed the tape excerpt as follows:

We ought to -- we ought to show that to (unintelligible) here, let (unintelligible) tapes, some of the ad tapes (unintelligible).¹¹⁷

Allegation: In October 2000, the House Government Reform Committee majority released a report claiming that the Committee’s investigation of White House e-mail problems had uncovered a scandal that exceeds Watergate. The majority report asserted:

The implications of these revelations are profound. When the Nixon White House was forced to admit that there was an eighteen-and-a-half minute gap on a recorded tape, there was a firestorm of criticism. The “gap” created by hundreds of thousands of missing e-mails, and by a Vice Presidential staff decision to manage records so they could not be searched, is of no less consequence. If senior White House personnel were aware of these problems, and if they failed to take effective measures to recover the withheld information – or inform those with outstanding document requests – then the e-mail matter can fairly be called the most significant obstruction of Congressional investigations in U.S. history. While the White House’s obstruction in Watergate related only to the Watergate break-in, the potential obstruction of justice by the Clinton White House reaches much further.¹¹⁸

The Facts: Several problems relating to the e-mail archiving system at the White House over the past few years prevented a subset of White House e-mails from being archived. These problems may have had some impact on White House document production, because the White House conducted searches of archived e-mails to respond to information requests from investigators. The Committee received no information that any White House official intentionally created the e-mail problems, made any attempt to impede investigation of the problems, or had any knowledge of the content of e-mails that may not have been captured.¹¹⁹

Citations

1. The minority staff of the Government Reform Committee estimates that the costs of the congressional campaign finance investigations alone have exceeded \$23 million. This figure includes \$8.7 million that a 1998 General Accounting Office report found federal agencies reported spending on responding to congressional inquiries on campaign finance matters; over \$8 million that the House Government Reform Committee has spent on its campaign finance investigation; \$3.5 million that the Senate Governmental Affairs Committee spent on its campaign finance investigation; \$1.2 million authorized for the House Committee on Education and the Workforce's investigation of allegations of campaign finance abuses concerning the Teamsters; and \$2.5 million authorized for a select committee that investigated allegations that the Clinton Administration gave missile technology to China in exchange for campaign contributions. See *GAO Survey of Executive Branch Cost to Respond to Congressional Campaign Finance Inquiries* (June 23, 1998); House Committee on Government Reform and Oversight, *Interim Report: Investigation of Political Fundraising Improprieties and Possible Violations of Law, Additional and Minority Views*, 105th Cong, 3968-69 (1998) (H. Rept. 105-829). When the costs of investigating allegations in addition to the campaign finance allegations are included, the total costs likely significantly exceed \$23 million. Many of these additional investigations involved substantial congressional resources as well as executive branch resources to respond to inquiries. For example, to investigate allegations concerning the government's actions at Waco, Texas, the House Government Reform Committee has conducted at least 82 interviews, and has received over 750,000 pages of documents from the Justice Department and the Defense Department in response to Committee requests.
2. CBS, *CBS Morning News* (Oct. 20, 1997).
3. CBS, *CBS This Morning* (Oct. 20, 1997).
4. NBC, *NBC News At Sunrise* (Oct. 20, 1997).
5. NBC, *Today* (Oct. 20, 1997).
6. ABC, *ABC World News Sunday* (Oct. 19, 1997).
7. CNN, *CNN Early Prime* (Oct. 19, 1997).
8. CNN, *CNN Morning News* (Oct. 20, 1997).
9. CNN, *Headline News* (Oct. 20, 1997).
10. CNN, *Early Edition* (Oct. 20, 1997).
11. Fox, *Fox Morning News* (Oct. 20, 1997).
12. Fox, *Fox News Now/Fox In Depth* (Oct. 20, 1997).

13. *Tapes May Have Been Altered, Rep. Burton Says; Clinton Aide Decries Chairman's 'Innuendo'* (Oct. 20, 1997).
14. *GOP Suggests Tapes Altered* (Oct. 20, 1997).
15. *GOP Suspects White House Altered Fund-raising Tapes* (Oct. 20, 1997).
16. *Panel May Use Lip Readers to Check Fund-raising Tapes* (Oct. 20, 1997).
17. *Tape-Tampering Denied* (Oct. 21, 1997).
18. Senator Thompson announced these findings on NBC's *Meet the Press* (Dec. 7, 1997). Only a handful of media outlets reported this announcement, and these reports focused on other campaign finance issues and mentioned the Thompson announcement only at the very end of the accounts. *E.g., Reno and Freeh to Testify, Morning Edition*, National Public Radio (Dec. 9, 1997) (reporting on the upcoming House Government Reform and Oversight Committee hearing on the independent counsel decision and noting Senator Thompson's announcement at the very end). Beyond coverage of Senator Thompson's announcement, one article reported that Paul Ginsburg, a technical expert hired by the Senate Governmental Affairs Committee, had found no signs of doctoring. *See Expert: Coffee Tapes Are Clean*, *Newsday* (Nov. 8, 1997), and the "Real Deal" segment at the end of *Face the Nation* on November 2, 1997, followed up on Rep. Burton's allegation to report that Mr. Ginsburg was going to report that there was no doctoring.
19. *See, e.g., Congressional Record*, H5632 (July 13, 1994).
20. Office of Independent Counsel, *Report on the Death of Vincent W. Foster, Jr. (In Re: Madison Guaranty Savings & Loan Association)*, 5 (Oct. 10, 1997) (citing Federal News Service (Aug. 10, 1993)).
21. *Id.* at 7 (citing *Report of the Independent Counsel Robert B. Fiske, Jr., In Re: Vincent W. Foster, Jr.*, at 58).
22. *Id.* at 111.
23. *Former Clinton Aide Faces Questions on Memo; Document Suggests that First Lady Was Behind Firings in Travel Office*, *Milwaukee Journal Sentinel* (Jan. 6, 1996).
24. House Committee on Government Reform and Oversight, *Hearing, White House Travel Office – Day Three*, 104th Cong., 111 (Jan. 24, 1996).
25. Press Release, Office of the Independent Counsel (June 22, 2000).
26. *Congressional Record*, H6633 (June 20, 1996).
27. House Committee on Government Reform and Oversight, *Investigation of the White House and Department of Justice on Security of FBI Background Investigation Files*, 104th Cong., 16 (1996) (H. Rept. 104-862).

28. Office of Independent Counsel, *Report of the Independent Counsel (In Re: Madison Guaranty Savings and Loan Association) In Re: Anthony Marceca*, 7-8 (March 16, 2000).
29. CNN, *Late Edition with Frank Sesno* (Feb. 16, 1997).
30. Congressional Record, H4097 (June 20, 1997).
31. *See Senate Panel Is Briefed on China Probe Figure; Officials Say Evidence May Link L.A. Businessman to Election Plan*, Washington Post (Sept. 12, 1997).
32. *E.g.*, CBS Evening News (June 11, 1997); *Huang Leaked Secrets, GOP Lawmaker Says*, Los Angeles Times (June 13, 1997); *Republican Lawmaker Alleges Huang Passed Secrets; Communications with Lippo Group Questioned*, Baltimore Sun (June 13, 1997); *Congressman Says Evidence Confirms Huang Passed Secrets – The House Rules Chairman Says Information Was Given to the Lippo Group*, Fort Worth Star-Telegram (June 13, 1997); *Huang Gave Classified Data to Lippo, Lawmaker Claims*, Austin American-Statesman (June 13, 1997); *Huang Accused of 'Economic Espionage,' Cincinnati Enquirer* (June 13, 1997); *Legislator Alleges Fund-raiser Gave Classified Data to Overseas Company*, Las Vegas Review-Journal (June 13, 1997); *Dem Donor 'Breached Security' Lawmaker Accuses Ex-Clinton Appointee*, Arizona Republic (June 13, 1997); *Congressman Alleges Huang Passed Secret Data to Firm; White House, FBI Decline to Comment on Solomon's Remarks*, Milwaukee Journal Sentinel (June 13, 1997).
33. Gerald Solomon Interview FD-302 at 1 (Aug. 28, 1997).
34. Gerald Solomon Interview FD-302 at 1 (Feb. 11, 1998).
35. CNN, *Inside Politics* (Aug. 27, 1997).
36. *GOP Lawmaker Seeks Counsel to Probe O'Leary-Chung Tie*, Buffalo News (Aug. 22, 1997).
37. Notification to the Court Pursuant to 28 U.S.C. §592 (b) of Results of Preliminary Investigation (Dec. 2, 1997).
38. *Id.* The House Government Reform and Oversight Committee also discovered that fact. The Committee deposed several individuals, including Secretary O'Leary, to investigate the allegation by Mr. Chung regarding Secretary O'Leary. The Committee scheduled a hearing on the matter, but, upon discovering the allegation was false, canceled the hearing.
39. NBC's *Meet the Press* (Sept. 14, 1997).
40. *White House Denies Role in Audit of Jones; IRS Has History of Targeting 'Enemies,'* Washington Times (Sept. 16, 1997).
41. *E.g.*, *Whistleblowers' Letter, Newspapers Alert Agency*, Washington Times (Sept. 29, 1997); *Conservatives Suspect IRS Audit Is Price of Opposing Clinton Policies*, Washington Times (Apr.

- 21, 1997); *Politics and the IRS*, Wall Street Journal (Jan. 9, 1997).
42. Staff of the Joint Committee on Taxation, *Report of Investigation of Allegations Relating to Internal Revenue Service Handling of Tax-Exempt Organization Matters* (March 2000).
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45. *Id.* at 257, 271.
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49. House Committee on Government Reform and Oversight, *Hearings on Campaign Finance Improprieties and Possible Violations of Law*, 105th Cong., 11-12 (Oct. 8, 1997) (H. Rept. 105-50).
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51. *E.g.*, *Story of a Foreign Donor's Deal With '92 Clinton Camp Outlined*, Washington Post (Oct. 9, 1997); *House Panel to Hear of '92 Clinton Donation Problem Probe*, Los Angeles Times (Oct. 9, 1997).
52. Proffer of Nora and Gene Lum, *supra* note 50, at Part B.1-3.
53. Deposition of Richard C. Bertsch, House Committee on Government Reform and Oversight, ex. 12 (March 30, 1998). The letter was addressed to Richard Choi Bertsch, who worked for an organization called the Asian Pacific Advisory Council-VOTE ("APAC") which conducted get-out-the-vote and fund-raising activities in the Asian-American community in California in 1992. *Id.* at 10-13, 20-22.
54. CBS's *Face the Nation* (Oct. 19, 1997).
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56. Deposition of Joseph Simmons, House Committee on Government Reform and Oversight, 149 (Oct. 18, 1997); Deposition of Alan P. Sullivan, House Committee on Government Reform and Oversight, 37 (Oct. 17, 1997); Deposition of Steven Smith, House Committee on Government Reform and Oversight, 99 (Oct. 18, 1997).
57. The conservative publication *Insight* magazine reported that “dozens of big-time political donors or friends of the Clintons” had gained waivers of the eligibility rules regarding burials at Arlington National Cemetery. Without naming its sources, the article stated that a “national cemetery official” and other sources are “outraged that the Clinton White House has applied pressure to gain waivers for fat-cat donors.” *Is There Nothing Sacred?*, *Insight Magazine* (dated Dec. 8, 1997, but reportedly released in advance of that date).
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61. *Id.* at 1.
62. *Id.* at 9.
63. House Committee on Government Reform and Oversight, *Hearings on the Department of the Interior’s Denial of the Wisconsin Chippewa’s Casino Application*, 105th Cong., v.1, 106, 340 (Jan. 28, 1998).
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70. *Bridling G.O.P. Leader Says Tapes Speak for Themselves*, *New York Times* (May 5, 1998); *Burton Defends Hubbell Transcript Actions*, *Washington Post* (May 5, 1998).

71. *Opening Statement by Chairman Burton*, House Committee on Government Reform and Oversight, Business Meeting, 6-13 (Apr. 23, 1998); Congressional Record, H2338 (Apr. 28, 1998); Congressional Record, H2444 (Apr. 29, 1998).
72. Congressional Record, H2336 (Apr. 28, 1998).
73. Congressional Record, H3453 (May 19, 1998).
74. House Committee on Government Reform and Oversight, Business Meeting, 87 (Apr. 23, 1998) (stenographic record).
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76. *Id.* at 85.
77. Congressional Record, H3239 (May 13, 1998).
78. *GOP Breaking China Over Clinton's Deals*, National Journal (May 23, 1998).
79. *See Internal Justice Memo Excuses Loral*, Los Angeles Times (May 23, 2000).
80. Memorandum from Lee Radek to James Robinson, Assistant Attorney General, Criminal Division (Aug. 5, 1998).
81. The Addendum to Interim Report for Janet Reno and Louis Freeh Prepared by Charles La Bella and James DeSarno (Aug. 12, 1998).
82. House Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China, 105th Cong., 2nd Sess. (Committed to the Committee of the Whole House, Jan. 3, 1999; Declassified in Part, May 25, 1999) (H. Rept. 105-851).
83. Letter from Rep. David McIntosh to Attorney General Janet Reno (Sept. 17, 1998).
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86. Letter from M. Faith Burton, Special Counsel to the Assistant Attorney General, to Rep. David McIntosh (May 6, 1999).
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88. *Id.*, Minority Views, 564-68.
89. Letter from Chairman Dan Burton to Attorney General Janet Reno (March 22, 1999).
90. *Id.*
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92. Letter from Chairman Dan Burton to Attorney General Janet Reno, *supra* note 89.
93. Statement of Steven C. Clemons (Feb. 25, 1998); Letter from Rep. Henry A. Waxman to Attorney General Janet Reno (Apr. 13, 1999).
94. Statement of Alan Gershel, Deputy Assistant Attorney General, Department of Justice, House Committee on Government Reform, *Hearing on Contacts between Northrop Grumman Corporation and the White House Regarding Missing White House E-Mails* (Sept. 26, 2000).
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98. *See* Letter from Russell J. Bruemmer, Wilmer, Cutler & Pickering, to Richard L. Huff, Co-Director, Office of Information and Privacy, Department of Justice (March 31, 1995).
99. Letter from Wallace H. Cheney, Assistant Director/General Counsel, Federal Bureau of Prisons, to Joseph M. Gabriel, Law Offices of Langberg, Leslie and Gabriel (March 2, 1995); Letter from Bonnie L. Gay, Attorney-in-Charge, FOIA/PA Unit, Executive Office of United States Attorneys, Department of Justice, to Joseph M. Gabriel (Dec. 15, 1994); *See* Letter from Magda S. Ortiz, FOIA/PA Reviewing Officer, Immigration and Naturalization Service, to Rebekah Poston (Dec. 6, 1994) (explaining that a potentially responsive record was illegible and requesting additional information); Letter from Russell J. Bruemmer, Wilmer, Cutler & Pickering, to Richard L. Huff, Co-Director, Office of Information and Privacy, Department of Justice (March 31, 1995) (explaining that the INS searched for, but ultimately could not find, a record responsive to the FOIA request).
100. Testimony of Richard Huff and Rebekah Poston, House Government Reform Committee, *Felonies and Favors: A Friend of the Attorney General Gathers Information from the Justice Department*, 129-31 (July 27, 2000) (stenographic record).
101. Testimony of John Schmidt and John Hogan, House Committee on Government Reform, *Felonies and Favors: A Friend of the Attorney General Gathers Information from the Justice Department*, 120-23, 128, 140-41 (July 27, 2000) (stenographic record).

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103. House Committee on Government Reform, *Felonies and Favors: A Friend of the Attorney General Gathers Information from the Justice Department*, 154 (July 27, 2000) (stenographic record).
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105. Letter from Chairman Burton to Attorney General Janet Reno (Sept. 10, 1999).
106. Fox News, *Fox News Sunday* (Sept. 12, 1999).
107. Letter from Rep. Henry Waxman to John Danforth, Special Counsel (Sept. 13, 1999); FBI FD-302 of FBI Agent (June 9, 1993) (reporting that a pilot heard "a high volume of [Hostage Rescue Team] traffic and Sniper [Tactical Operations Command] instructions regarding . . . the insertion of gas by ground units," including "one conversation, relative to utilization of some sort of military round to be used on a concrete bunker"); FBI H.R.T. Interview Schedule (Nov. 9, 1993) (summarizing an interview with an FBI agent and stating that "smoke on film came from attempt to penetrate bunker w/1 military and 2 ferret rounds" and further describing the military round as "Military was . . . bubblehead w /green base"); Handwritten notes (April 19, 1993) (making repeated references to military rounds fired on April 19, 1993, such as "smoke from bunker came when these guys tried to shoot gas into the bunker (military gas round)").
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111. John Huang Interview FD-302 at 129 (Feb. 23 - March 26, 1999).
112. House Committee on Government Reform, *Hearings on the Role of John Huang and the Riady Family in Political Fundraising*, 104 (Dec. 15, 1999) (stenographic record).
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119. *Minority Views on the E-mail Investigation, Executive Summary* (Oct. 5, 2000).

Mr. WAXMAN. As this report documents, the President and his aides did not deserve many of the criticisms they received over the last 8 years. But a President does deserve criticism when he makes a mistake. And in this case, I think that is what former President Clinton did when he pardoned Marc Rich and Pincus Green.

It's true that the power to issue Federal pardons rests solely with the President. There is no role for the Congress or the courts. The only check on the abuse of this power is the judgment of the President.

The best use of Presidential pardons is for correcting injustices against those with little power or money. In fact, President Clinton did exactly that in many instances.

One good example is Derrick Curry. In 1989, Mr. Curry, a young black college student, was sentenced to 20 years in prison with no chance of parole for his first drug offense. The judge who sentenced Mr. Curry reluctantly sentenced him to 20 years in prison because he had no choice under the Federal sentencing guidelines.

Pardons are particularly appropriate, as well, for those who have accepted punishment, have demonstrated a true repentance and have subsequently done good works for society. For a President leaving office, it can be an invaluable opportunity to put aside public opinion polls and act courageously.

The Marc Rich pardon meets none of these criteria. It's clear from the materials that Jack Quinn prepared that Mr. Rich had a credible legal argument against prosecution, but that argument should have been made in our courts.

The Rich pardon is a bad precedent. It appears to set a double standard for the wealthy and the powerful, and it is an end run around the judicial process.

Think about it for a minute. One week Marc Rich is on the Justice Department's list of the Ten Most Wanted, and the next week, he's given a Presidential pardon. This makes no sense. Something has to happen in between. This gap can't be bridged in just one big jump. But under the current system, the President is allowed to make bad judgments that all of us disagree with when he issues pardons. That's how the system works.

For example, questions were raised when, just before leaving office in 1993, President Bush pardoned Aslam Adam, a Pakistani individual who had been convicted of conspiracy to possess with intent to distribute \$1 million worth of heroin. Both the prosecutor and the judge who sentenced Mr. Adam reportedly did not want him freed.

Questions were also raised when on December 24, 1992, then-President Bush pardoned former Secretary of Defense Caspar Weinberger. Mr. Weinberger was being investigated by the independent counsel, Lawrence Walsh, regarding the Iran-Contra matter and was scheduled for a trial on January 5, within a month. Independent Counsel Walsh called the pardon "terrible" and "grossly wrong," but President Bush had the power to issue that pardon.

When a President makes a bad judgment, whether it's former President Bush or former President Clinton, it's appropriate for us in the Congress to raise questions and express our views.

There is a crucial distinction, however, between bad judgment and a Presidential scandal.

Here is the key issue this morning. Is this a case of bad judgment, or is it a case involving bribery, corruption or criminal conduct? To date, I see plenty of bad judgment, but no evidence of criminal wrongdoing has been presented to us to this point.

I see no indication that we're going to get any evidence along those lines. This distinction is important to how this committee proceeds. Unless there is compelling evidence of illegal conduct by former President Clinton, the committee should not embark on a search for another scandal. The committee should put away its subpoenas and shelve its endless document requests.

I do want to make note for the record that the chairman indicated that Beth Nolan refused to come and cooperate with the committee. Beth Nolan, as a White House counsel for former President Clinton, served admirably with great distinction in that position. And she is out of the country on vacation. She has not indicated her unwillingness to come before us or to assist the committee, but that she was unable to be with us today.

Well, in the spirit of bipartisanship, I'm withholding judgment on today's hearings until we get the testimony from the witnesses. But if there's no evidence of wrongdoing, if there's only evidence of clearly bad judgment by President Clinton, which I sincerely see in his action, I will strongly object if this committee embarks on another wild goose chase.

Everyone is eventually going to have to come to grips with the fact that President Clinton is no longer President. There's been a cottage industry—and this committee has been part of it—for Clinton scandals. Well, this cottage industry at some point is going to have to go out of business. We've got other matters before us that deserve very, very careful attention as part of this committee's oversight and investigative responsibilities.

Mr. Chairman, I have no quarrel with your holding this hearing today, because we ought to get the evidence before us. Let's get that evidence. If it simply shows bad judgment—I don't want to say "simply," but if it shows bad judgment, I think we ought to recognize that President Clinton is to be criticized by us all for the judgment that he made. But if it's a bad judgment by the President, the Constitution gives him that authority to make that judgment, and we ought to let that matter rest.

I yield back the balance of my time.

[The prepared statement of Hon. Henry A. Waxman follows:]

Statement of Rep. Henry A. Waxman
February 8, 2001

Over the last eight years, President Clinton and his administration have been the target of a remarkable number of false accusations. In turn, these accusations have received a staggering amount of media attention.

I have often spoken out about the unfairness of those smears, and at the end of last Congress, I even compiled an analysis that attempted to collect many of the reckless accusations in one report. I ask unanimous consent that this report, entitled "Unsubstantiated Allegations of Wrongdoing Involving the Clinton Administration," be made part of the record.

As this report documents, the President and his aides did not deserve many of the criticisms they received over the last eight years.

But a President does deserve criticism when he makes a mistake. And in this case, I think that's what former President Clinton did when he pardoned Marc Rich and Pincus Green.

It's true that the power to issue federal pardons rests solely with the President. There is no role for either Congress or the courts—the only check on the abuse of this power is the sound judgment of the President.

The best use of presidential pardons are for correcting injustices against those with little power or money. In fact, President Clinton did exactly that in many instances. One good example is Derrick Curry. In 1989, Mr. Curry, a young black college student, was sentenced to 20 years in prison with no chance of parole for his first drug offense. The judge who sentenced Mr. Curry reluctantly sentenced Mr. Curry to 20 years in prison because he had no choice under the federal sentencing guidelines.

And pardons are particularly appropriate for those who have accepted punishment, have demonstrated true repentance, and have subsequently done good works for society. For a President leaving office, it can be an invaluable opportunity to put aside public opinion polls and act courageously.

The Marc Rich pardon meets none of these criteria. It's clear from the materials that Jack Quinn prepared that Mr. Rich had a credible legal argument against prosecution. But that argument should have been made in our courts.

The Rich pardon is a bad precedent. It appears to set a double standard for the wealthy and powerful. And it is an end run around the judicial process.

Under the current system, the President is allowed to make bad judgments that all of us disagree with when issuing pardons. That's how the system works. For example, questions were raised when, just before leaving office in 1993, President Bush pardoned Aslam Adam, a Pakistani individual who had been convicted of conspiracy to possess with intent to distribute

over \$1 million worth of heroin. Both the prosecutor and judge who sentenced Mr. Adam reportedly did not want him pardoned.

Questions were also raised when, on December 24, 1992, President Bush pardoned former Secretary of Defense Caspar Weinberger. Mr. Weinberger was being investigated by Independent Counsel Lawrence Walsh regarding the Iran-Contra matter, and was scheduled for trial on January 5, 1993. Independent Counsel Walsh called the pardon "terrible" and "grossly wrong."

And when a President makes a bad judgment -- whether it is former President Bush or former President Clinton -- it is appropriate for us in Congress to raise questions and express our views.

There is a crucial distinction, however, between bad judgment and a Presidential scandal. Here's the key issue **this morning**: Is this a case of bad judgment or is it a case involving bribery, corruption, or other criminal conduct? To date, I see plenty of bad judgment, but no evidence of criminal wrongdoing.

This distinction is important to how this Committee proceeds. Unless there is compelling evidence of illegal conduct by former President Clinton, the Committee should not embark on another search for scandal. The Committee should put away its subpoenas and shelve its endless document requests.

In the spirit of bipartisanship, I'm withholding judgment on today's hearing until we hear all the testimony from today's witnesses. But if there is no evidence of wrongdoing, I will strongly object if this Committee embarks on another wild goose chase.

Everyone is eventually going to have to come to grips with the fact that Bill Clinton is no longer President and that the cottage industry for Clinton scandals is going to have to go out of business.

Mr. BURTON. I thank the gentleman from California. Are there further comments from members of the committee? The gentleman is recognized.

Mr. TOWNS. Mr. Chairman, as we begin this hearing, I urge all the members of this committee to keep its purpose in mind. This hearing should be about whether President Clinton acted within his authority and followed the law in granting a pardon to Marc Rich, period.

This hearing should not be about relitigating the Marc Rich case. Our job should be to review the circumstances around the pardon and sort through the allegations that have been made in a fair and impartial way.

I want to remind all of my colleagues that Bill Clinton is no longer the President of the United States, in case you're not aware. If people do not approve of this pardon, history will judge Bill Clinton and we should not waste a lot of time on this matter.

This committee has spent a great deal of time investigating and investigating and investigating the Clintons and the Clintons' past, when we should have been working on a prescription drug bill for our seniors who, in many instances, have to make a decision as to whether to purchase their medication or buy food, due to lack of income.

I hope this hearing will be the end of these partisan pursuits. We can all speculate about whether or not we would have granted the pardon had we been the President of the United States. But that is not important today. The President has the authority to grant pardons, and the framers of the Constitution gave him that right.

Let's be clear, the pardon has already been granted, and there's nothing that any of us can do to revoke it, overturn it or stop it. For those reasons, let's make this a positive exercise today.

From what I have seen in the witnesses' testimony and press accounts, the process worked properly in this case. Jack Quinn did his job as a lawyer. Eric Holder did his job representing the views of the Justice Department in being responsive to the White House. The White House Counsel's Office did its job reviewing the pardon applications in making a recommendation to the President.

President Clinton did his job thoughtfully reviewing the pardon applications, considering all the facts, seeking the counsel of his advisors in the Justice Department and making a decision which he acknowledged was a close call.

A number of people have questioned this pardon because it was not first considered by the Justice Pardon Office. While that is probably the best course of action as a general rule, this case is not unique in this regard. Nothing in the law requires that a pardon first be reviewed by the Justice Department because of the President's absolute power to pardon. The policies, procedure and processes are entirely at the President's discretion. A number of the pardons which President Clinton granted were not considered by the Department of Justice first.

I look forward to hearing the witnesses' testimony and hope that my colleagues will focus on process and the facts, rather than on relitigating this case in pursuing the President and the parties involved in a partisan manner, as we have done so many times in the past. I hope we do not go down that road today.

Thank you very much, Mr. Chairman; and I yield back.

Mr. BURTON. Thank you, Mr. Towns.

Is there anyone on the majority side?

Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman.

I wasn't going to speak, but now that I've heard from Mr. Waxman and Mr. Towns, I do want to make an observation. I think it's a good thing that we will focus on process today, and I don't think it's the intention of anyone on the majority side to relitigate the Marc Rich matter.

One of the things that I think concerns me and is a proper subject for the jurisdiction of an oversight committee in the U.S. Congress has to do with the matter of ethics and, in particular, the ethics commitments made by people who serve not only the legislative branch but also the executive branch. And I, for one, was surprised when I saw Mr. Quinn on television representing Mr. Rich.

I do have some questions about how it is that a former representative of the executive branch can then lobby his own boss while circumventing the Justice Department to achieve a result for a client. And if everything is copacetic and there's no difficulty with that, based upon the policy that was written in the Executive order in 1993, then I do think it's an appropriate search for this committee to perhaps come up with a better revolving-door policy for both the executive branch and the legislative branch that perhaps makes the revolving door a little more difficult to revolve through in as quickly a fashion.

I hope we do study that as well and, perhaps, can come up with some legislative solutions that if they don't remove impropriety at least what is perceived by many, including myself, to be the appearance of impropriety; and I thank you and yield back.

Mr. BURTON. Thank you, Mr. LaTourette.

Mr. Clay.

Mr. CLAY. Mr. Chairman, as a newly elected Member of Congress and a new member of this committee, I am pleased to be here today for our first full committee meeting.

While I can appreciate the fact that our committee has chosen to be the focal point for the examination of the pardon process, I am struck by the fact that the U.S. Constitution grants the President the absolute and unlimited power to grant commendations and pardons. This pardon power is not subject to any restrictions by Congress.

The President's power is at his sole discretion, and he is not required to follow Federal regulations or procedures for the pardon process. And so while some may disagree with the judgment made to pardon Marc Rich, we have no standing to interfere with or alter the underlying Presidential authority.

As to allegations that the pardon was the result of campaign contributions or influenced peddling. It must be noted that there is currently no evidence or nexus to support such.

Thank you for the opportunity.

Mr. BURTON. Thank you, Mr. Clay. If there is no further discussion, let me just make one brief comment. We will be joined by Ms. Jackson-Lee, who said she may have a few questions, and we in the past have tried to accommodate non-members of the committee.

And we have Mr. Asa Hutchinson here, too. So we have a long schedule today. But if they do have questions at the end of the 5-minute round, first round, we will try to accommodate them.

Do we have any further comments? Mr. Davis.

Mr. DAVIS OF VIRGINIA. Mr. Chairman, let me just say I don't think we have had—certainly, the President's power here to pardon is something that we can't overturn. I don't think anybody—but we have any—that anybody assumes that we can do that. But we do have, I think, oversight responsibility in a case like this.

The fact of the matter is, from the ex-wife, there was furniture, and several thousand dollars worth of furniture, given to the President. There were huge campaign contributions. Whether there is a linkage or not, we have a responsibility, I think, to act and look at that in a pardon that I don't think any of the law enforcement agencies that have examined this have seen any merit in this at all.

At one point, \$100 million was offered to settle this and the Justice Department had turned it down. So I think we have a responsibility to look at this, to understand what happened. Maybe we can learn from this. Maybe there will be legal changes as a result of this. I don't think anybody is talking about overturning it, but the oversight responsibility, we have it, and I think we need to use it in this particular case.

Mr. BURTON. I thank the gentleman from Virginia. Any further comments? If not, would the three witnesses please rise and raise your right hand.

[Witnesses sworn.]

Mr. BURTON. Mr. Quinn has asked if he could give a little longer opening statement because of the gravity of the hearing the situation. We have no objection to that. Mr. Quinn, we will try to accommodate you as well as Mr. Weinberg and Mr. Auerbach. So, Mr. Quinn, you're recognized.

Mr. QUINN. Chairman Burton.

Mr. BURTON. Could you pull the microphone close to you because sometimes these mics don't pick it up. Thank you.

Mr. QUINN. It appears to be on. Can you hear me? OK.

Mr. BURTON. You don't have to get right up against it, but you know.

STATEMENTS OF JACK QUINN, COUNSEL TO MARC RICH, FORMER COUNSEL TO PRESIDENT CLINTON; MORRIS "SANDY" WEINBERG, JR., FORMER ASSISTANT U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK; AND MARTIN AUERBACH, FORMER ASSISTANT U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK

Mr. QUINN. Chairman Burton, Representative Waxman, and distinguished members of the committee, thank you for this opportunity to provide information about the pardon of Marc Rich. During the past several weeks, America has heard the voices of a great many people who disagree with this pardon. Probably all of you are among those who have expressed their disagreement or disappointment.

I am well aware that I have a near impossible challenge today in trying to convince you of the merits of the pardon, but I do wel-

come the opportunity to sit before you and to answer your questions about the case that I made and the process I followed.

I acted here as a lawyer who believes in the merits of the case that I made. I acted as a lawyer who vigorously and ethically pursued my client's interests, as I'm required to do under the canons of ethics, and I acted as a lawyer who followed a process that included, not excluded, the U.S. Department of Justice.

I took on Marc Rich as a client nearly 2 years ago after careful review of his case and in the belief that in the American legal system any person accused of wrongdoing is entitled to representation by a lawyer who advocates his position honestly, ethically and conscientiously. That is what I did. Nothing more, and nothing less.

I appreciate the responsibilities of this committee, and while I agree with President Bush that a President's constitutional right to grant pardons is unfettered and that the Congress cannot impose its own process on that prerogative, I also appreciate that it is helpful to your oversight responsibilities to understand as best as I can help you understand what happened in this particular case.

In that regard, I have cooperated with you, consistent with my ethical obligations to my client, by providing information and documents, and I assure you I will continue to be cooperative and as helpful as I can be.

I want to emphasize at the outset that the process I followed was one of transparency at both the Department of Justice and the White House. In filing my pardon petition, I included in this big document the views of the prosecutors, most particularly in the form of the indictment that they lodged against my client.

On more than one occasion, I urged the White House counsel to seek the views of the Justice Department. I did so because I thought that was the professional way to proceed. And because I had worked with Deputy Attorney General Holder in the past, I had and continued to have enormous respect for him and for his legal judgment, and I was confident that before any decision was made on this matter his views and perhaps those of others at the Justice Department would be sought.

In point of fact, I believed the consultation by the White House with Mr. Holder would help me make my case, because for over a year since October 1999, I had a series of communications orally and in writing with him about Mr. Rich's case. I knew that he was familiar with the allegations in the indictment and I had taken pains to familiarize him with the case we put together disputing the allegations in the indictment.

But most importantly, what I hoped he could convey to the White House was the sense that Marc Rich and his lawyers were at an absolute impasse with the Southern District and that this matter would not and could not be resolved short of a process such as a pardon.

As I think you know by now, I personally notified Mr. Holder in his office on November 21, 2000 that I would be sending a pardon application to the White House. I told him then that I hoped I could encourage the White House to seek his views and he said I should do so. I then delivered this 2-inch thick pardon application to the White House on December 11th, more than 5 weeks before the pardon was granted.

While the application was under consideration, I wrote to Mr. Holder on January 10th of this year and asked him to weigh in at the White House, expressing the hope that he would support my application. I hoped for his support. I didn't know whether he—it would be forthcoming or not, but I hoped he would support it.

Still later, I called Mr. Holder on the night of January 19th. I told him that the Rich pardon application was receiving serious consideration at the White House and that I understood that he would be contacted before a decision was made. I understand from him and from the former White House counsel, Beth Nolan, and from the former President that Mr. Holder was indeed consulted. I believe that the views he expressed in that consultation was significant to the decision that was made.

The process this pardon followed gave the President the time and the opportunity to weigh his decision carefully. For over 5 weeks, the White House had time to consider the views of White House attorneys, the Justice Department, and anyone else with whom it might choose to discuss the matter in order to make a judgment on the merits.

As to the merits, you have before you my pardon application, and I understand that the gentlemen to my left disagree with me strenuously about this. But I remain to this day absolutely and unshakably convinced that the prosecutors constructed a legal house of cards in this indictment.

At the heart of this case is a tax charge that I do believe is meritless. That tax charge formed the basis for attendant fraud charges and that in turn formed the basis for one of the very first uses in a case of this kind of the Federal racketeering statute, a use, by the way, which you should know the Department of Justice does not condone any further. It was this misuse, I believe, of RICO on top of the misuse of RICO predicates and underlying all of it a tax and energy case that I think did not have merit that made this indictment wanting.

The case was fundamentally flawed. I believe that, and I argue that. I argued it first with the Southern District. I attempted to persuade the Main Justice here in Washington and the Southern District to consider the arguments we made on the law and to reopen discussions with us representing Mr. Rich.

That conversation and other contacts that I had with the Department of Justice are reflected in the documents that I have provided to the committee, and they are summarized in appendix B to my testimony.

My notes of November 8, 1999 reflect a telephone conversation in which I was told that some senior Department of Justice officials thought that the refusal of the prosecutors in New York to meet with Mr. Rich's attorneys was ill-considered and in fact ridiculous.

Subsequently, I was told that senior officials—some senior officials at the Department of Justice had come to believe that the equities were on our side. Nevertheless, the prosecutors from the Southern District refused to discuss the case with us.

And given this intractable impasse, we decided in October of this year to seek a pardon. I decided to file a pardon application directly to the White House because I knew that pardons are sometimes initiated at the White House and not at the Department of Justice.

I would point out to you that in today's Los Angeles Times, it's reported that some 47 of these applications were initiated at the White House without going through any process at the Department of Justice. As Mr. Waxman indicated earlier, that was true, not just in this administration, but it has happened in previous administrations.

But to be sure, I was confident that, at some point, the White House would consult with the Department of Justice. And based on the earlier conversations I had throughout the course of a year, I believed that the Deputy Attorney General would not necessarily endorse a pardon, but I believed that he would at least confirm that we had reached an unresolvable stalemate with the Southern District.

Now, as has been stated here by several of the Members, the Constitution grants the pardon authority only to the President, not to the pardon attorney, not to the Deputy Attorney General, and not to the White House counsel.

Indeed, the pardon attorney reports to the Deputy Attorney General. And one of the major functions of the Deputy Attorney General is to serve as the departmental liaison with the White House staff and the Executive Office of the President, including specifically with respect to pardons. I informed that official of my petition. I encouraged the White House counsel to seek the views of that official. I did this over a period of 2 months, having briefed him about the case for more than a year before that.

President Clinton properly gave serious consideration to Mr. Rich's pardon application. In my discussion with him about this application, we talked about the case and the law and nothing else. President Clinton in that conversation demanded that Mr. Rich waive all procedural defenses related to the transactions in question so that he could be potentially subject to civil penalties such as those faced by others who were involved in similar transactions and went through civil enforcement proceedings with the Department of Energy, that this case should have been handled that way years ago.

In conclusion, Mr. Chairman, while you may disagree with the President's decision, I believe the facts establish that I represented my client's interest fairly, vigorously and ethically. I carried out this representation, keeping both the Department of Justice and the White House informed. Thank you, Mr. Chairman.

[NOTE.—The complete pardon petition is printed at the end of this volume.]

[The prepared statement of Mr. Quinn follows:]

47

JACK QUINN

TESTIMONY

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

WASHINGTON, DC

February 8, 2001

TESTIMONY OF JACK QUINN
February 8, 2001

Chairman Burton, Representative Waxman, distinguished Members of the Committee, thank you for this opportunity to provide information about the Marc Rich pardon.

During the past several weeks, America has heard the voices of those who disagree with the pardon of Mr. Rich. I am sure most, if not all, of your voices have been among those who disagree. I am well aware that it may be a challenge to convince you of the merits of this pardon, but I welcome the opportunity to sit before you and answer your questions about the case I made and the process I followed. I am a lawyer

- who believes in the merits of the case;
- who vigorously and ethically pursued my client's interests; and
- who followed a process that involved informing the Department of Justice of the pardon application and its underlying merits prior to filing it at the White House.

I took this case after considering it carefully and in the belief that, in the American legal system, any person accused of wrongdoing no matter the nature or controversy, is entitled to representation by a lawyer who advocates his position honestly, ethically and conscientiously to the government. That is what I did. Nothing more, nothing less.

I appreciate the responsibilities of this Committee. Each of you, like the President in granting the pardon, is exercising your Constitutional duties. While I agree with President Bush that a president's Constitutional right to grant pardons is unfettered and that the Congress cannot impose a process it might prefer on that prerogative, I also

appreciate it is helpful to your oversight responsibilities that you understand what occurred in the Marc Rich case. In that regard I have cooperated with you, consistent with my ethical obligations, by providing information to further your understanding of my role. I will continue to be helpful in that regard.

I want to emphasize that the process I followed was one of transparency at both the Department of Justice and the White House. It was not the first pardon granted in this way and it most certainly involved the Department of Justice. In filing my pardon petition, I included the views of the prosecutors, most particularly their indictment of Mr. Rich. On more than one occasion, I urged White House Counsel to seek the views of the Justice Department. I did so because it was the professional way to proceed and because I had worked with Deputy Attorney General Eric Holder on this and other matters. I have respect for him and for his legal judgment, and I knew the White House would and should consult with him.

In fact, I believed that consultation with Deputy Attorney General Holder by the White House would help me make my case for Mr. Rich, because for over a year, since October 1999, I had had a series of written and oral communications with Mr. Holder about Mr. Rich's case. I knew Mr. Holder was familiar with the charges and with our arguments as to their flaws. Most importantly, I knew that he realized we were at an impasse because the U.S. Attorney's Office would not discuss the matter or consider our arguments, compelling as they were.

I personally notified Mr. Holder in his office on November 21, 2000, that I would be sending a pardon application directly to the White House. I told him then that I hoped to encourage the White House to seek his views. He said I should do so. I delivered a

two-inch thick pardon application to the White House on December 11, 2000, more than five weeks before the pardon was granted on January 20, 2001. While the application was under consideration, I wrote Mr. Holder on January 10, 2001 and asked him to weigh in at the White House with his views. I sent that letter to him hoping for his support, having been informed that his views would be important. I had that letter sent by messenger to the DOJ.

Still later, I called Mr. Holder the night of January 19, 2001, and told him that Mr. Rich's pardon was receiving serious consideration at the White House, and that I understood he would be contacted before a decision would be made at the White House. I understood from him, from then-White House Counsel Beth Nolan and from former President Clinton, that Mr. Holder was indeed consulted and that he expressed a view. I believe that his view was important to President Clinton's decision.

The process this pardon followed gave the president the opportunity to weigh his decision carefully. For over five weeks the White House had time to consider the views of the White House attorneys, the Justice Department and anyone else with whom it chose to discuss the matter to make a judgment on the merits.

I did not come to this matter, however, during the pardon petition stage. Rather, I joined Marc Rich's legal team in the Spring of 1999 while I was an attorney at Arnold & Porter. Mr. Rich's lawyers asked me to review the merits of the case, meet with Mr. Rich and thereafter consider joining them to work out a settlement with the Department of Justice.

The Rich defense team over the years and during my tenure included attorneys of unusual skill and unquestionable integrity, and law firms of stellar reputation, including

Len Garment, who served as President Nixon's White House Counsel; Larry Urgenson, who held a senior position in the Reagan Justice Department; Lewis "Scooter" Libby, who now serves as Vice President Cheney's Chief of Staff, and other distinguished attorneys from highly regarded law firms. (App. A). These lawyers had tried unsuccessfully for more than a decade to convince the Southern District of New York prosecutors to re-examine the charges against Mr. Rich in light of conclusions that had been reached by the Department of Energy, the Department of Justice, and by respected tax professors from Harvard and Georgetown that contradicted the case alleged by the prosecutors.

The failure of these efforts, as well as the negative publicity surrounding Mr. Rich's indictment, led me to be skeptical about getting involved in his case. But because I knew and respected the reputation and judgment of the counsel and law firms who had long been involved in Mr. Rich's defense, I approached the case with an open mind.

During an intensive period of review, over several months beginning in the summer of 1999, I learned that:

- This case grew out of a patchwork of energy regulations enacted in the Carter Administration and later repealed in 1981 on President Reagan's first day in office. Those regulations attempted to limit the price of oil but, as in any complicated regulatory scheme regime, there were many exceptions.
- The price discrepancies caused by the Carter regulations created a powerful incentive for the major U.S. oil companies to overcome them. They did so by "linking" regulated oil transactions with unregulated ones in dealings with international oil resellers. Specifically, U.S. oil producers structured transactions that provided additional profits on foreign transactions to compensate them for their inability to maximize profits on regulated domestic transactions. This structure resulted in complex linked transactions between the major oil companies and resellers around the world. These transactions are central to Mr. Rich's indictment in which

he, a colleague, and two associated companies were charged with a variety of crimes, including incorrect tax and energy.

- None of the major U.S. oil companies that structured these types of transactions were ever prosecuted criminally. To the contrary, when the U.S. Department of Energy independently looked at transactions involving ARCO (Mr. Rich's major trading partner), it concluded that ARCO had improperly failed to account for the linked transactions and thereby had violated the excess pricing/profits regulations; DOE nevertheless only pursued ARCO on a civil basis for violations of the regulations.
- The same U.S. Department of Energy recognized that the Marc Rich companies had correctly taken into account the linked nature of the transactions on their books. Despite DOE's recognition that Mr. Rich's companies had properly linked the transactions for accounting purposes, while ARCO had not, the prosecutors attacked some of these same transactions in their indictment. They took the position, directly contrary to the DOE regulators, that the domestic and foreign transactions should not be considered linked for U.S. tax and energy purposes. This inconsistent treatment by DOE and the Southern District goes to the heart of the U.S. government's case against Mr. Rich. DOE used the administrative process to collect hundreds of millions of dollars in civil penalties from ARCO, while the Southern District criminalized the conduct based on an exactly opposite analysis of the same facts.
- The inconsistent treatment by two branches of the same government was not the worst of it. Mr. Rich was one of the first targets of RICO, the Racketeer Influenced and Corrupt Organizations Act, in a case not involving organized crime. In 1983, then-U.S. Attorney Rudy Giuliani used the RICO sledgehammer to attack Mr. Rich for what amounted to following the advice of his tax lawyers and accountants. The DOJ had since prohibited the use of RICO in these types of cases. But the U.S. Attorney's Office was consistently refusing to reconsider charging Mr. Rich with this offense.
- This criticism of the Rich indictment was not just the view of Mr. Rich's lawyers. A Wall Street Journal 1989 column by Yale-trained lawyer and columnist Gordon Crovitz stated: "It's worth taking a second look at Mr. Giuliani's first big RICO case. This was the much-celebrated 1984 case against Marc Rich, the wealthy oil trader. A close reading of the allegations shows that . . . [they] effectively reduce to tax charges. The core of the case is that Mr. Rich wrongly attributed domestic income to a foreign subsidiary. . . . [T]his sounds like a standard civil tax issue, not RICO." (Crovitz, WSJ, 1/26/89).

- By 1989, when the Department of Justice stopped the misuse of RICO in cases like this, Mr. Rich's companies had been coerced into a \$200 million guilty plea just to survive, and Mr. Rich had been wrongly labeled a fugitive for not returning from his headquarters in Switzerland to be subjected to what he believed would be a patently unfair and grossly over-hyped racketeering trial.
- Finally, in considering whether to take this case, I learned that Professors Bernard Wolfman of Harvard Law School and Martin Ginsburg of Georgetown University Law Center, two of the most preeminent tax authorities in the nation, had analyzed the transactions at issue and concluded that the Marc Rich subsidiary "correctly reported its income from those transactions and that a court, if called upon to decide the issue, would agree."

After learning these things, I was convinced that Mr. Giuliani, Mr. Weinberg, Mr. Auerbach and their colleagues had constructed a legal house of cards. The case was based on a meritless tax charge, which formed the basis for the fraud charge, which was the predicate for the RICO. It was a misuse of RICO on top of misuse of RICO predicates, and, underlying it all, a tax and energy case with no merit. The case was flawed.

I first met with Mr. Holder about Mr. Rich's case in late October 1999. The purpose of the meeting was to provide Mr. Holder an overview of the flaws in the case. This conversation and other contacts with Mr. Holder are reflected in the documents I have provided to the Committee. (App. B). According to my notes of a November 8, 1999 telephone conversation with Mr. Holder, he told me that he and some senior DOJ officials thought that the refusal of the Southern District to meet with Mr. Rich's attorneys was ill considered and in fact "ridiculous." Subsequently, he told me that some officials at DOJ came to believe that on this matter, "the equities were on our side."

Nevertheless, the prosecutors from the Southern District consistently maintained that they would not meet with attorneys representing persons not in the jurisdiction of the U.S. courts. I have searched in vain for a written Justice Department policy that directs U.S. Attorneys never to discuss case merits with attorneys alleged fugitives or other absent persons. No such policy exists. Indeed, there are many instances in which Justice Department prosecutors have engaged in discussions about case merits with indicted defendants residing abroad.

Given this intractable impasse, we decided in October 2000 to seek a pardon. I decided to file the pardon application directly to the White House because I knew from personal experience as a former White House Counsel that the filing of a pardon petition directly with the White House is not an uncommon practice, and I was confident that Deputy Attorney General Holder would be consulted by the White House before the decision was made. Based on our earlier conversations throughout the course of a year, I believed Deputy Attorney General Holder would at the least confirm we had reached an unresolved stalemate with the Southern District. I had no legal obligation to file this pardon with Mr. Holder's subordinates; I informed him in a timely manner of its filing, and there certainly was ample time for him to contact others – including the prosecutors in New York and the Pardon Attorney, who report to Mr. Holder in the DOJ chain of command.

As you know, this was not the only pardon handled in this way by recent presidents. As the Washington Post has reported, “previous Administrations in their closing days” have not gone “through the customary Justice Department screening process.”

The Constitution grants the pardon authority only to the president, not to the Pardon Attorney or anyone else. Indeed, the Pardon Attorney reports to the Deputy Attorney General, and one of the major functions of the Deputy Attorney General is to serve as the departmental liaison with the White House staff and the Executive Office of the President, including specifically with respect to pardons. I informed that official of my petition. I encouraged the White House Counsel to seek his views. I did this over a period of two months, having briefed him about the case for more than a year before that.

With regard to the merits of the pardon, you have before you the pardon petition. I am happy to respond to any questions you may have about it.

Let me address one concern expressed by some that regardless of the merits of the case, no pardon should ever be granted to an alleged fugitive and that a prosecutor is always right to refuse to deal with counsel representing a person out of the United States until that person has returned and submitted himself to the jurisdiction of the U.S. courts. I agree with both those statements as a general rule. But there must be exceptions for unique circumstances. This case is the exception.

The consequences of Mr. Giuliani's novel and aggressive misuse of RICO caused a thunderstorm of publicity that – as the events of the past two weeks have again demonstrated – caused a frenzied rush to judgment that my client was guilty before he was tried. Whatever happened to the American judicial premise that one is innocent until proven guilty? Whether right or wrong, Mr. Rich thought he could not get a fair trial because of the tarnish and taint imposed by his prosecutors.

Those factors created for the accused what can only be described as a “Kafkaesque” situation. Mr. Rich's lawyers had been rebuffed by the Southern District for a

decade, not on the merits but solely because of Mr. Rich's absence, which the prosecutors themselves caused through their now-discredited misuse of the RICO sledgehammer. With no prospects for progress, we decided to seek a pardon to reduce this case to its proper proportions: a civil regulatory dispute. I submit to you, respectfully, in such a case a president might reasonably contemplate a pardon application.

The only man to serve both as president and Chief Justice of the Supreme Court, William Howard Taft, wrote that the reason the U.S. Constitution vests an absolute pardon power in the president is that it is "essential" that some authority "other than the courts" have the power to ameliorate or avoid the outcome of particular cases. The pardon power has never been limited to being granted only after a person has stood trial. As a 1995 Justice Department memorandum attests: "Throughout this nation's history, Presidents have asserted the power to issue pardons prior to conviction." Effects of a Presidential Pardon, 1995 WL 861618 (June 19, 1995). The Iran Contra pardons by President Bush are just one recent example.

In short, as then-Chief Justice Taft wrote for the Supreme Court in 1925: "Executive clemency exists to afford relief from undue harshness or evident mistakes in the operation or enforcement of the criminal law. The administration of justice by the courts is not necessarily always wise or certainly considerate of circumstances which may properly mitigate guilt." Ex parte Grossman, 267 U.S. 87, 120-21 (1925).

President Clinton properly gave serious consideration to Mr. Rich's pardon application. President Clinton demanded that Mr. Rich's lawyers waive all procedural defenses related to the transactions in question so that Mr. Rich would be potentially

subject to civil penalties, such as those faced by others who were involved in similar transactions. This case should have been treated that way years ago.

* * *

In conclusion, Mr. Chairman, while you may disagree with President Clinton's decision, I believe the facts establish that I represented my client's interests fairly, vigorously and ethically. I carried out this representation keeping both the DOJ and the White House informed.

Thank you for this opportunity to testify.

APPENDICES TO JACK QUINN TESTIMONY

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

WASHINGTON, D.C.

February 8, 2001

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Robert Fink
Marvin Frankel
Leonard Garment
Michael Green
Stephen Kaufman
Lewis Libby
Jack Quinn
Wm. Brad Reynolds
Robert Thomajan
Larry Urgenson
Edward Bennett Williams
Peter Zimroth

PARTIAL LIST OF LAW FIRMS

Arnold & Porter
Curtis, Mallet-Prevost, Colt & Mosle
Deckert Price & Rhoads
Dickstein Shapiro Morin & Oshinsky
Howrey & Simon
Kirkland & Ellis
Kostelanetz & Ritholtz
Lord Day & Lord, Barrett Smith
Milgrim Thomajan & Lee
Mudge Rose
Piper & Marbury
Proskauer Rose
Williams & Connolly

APPENDIX B

JACK QUINN CONTACTS WITH DEPARTMENT OF JUSTICE
AND RELATED DOCUMENTS

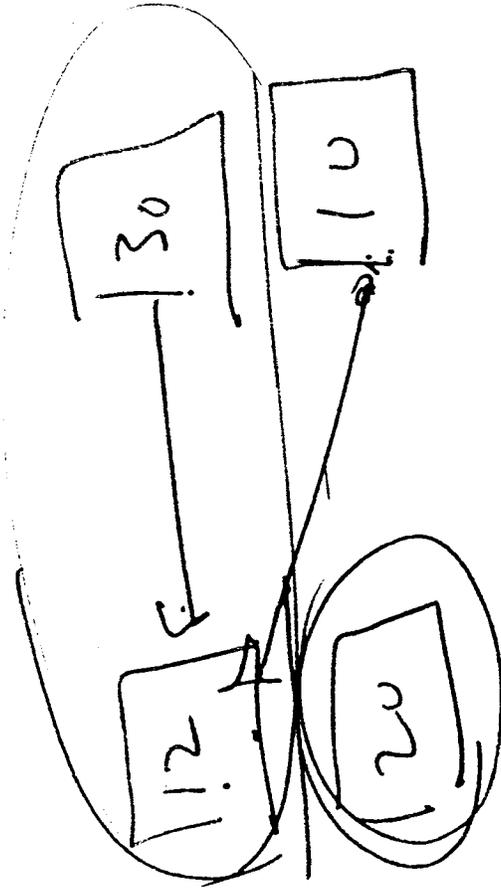
- Summer/Fall 1999:** Mr. Quinn studies Marc Rich indictment and discusses charges and issues with various previous and current counsel.
- October 22, 1999:** Mr. Quinn meets with Deputy Attorney General Eric Holder and discusses the case in detail utilizing 21 talking points. The conversation about the Rich case is for the purpose of getting the Southern District of New York (SDNY) to talk with Mr. Rich's counsel about reaching settlement of the case. [TAB1]
- November 8, 1999:** Mr. Quinn and Mr. Holder have a telephone conversation where Mr. Holder states that he and senior staff believe the impasse with SDNY is "ridiculous." Mr. Holder recommends that Mr. Quinn send a letter to "Mary Jo" (SDNY U.S. Attorney Mary Jo White) with a copy to Mr. Holder, James Robinson (Assistant Attorney General, Criminal) and Loretta Collins Argrett (Assistant Attorney General, Tax). Mr. Holder said we'll contact SDNY and recommend to them to review the Rich case ("say you should do it"). [TAB 2]
- December 1, 1999:** Mr. Quinn and Kathleen Behan (as Arnold & Porter Counsel representing Mr. Rich) send a letter to SDNY U.S. District Attorney White requesting a "constructive dialogue." [TAB 3]
- January 18, 2000:** Mr. Quinn and Mr. Holder have a telephone conversation where Mr. Holder says he spoke with SDNY U.S. Attorney White who is reviewing the matter and Mr. Holder says he will "do what he can" with the SDNY. [TAB 4]
- February 2, 2000:** SDNY U.S. Attorney White, via her Deputy, Shirah Neiman, responds to the December 1, 1999 letter by declining to discuss the case. [TAB 5]
- February 28, 2000:** Mr. Quinn sends a memorandum to Mr. Holder on the Rich case: "Why DOJ Should Review the Marc Rich Indictment." [TAB 6]

- March 25, 2000:** Mr. Quinn and Mr. Holder have a telephone conversation where Mr. Holder says, “we’re all sympathetic” with the defense and he believes that “equities [are] on your side.” [TAB 7]
- Fall 2000:** Defense counsel discuss options and decide to present a pardon request.
- November 21, 2000:** Mr. Quinn meets with Mr. Holder about a separate matter and at the end of the meeting informs him that he will file a pardon application directly with the White House. Mr. Holder does not object to this procedure and says that he is amenable to the White House soliciting his views. [TAB 8]
- December 11, 2000:** Pardon application filed at the White House. [TAB 9]
- January 10, 2001:** Mr. Quinn sends Mr. Holder a copy of a January 5, 2001 letter that had been sent to President Clinton about the Rich pardon and asks Mr. Holder whether he can say “positive things.” [TAB 10]
- January 19, 2001:** Mr. Quinn and Mr. Holder have a telephone conversation about the Rich pardon request where Mr. Holder says he has no “personal problem” and is “not strongly against,” but he expects a “howl from SD.” [TAB 11]
- January 20, 2001:** Pardon granted by President Clinton.
- January 22, 2001:** Mr. Quinn and Mr. Holder have a telephone conversation about the Rich pardon where Mr. Holder says he had told the White House that he was “neutral, leaning towards.” Mr. Holder also told Mr. Quinn that he thought it was a good idea to “have the case out” in the public and also “get the waiver out there.” Mr. Holder also advised Mr. Quinn about procedures to “dismiss” the indictment and to allow Mr. Rich “to travel.” Also, Mr. Holder said that Mr. Quinn had done “a very good job.” [TAB 12]

M. RICH FILE

JACK QUINN

- | | |
|------------------------|----------------------------|
| 1. bk | 15. 6/w |
| 2. MR | 16. contemp.
advice |
| 3. stalemate | |
| 4. skepticism | 17. stayed away
RCW/5x5 |
| 5. wrong | |
| 6. you | 18. why now |
| 7. not RV | 19. wrong to
sit |
| 8. price controls | • no tax
• disparate |
| 9. swaps | 20. request |
| 10. DOE views | 21. wave
off |
| 11. Ferland | |
| 12. SD views | |
| 13. escalation - EDW | |
| 14. ARW PRO | |



Eric 11/8/99

C.O.S.

Dave Margolis

all think ridiculous

said letter to Mary Jo - not Larry
or me - cc EH + JR (Loretta)

once we get, we'll call her and
say you shd do it.

be reasonable + conciliatory

Prison

Wynston, Texas

get lang. reversal as bc

in experience.

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
(202) 942-5027

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

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 2

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

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 3

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

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 4

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.

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 5

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.

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 6

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.

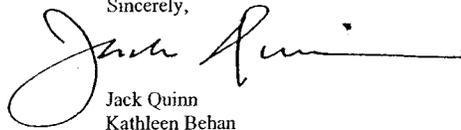
In essence, we believe that there are very real and important legal policy issues raised by the indictment -- issues that should have been, but regrettably were not, forthrightly presented to your Office, or the Department of Justice's Tax Division or Criminal Division, at the time of the indictment. 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.

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 7

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,

A handwritten signature in black ink, appearing to read "Jack Quinn", with a long horizontal flourish extending to the right.

Jack Quinn
Kathleen Behan

Cc: The Honorable Eric Holder
The Honorable James Robinson
The Honorable Loretta Collins Argrett

Maree Bick

Eric —

Spoke to M.J.

She has taken it herself
and is reviewing 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 Place
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.
SI 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

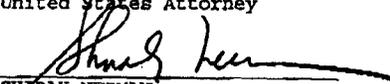
years from lawyers representing Mr. Rich urging our Office to dismiss the charges against him. Indeed, in 1987, an Assistant in this Office met with Mr. Rich's counsel and listened to the same presentation by Professor Martin D. Ginsburg referenced in your letter regarding the merits of the tax charges. 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

75

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.

MR FILE
JACK QUINN

Eric Holder »

Did research. Russian-
people did neg. - but
they were cooperating and
agreed to coop.

Deal?

Yeah, think so. We're all
sympathetic. Equities on your
side.

talked about it last night.

got overland @ 3x

MSW → Reno

Appointment (Attended by -) 1/31/01 - Page 1	
Monday - 11/20/00 to Sunday - 11/26/00	
<p>Monday - 11/20/00</p> <p>7:30AM-7:30AM Stevens' dinner - Cancelled 8:10AM-9:30AM Larry King 8:30AM-10:00AM Staff Meeting 10:00AM-10:00AM RFK Board 1:30PM-2:00PM Peter Rich - Call 2:30PM-3:00PM Federico Pelliciofi - Call 3:00PM-4:00PM Arthur Levitt 4:00PM-6:00PM Portalvision/Nextel - Cancelled 5:00PM-6:00PM Inside Politics</p>	<p>Thursday - 11/23/00</p> <p>8:00AM-8:00AM Thanksgiving</p>
<p>Tuesday - 11/21/00</p> <p>9:00AM-10:30AM Dentist - Cancelled 9:30AM-12:00PM Fannie Mae Board Meeting 10:00AM-11:00AM RFK Human Rights Awards Ceremony - Cancelled 12:00PM-1:00PM Martin Macwan Reception - Cancelled * 2:15PM-2:15PM Eric Holder * 3:00PM-3:45PM Sheila Murphy - Cancelled 5:00PM-6:00PM Portalvision - Call 8:10PM-9:30PM Larry King</p>	<p>Friday - 11/24/00</p>
<p>Wednesday - 11/22/00</p> <p>8:00AM-8:00AM Katie's Birthday 10:00AM-11:00AM Verizon Meeting w/ Jeff</p>	<p>Saturday - 11/25/00</p>
	<p>Sunday - 11/26/00</p>

Jack Quinn, Esq.
1133 Connecticut Avenue, N.W.
2nd Floor
Washington, D.C. 20009
(202) 457-1110

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,⁴ settled and effectively paid almost 200 million dollars.⁴

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.

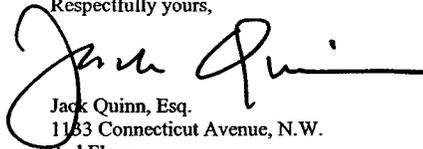
Despite this, Mr. Rich's and Mr. Green's efforts at meaningful dialogue with prosecutors over the last two decades have been rebuffed -- unless Mr. Rich and Mr. Green first come to the United States for an arraignment. A fair trial, however, appears highly unlikely: the prejudicial press coverage -- 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.

Quinn Gillespie
& Associates LLC

January 10, 2001

Deputy Attorney General Eric Holder
Department of Justice
901 E Street, NW
Washington, DC 20004

Dear Eric:

I hope you can say you agree with this letter. Your saying positive things, I'm told, would make this happen.

Thanks for your consideration.

Sincerely,


Jack Quinn

Jack Quinn

MAR 5 2001

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 charged 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

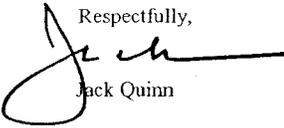
indicted). At the time, many, and perhaps most, of the entities in the oil trading business were engaged in similar efforts to avoid the impact of the price control regulations. Yet there were no indictments for any of the transactions even remotely resembling the linked transactions that are the subject 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,

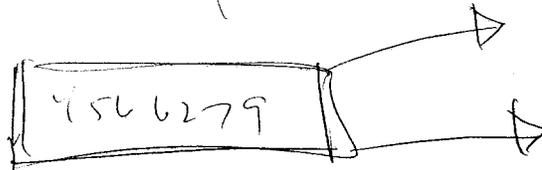


Jack Quinn

Beth - should have returned

Bruce - must be guilty

Case - find compelling - use pres
unfair



⊛ still impugning guilt



Hester - no personal prob.
harm for SO
ground faultly - not
strongly arg.

Monday:

① Daron:

Congrats

It's good

Happy we could help

②

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Vince - fine

Kate will shed

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Holder

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SD - spoke to Steve - had to
hang in - down

CB 3
Betty Clark
212 975 7708

Wait for indio warrant. Then
contact SA - ask if they have
dismiss. Include a motion
that IRS, Indep etc allow
him to travel.

Can I send you references?

Thank you and a very good job.

Mr. BURTON. Thank you Mr. Quinn. Mr. Weinberg.

Mr. WEINBERG. Thank you, Mr. Chairman. Mr. Chairman, Mr. Waxman, other members of the committee, my name is Morris "Sandy" Weinberg. I served as an assistant U.S. attorney from 1979 to 1985 in the U.S. Attorney's Office for the Southern District of New York, and from approximately December 1981, when I started the investigation against Marc Rich, until October 1984, when his companies pled guilty to, between them, 70-plus counts of various Federal felonies and tax evasion and paid the United States a couple of hundred million dollars, I was the lead prosecutor on the Marc Rich case.

With me today is Martin Auerbach, who was also an assistant U.S. attorney in the Southern District of New York, and for the last year or so of that investigation helped me and worked with me on the case.

Between us, I think that we are the two most knowledgeable people from the prosecution side about the Marc Rich investigation. Both of us are—have been for many years white collar criminal defense lawyers. I practice in Tampa. Mr. Auerbach practices in New York City. I'm with a Washington-based law firm Zuckerman Spaeder, and for many years I have represented, like Mr. Quinn has and others, people that are under investigation or been indicted by the United States.

I might also add, Your Honor, that I am—Mr. Chairman, that I am not here today to do several things. Although I have very strong, as you will see, disagreements with what Mr. Quinn has said about the merits or, in his view, the lack of merits of the case, I am not here today to question Mr. Quinn's motives with regard to this pardon and this pardon application. I've represented many people. I understand what it is to represent people. I understand that when one does it, one has to characterize the facts in the light most favorable to your client. I understand that.

I am also, Your Honor, and—Mr. Chairman, as—along with Mr. Auerbach, a lifelong Democrat. We are not here for any political purpose. We are not—we have no political motives in this case. I grew up in Tennessee. I've been a Democrat my entire life. I am not here for that purpose. We are here, I am here to talk about—to talk about why in my opinion—to talk about my outrage basically because we feel this outrage we have is seeded in our intimate knowledge of the facts of this investigation and the facts of this case.

We are here today upon your invitation, and we appreciate it, to provide some background regarding the prosecution of Mr. Rich and Mr. Green. In particular, we are here to express our outrage at the pardons of Mr. Rich and Mr. Green, who for the past 17 years have been international fugitives in what is the biggest tax fraud case in the history of the United States.

As international fugitives who renounced their American citizenship in 1983 for the specific purpose of avoiding extradition on these charges, we do not believe that Mr. Rich or Mr. Green should have been candidates for pardon.

We are particularly distressed because, despite what Mr. Quinn has said today, it appears that the President received no input from anyone who had any knowledge of the particulars of this pros-

ecution from the prosecution side. It is my belief and understanding that no one from the U.S. Attorneys's Office in the Southern District of New York was contacted, no one from the IRS, the agents from the FBI. Certainly I was not contacted, Mr. Auerbach was not contacted. And I have been contacted over the years every time another lawyer or law firm has come in to try to negotiate a resolution, I have always been contacted by the Southern District to receive my input. None of that happened apparently in this case.

Not surprisingly, this application for pardon is a one-sided account. You know, it's an advocate's piece. It's—I have done advocate pieces like this over the last 15 years. But in our opinion, it wholly and completely mischaracterizes the circumstances and facts surrounding the Marc Rich case. If either of us had been given the opportunity, we would have told President Clinton about the actual facts of this investigation, the actual facts of the prosecution, what this prosecution was really about and why it had so much merit and why there were probably two no more unsuited people for a Presidential pardon than Marc Rich and Pincus Green, and why in our opinion this pardon was so unwarranted.

The pardon application itself and Mr. Quinn's remarks and his prepared remarks and his remarks today and what I've heard him say on television demonstrate, I believe, an utter lack of contrition and remorse on the part of Mr. Green and Mr. Rich for their criminal conduct, for their renunciation of their U.S. citizenship, for the fact that they fled justice 17 years ago.

Instead, the pardon application states that Mr. Rich, Mr. Green and their companies, which incidentally pled guilty with some of the best counsel in the United States in 1984, it says, quote, that Mr. Rich, Mr. Green and their companies are—have—were wrongfully indicted nearly 20 years ago, have complete defenses to the indictment, are victims of an injustice, have had an unfair and unwarranted treatment.

It alleges that Mr. Green and Mr. Rich were somehow, quote, singled out and prosecuted for, quote, mere civil offenses and that they have suffered terrible hardships in their 20 years of fugitivity in Switzerland as a result of this prosecution.

It dismisses wholly the fact that, in 1984, Mr. Rich's two companies pled guilty to all those counts and paid \$200 million worth of fines by merely suggesting, according to the application, that the pleas were the result of government overreaching and a business decision to save the companies.

Now, while the philanthropy of Mr. Rich and Mr. Green over the past 20 years is admirable, it does not erase, in my opinion or Mr. Auerbach's opinion, the gravity of their criminal conduct or the importance of the prosecution then and the prosecution now.

As set forth below, the prosecution was based on numerous witnesses from within Marc Rich's companies, current employees and former employees. People to the level of the CFO were witnesses in this case, as well as witnesses from third party companies that were co-conspirators in these crimes.

It was the overwhelming nature of the evidence, in my opinion, that caused Mr. Rich and Mr. Green to flee 17 years ago. It was not, as Mr. Quinn says, a legal house of cards or a meritless prosecution or a civil case. Because surely Mr. Rich and Mr. Green,

who were represented by Edward Bennett Williams, that wonderful lawyer, in my opinion the greatest lawyer of his time, surely Mr. Rich and Mr. Green would not have fled, would not have risked so much, would not have undergone all of the obstruction that happened during that investigation that made the case so famous, surely that they would not have paid \$200 million and had their companies plead to a meritless case, surely they would not have done that if they had an absolute defense to the case and they believed that back in 1983 or 1984.

It would have been nice in 1983 or 1984 if Mr. Williams or any of the other lawyers that was representing Marc Rich, Pincus Green and their companies had come to us and said Sandy or Martin or John Martin, who was the U.S. attorney through most of this, this case is, in our opinion, just a civil case. It's meritless. You've got it all wrong. There is a Swiss tax treaty. We had advice of counsel.

None of those arguments were raised in 1983 or 1984 and were raised only after the case was over, they had pled \$200 million, they had fled the jurisdiction, and then they were trying to come in 10 years later, 15 years later and, in my opinion, buy their way out of having to face the merits of the case by saying that the case, you know, had no merit.

That isn't the way that the judicial system is supposed to work. You know, how can Mr. Quinn say that, in 2001, Marc Rich and Pincus Green wouldn't have gotten a fair trial in the Southern District of New York. He is certainly not suggesting that one of the many judges there wouldn't have given him a fair trial. I mean, if this case was so meritless, why didn't they come back? Why didn't they face the charges?

I mean, the fact of the matter is they didn't come back because they knew that the charges were so overwhelming, in my opinion. But it's even worse than that. The evidence is as strong today, in our opinion, as it was 17 years ago, in 1984, and I have forgotten a lot of things in the last 20 years and I got sent the minutes from the plea that took place in 1984.

And I was standing in court with Peter Fleming, one of the wonderful lawyers that was representing Marc Rich, and Peter Zimroth, another terrific lawyer that was representing Marc Rich, and the companies were pleading guilty that day, and there were more people in the room than there are today because it was a historic plea, it was a very big plea, the biggest resolution at the time ever.

And those lawyers stood in court that day, in Federal court in front of a Federal judge, and they entered in behalf of the two companies guilty pleas to 38 counts on behalf of Marc Rich Co. A.G. and 40 felony counts on behalf of Marc Rich Co. International. And they stood there, and they told the Federal judge that the pleas were voluntary, that's what the lawyers said, that's what the transcript said, and that they were not the result of any threats or extortion.

They told the Federal judge that Marc Rich's company in the United States had hidden, in their words, when they were making the allocution, as they call it, when they were telling the judge what the companies had done wrong, they told the Federal judge

that Marc Rich's company in the United States had hidden millions of dollars of income from crude oil transactions, had hidden it from the IRS, had hidden it from the Department of Energy, had evaded millions of dollars in taxes, and had filed numerous false documents with the Department of Energy with regard to the income which was illegal.

In addition, they paid \$200 million in taxes and penalties. And if the case is so weak, I mean what in the world were those lawyers thinking at that time, as described in the pardon application. 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. Because this case, you know, had, in my opinion, and I believe in the opinion of Mr. Rich and Mr. Green, who fled, and the opinion of their lawyers who allowed the guilty pleas to go down and who told the Federal judge that they had, in fact, committed those crimes, I mean the fact of the matter is the case was full of merit. And it is just I believe incredible that, 20 years later, I'm sitting here and hearing that the case was without merit and it was a legal house of cards.

I am not going to read the details of my testimony, which I understand is here, about the investigation, but I'll just summarize a few things. The reason, in my opinion, that Mr. Quinn has said and others have said in the application that there was a hysteria that grew up around the case and that somehow I, who I think was 31 at the time, and other prosecutors in the U.S. Attorney's Office were creating a media event, the case was an important case to begin with.

It was the biggest tax fraud in the history of the United States. But it was like any other case until Mr. Rich and Mr. Green began to attempt to obstruct the investigation during the investigation stage. And a series of events happened that made it such a famous case. It started with us subpoenaing Marc Rich's Swiss records. And it was—it was—it set jurisdictional precedent. We took the position that we had jurisdiction in the United States over a Swiss company, and we litigated that. Everything in this case was litigated to the hilt. We litigated it.

We went to the Second Circuit Court of Appeals, and we won. And the judge on this case was Leonard Sand, who is the judge today that is trying the Osama bin Laden case in New York as we sit here today. He is a terrific Federal judge, and he ruled we had jurisdiction. He ruled that the companies should turn over the documents. And the company refused to turn over the documents. So he found the companies in contempt and ordered a \$50,000 a day fine which, at the time, was I think the biggest fine ever. And the lawyers for the company told Judge Sand, we are not going to pay the fine, and we are not going to turn over the documents.

So that was story No. 1. That was a front page story, and it ran forever as the press was following the \$50,000 a day fine.

And then right on top of that, it turned out we discovered that Marc Rich had attempted to secretly sell his only U.S. asset, which was this American subsidiary. And when we found out about that, we went to the court, and the court determined in the court's opin-

ion that it was a fraudulent attempt to keep assets, you know, out of our control and to avoid paying the \$50,000 a day fine.

And ultimately the Second Circuit ruled that it was fraudulent and even found that the attorney-client privilege on the crime fraud exception was dispensed with and that we were able to talk to the attorneys for Marc Rich about the sale and found out how fraudulent it was.

And when the fines began to accumulate—and these were all being reported on a regular basis, when the fines began to accumulate, we negotiated a deal with the companies to turn over the records and pay the fines up to date, and we inked that in Judge Sand's apartment one Friday night.

I thought it was over with and that we would go with the investigation, and 4 days later we got a tip from somebody in Marc Rich's New York office that they were smuggling documents out of the country—subpoenaed documents out of the country in steamer trunks. And we reeled a Swiss Air flight in from the runway and there were two steamer trunks, and they were unmarked and they were chock full of subpoenaed records. And that was the steamer trunk affair, and that was another front page story.

And then the indictment proceeded, and there was an enormous amount of attention for the indictment, and then Mr. Rich and Mr. Green became fugitives. And all of these things made the case, you know, an internationally reported case. But it was their conduct, not our conduct, that was being reported at the time.

When we finalized our investigation after the indictment, the companies vigorously litigated the charges. They filed dozens of pretrial motions, hundreds of pages of legal briefs. They raised every conceivable defense except the defense that we are hearing now.

They never argued that it wasn't taxable income, that it did not constitute tax evasion, and never argued that they had advice of counsel. And then there was plea negotiations with the companies when it became clear that the individuals weren't coming back. We sought to extradite them. The Swiss Government wouldn't extradite them, and we ended up accepting guilty pleas from the companies.

As I close, in my opinion, Mr. Chairman, and members of the committee, the case against Mr. Rich and Mr. Green was very strong and continues to be very strong. The government would have called witnesses from Marc Rich's companies who would have described in detail the huge tax fraud and energy fraud scheme.

Like any fraud case, anyone I have ever participated in as a prosecutor or defense lawyer, the evidence was rife with false documents, inflated invoices, sham transactions, off the record, off the book deals. The conspirators in this case kept track of the illegal profits, which was about \$100 million, in handwritten journals in what was described by themselves and on these journals as the pot.

As alleged in the indictment, the evidence included meetings between these co-conspirators and Marc Rich regarding the pots and the scheme to funnel the illegal profits out of the country to offshore accounts. In addition, Mr. Green and Mr. Rich's fugitive status was further evidence of their consciousness of guilt.

Now, 17 years later, the pardon application asserts that the acts alleged were civil, not criminal, and that the conduct in which the companies pled guilty and for which Mr. Rich and Mr. Green were indicted was perfectly innocent intercompany transactions protected by U.S.-Swiss tax treaty.

If the transactions were considered legitimate at the time, one wonders why it was necessary to create the pots, use inflated invoices, use sham transactions to funnel the profits out of the United States.

And as I said before, it's unlikely with the best defense lawyers in America that Marc Rich and Pincus Green would have risked everything to become fugitives if it was just a civil misunderstanding. In truth, Mr. Rich and Mr. Green, in my opinion, have forfeited their right to question the merits of this case in their pardon application by becoming fugitives, by renouncing their citizenship, by having their companies plead guilty to the scheme 17 years ago.

Whatever the debate about their pardons, if should not, and I agree with what the Congressman should say—has said, it should not, the debate should not be over the merits of the case against him. Those merits were clear then. They are clear today.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Weinberg follows:]

TESTIMONY OF

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BEFORE THE
HOUSE COMMITTEE ON GOVERNMENT REFORM

FEBRUARY 8, 2001

Mr. Chairman, my name is Morris "Sandy" Weinberg, Jr. I served as an Assistant U.S. Attorney in the Southern District of New York from 1979 to 1985. During my service, I was the lead prosecutor on the Marc Rich prosecution. Since 1985, I have been in private practice in Tampa, Florida as a white-collar criminal defense lawyer. I am currently the partner in charge of the Tampa Office of the Washington-based law firm, Zuckerman Spaeder, 401 E. Jackson Street, Suite 2525, Tampa, Florida 33602.

My name is Martin J. Auerbach. I served as an Assistant United States Attorney in the Southern District of New York from 1983 from 1987. Shortly after joining the office, I began working on the Marc Rich prosecution. Since 1987, I have been in private practice in New York City as a white collar criminal defense lawyer. I currently practice independently at 747 Third Avenue, New York, New York.

We are here today at the Committee's invitation to provide background regarding the prosecution of Marc Rich and his partner Pincus Green, in light of the pardons of Mr. Rich and Mr. Green. Since Mr. Weinberg was in charge of the Marc Rich investigation from its inception and Mr. Auerbach worked on it for years, we have personal knowledge of, and participated in, virtually all of the events which occurred during the investigation and prosecution of Marc Rich from 1982 through 1984. We have been periodically consulted by the United States Attorney's Office about the case since our departure from the office.

In particular, we are here today to express our outrage at the pardons of Mr. Rich and Mr. Green, who, for the past 17 years have been fugitives in the biggest tax fraud case in the history of

the United States. As international fugitives who renounced their American citizenship in 1983 to avoid extradition, we do not believe that Mr. Rich and Mr. Green should have been candidates for pardon. We are particularly distressed because it appears that the President received no input from anyone who had any knowledge of the case from the prosecution side, including the United States Attorney's Office in the Southern District of New York, the Internal Revenue Service or the Federal Bureau of Investigation, and instead relied exclusively on the presentation of Mr. Rich and Mr. Green's counsel in the Application for Pardon. Not surprisingly, the Application for Pardon is a one-sided account, which, in our opinion, completely mischaracterizes the circumstances and facts surrounding the Marc Rich case. If either of us had been given the opportunity, we would have described to President Clinton the actual facts of the criminal conduct in this case which makes the pardons, in our opinion, so unwarranted.

The pardon application itself demonstrates an utter lack of remorse and/or contrition by Mr. Rich and Mr. Green for their criminal conduct, their renunciation of their United States citizenship, and their flight from justice 17 years ago. Instead, the pardon application states that Mr. Rich, Mr. Green and their companies "were wrongfully indicted nearly twenty years ago," "have complete defenses to the indictment," are victims of "an injustice" and have had "unfair and unwarranted treatment." The application alleges that Mr. Rich and Mr. Green were "singled out" and prosecuted for mere "civil" offenses and that they have "suffered terrible hardships" as a result of the prosecution. The application dismisses the guilty pleas in 1984 of Marc Rich's companies and the payment of \$200 million in criminal fines and penalties by suggesting that the pleas were the result of government overreaching and a business decision to save the companies.

While the philanthropy of Mr. Rich and Mr. Green over the past 20 years is admirable, it does not erase the gravity of their criminal conduct or the importance of their prosecution. As set forth below, the prosecution was based on numerous witnesses from within Marc Rich's companies, as well as witnesses from the third party companies that were co-conspirators in these crimes. It was the overwhelming nature of the evidence that undoubtedly caused Mr. Rich and Mr. Green to flee 17 years ago. That evidence is as strong today as it was 17 years ago. In 1984, Marc Rich's counsel stood in federal court in Manhattan and entered guilty pleas to 38 felony counts in behalf of Marc Rich & Co. A.G. and 40 felony counts for Marc Rich and Co. International. They told the federal judge that the pleas were voluntary and were not the result of any threats or extortion. They told the federal judge that Marc Rich's company in the United States had hidden millions of dollars of income from crude oil transactions from the IRS and the Department of Energy and had evaded millions of dollars in taxes and filed numerous false documents with the Department of Energy. In addition, the companies paid the United States \$200 million in taxes, criminal fines and penalties for these crimes. If the case was as weak as described in the pardon application, the companies would have never pleaded guilty and paid the record fines, and Mr. Rich and Mr. Green would have never renounced their citizenship and become fugitives. Whatever the reason for the pardon, we can say unequivocally that the merits of the case against Mr. Rich and Mr. Green was not the reason.

During the late fall of 1981, Mr. Weinberg received a call from the Fraud Section in the Criminal Division at the Justice Department concerning a possible lead regarding a crude oil reseller named Marc Rich who had an office on Park Avenue in New York City. The lead was developed through a series of reseller prosecutions in the late 1970's and early 1980's by the Justice Department in Texas. Two principals from an oil reseller in Abilene, Texas, --West Texas

Marketing--had provided some information following their guilty pleas and incarceration to the Justice Department regarding the possible laundering of funds offshore by Marc Rich. At that time, Mr. Weinberg agreed to look into the matter and within several weeks had flown with an FBI agent to Abilene, Texas to meet with the two principals from West Texas Marketing. Though both were serving jail sentences, we obtained a weekend furlough for them and spent hours in their office going through various records and potential testimony. During that weekend, we reviewed records which confirmed that Marc Rich had in 1980 and 1981 earned over \$70 million in illegal reseller profits and funneled those funds offshore to his Swiss company through a scheme with West Texas Marketing and another reseller--Listo Petroleum – in order to evade federal income tax and federal energy oil control regulations. Though the investigation would take several years and would involve complicated international issues and some of the most dramatic events in litigation that have ever occurred in a white collar prosecution in the United States, it was apparent to Mr. Weinberg in December 1981 that we had uncovered, at that time, the biggest tax fraud in history.

Back in 1982, Marc Rich and Pincus Green were virtually unknown publicly but had already become the principals in the second largest commodities firm in the world – Marc Rich & Co. A.G. (hereinafter “A.G.”) A.G.’s headquarters were in Zug, Switzerland. A.G., had dozens of offices throughout the world and traded in virtually all commodities. Back in the late 1970’s and early 1980’s, the principal commodity traded by A.G. was crude oil. A.G. operated in the United States through its wholly-owned subsidiary Marc Rich & Company International (“International”). International’s headquarters were on Park Avenue in New York City. Marc Rich and Pincus Green were based in New York City but spent time in their Zug, Switzerland offices. Marc Rich had

quietly achieved the pinnacle in his profession and in the early 1980's became the silent 50% partner of Marvin Davis in Twentieth Century Fox.

Beginning in early 1982, we commenced the acquisition through subpoena of millions of documents from virtually every oil company and crude oil reseller in the United States who had ever done business with Marc Rich. Also in early 1982, we served subpoenas in New York on International and A.G. Though A.G. was a Swiss company that did not technically do business in the United States, we took the position that there were sufficient contacts through its American subsidiary International to give us jurisdiction for purposes of enforcing subpoenas for the documents. Marc Rich engaged some of the best lawyers in the United States, including Edward Bennett Williams, Peter Fleming from New York and former U.S. District Judge Marvin Frankel.

In June 1982, A.G. sought to quash the grand jury subpoena which had been served on International for A.G.'s records. United States District Judge Leonard Sand denied the motion to quash and ordered A.G. to produce the documents from Switzerland. A.G. refused to produce the documents and Judge Sand held A.G. in contempt. Judge Sand stayed his order to permit A.G. to appeal. The issues involved were some of the most sensitive and far reaching that have ever been litigated concerning the extra-territorial reach and jurisdictional power of the grand jury in the United States.

Marc Rich took the position that Swiss secrecy laws criminalized the production of the documents and that A.G. was beyond the jurisdictional reach of the grand jury. In an historic decision, the Second Circuit Court of Appeals in May 1983 affirmed Judge Sand's decision. After

the Supreme Court denied A.G.'s application for a writ of certiorari, Judge Sand once again convened his court to determine the enforcement of his contempt order.

In late June 1983, Judge Sand ordered the commencement of a \$50,000 per day contempt fine in order to compel A.G. to produce the documents. At that time, A.G., through its counsel Judge Frankel, advised Judge Sand that it would neither produce the documents nor pay the fine. At this point, the Marc Rich case became a public event with daily articles domestically and internationally much like the current furor over the pardon matter.

The first of a number of startling events occurred in July 1983. We were advised by a witness that Marc Rich had quietly orchestrated the sale of A.G.'s only American asset – International – on June 29, 1983, just days after Judge Sand had commenced the contempt fine. Judge Sand called the sale a “ploy to frustrate the implementation of the court’s order” and ordered a freeze of A.G.'s assets, including International, in the United States. We were able to learn the true facts about this so-called “sale” when the Second Circuit Court of Appeals concluded that it was a fraud and took the extraordinary step of setting aside the attorney-client privilege.

Marc Rich finally decided to negotiate a resolution of the contempt issue in early August 1983. The negotiations were conducted with a roomful of lawyers, including Peter Fleming and Edward Bennett Williams. We took the position that all documents had to be delivered from Switzerland before the contempt fine would be lifted. We also took the position that all accumulated contempt fines had to be paid and that any resolution would include the agreement by A.G. never again to raise Swiss law as a defense to the production of documents. On August 5,

1983, we executed the agreement with Marc Rich's attorneys in Judge Sand's Manhattan apartment close to midnight. In the agreement, A.G. agreed to pay the over \$1 million in contempt fines that had already accumulated and to continue paying the contempt fines until all documents had been produced. A.G. agreed to begin immediately the production of documents from Switzerland. Indeed, over 200,000 documents were received from Switzerland over the next few days, including most of the general ledger cards, which turned out to be invaluable to the prosecution. Also, Marc Rich agreed to pledge \$55 million in security in the United States to cover all potential contempt fines. That security was in the form of mortgages on various oil properties as well as a letter of credit.

On August 9, 1983 – just four days after Marc Rich agreed to these measures, we received an anonymous tip from an employee at Marc Rich's New York offices that subpoenaed documents were being slipped out of the United States in two steamer trunks by a paralegal of yet another law firm that represented Marc Rich. In fact, two unmarked steamer trunks full of subpoenaed documents were retrieved from a Swiss Air flight on which the paralegal was booked. The seizure of those documents represented yet another saga in the Marc Rich story which became known as the "steamer trunk affair." At that time, Judge Sand ordered the production of every document throughout the world of the Marc Rich Companies which had been subpoenaed.

However, while those documents were being produced, the Swiss government supposedly seized on August 13, 1983 all of the remaining unproduced documents from Marc Rich's Swiss headquarters in Zug. In other words, A.G. now had an argument that it could not comply with the

agreement to produce all documents because the Swiss government had supposedly detained or seized them.

The Swiss action instigated another round of litigation whereby A.G. moved to lift the contempt order because the Swiss action made it “impossible” to comply. We took the position that the Swiss government, based on an inventory of documents that it had supposedly detained, had not seized all documents and that Marc Rich had the burden to demonstrate that there were no further documents that it could produce. Judge Sand ruled in our favor and ordered that the contempt fines should continue. In fact, Marc Rich delivered on each Friday and Monday for over a year checks in the amount of \$200,000 and \$150,000 until his companies’ guilty pleas in October 1984. In all, A.G. paid over \$21 million in contempt fines.

During the summer of 1983, we finalized our investigation and prepared to indict Marc Rich, Pincus Green and their various companies. In September 1983, a 51 count indictment against Marc Rich, Pincus Green, A.G. International, Listo Petroleum, and Clyde Meltzer was returned. The indictment included two tax evasion counts for International’s 1980 and 1981 returns, various mail and wire fraud counts, a racketeering count, and a trading with the enemy count involving Rich’s secret deals with the Iranians during the Iran oil embargo and hostage crisis. The indictment accused International of evading taxes on over \$100 million in unreported income in 1980 and 1981. The indictment was at the time the largest tax fraud prosecution in history. Prior to the indictment, Mr. Rich and Mr. Green’s counsel were advised of the anticipated charges and were given an opportunity to make presentations to the Justice Department in Washington regarding the

tax and racketeering counts. Those counts in the indictment were approved and authorized by the Justice Department.

By 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. As reported in several books, including the biography of Edward Bennett Williams, Mr. Williams offered \$100 million in June 1983 to resolve all the matters as to Rich, Green, and their companies. At that time, we refused the offer and advised Mr. Williams that Green and Rich would have to plead guilty to felonies and face jail terms. Since that time until their recent pardons, Marc Rich and Pincus Green have been fugitives. In 1984, the Swiss government rejected our request for extradition of Rich and Green. Prior to their recent pardon, Rich and Green were among the highest priority white-collar fugitives in the world.

With Marc Rich and Pincus Green gone, the companies vigorously litigated against the charges. They filed over a dozen pre-trial motions with hundreds of pages of legal briefs. They raised every conceivable defense, but never argued that the allegations did not constitute tax evasion or that there had been advice of counsel as to the tax issues. By May 1984, serious plea negotiations began with the corporations. On October 10, 1984, A.G. and International (Clarendon) pleaded guilty to 38 counts of false statements regarding a scheme to divert over \$100 million in illegal oil profits outside the United States and International pleaded guilty to evading \$48 million in taxes on \$100 million in undisclosed income in 1980 and 1981. Clyde Meltzer the owner of Listo Petroleum pleaded guilty to aiding and abetting the tax evasion of International. All of the charges as to Rich

and Green remained outstanding for the past 17 years while they were fugitives. In addition, International and A.G. paid \$150 million to the government along with \$21 million in contempt fees. The companies were also fined \$780,000 by the court and charged \$33,000 in court costs. International gave up some \$40 million in tax deductions. At the time in 1984, the plea and fines were the largest in American history.

The case against Mr. Rich and Mr. Green was very strong. The government would have called witnesses from Marc Rich's companies who would have described in detail the huge tax fraud and energy fraud scheme. 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." As alleged in the indictment, the 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. In addition, Mr. Rich and Mr. Green's fugitive status was further evidence of their consciousness of guilt.

Now 17 years later, the pardon application asserts that the acts alleged were civil, not criminal, and that the conduct to which the companies plead guilty and for which Mr. Rich and Mr. Green were indicted was perfectly innocent intercompany transactions protected by a U.S./Swiss Tax Treaty. If the transactions were considered legitimate at the time, one wonders why it was necessary to create the "pots," use inflated invoices, and use sham transactions to funnel the profits out of the United States. It is unlikely that with the best defense lawyers in America that Mr. Rich

and Mr. Green would have risked everything by becoming fugitives if it was just a civil misunderstanding.

In truth, Mr. Rich and Mr. Green forfeited their right to question the merits of this case in their pardon application by becoming fugitives and having their companies plead guilty to the schemes 17 years ago. Whatever the debate about their pardons, it should not be over the merits of the case against them – those merits are clear.

Mr. BURTON. Thank you, Mr. Weinberg. That was very thorough. Mr. Auerbach.

Mr. AUERBACH. Mr. Chairman, Mr. Waxman, distinguished members of the committee, I come today to express the outrage I share with Mr. Weinberg and I believe with many other Americans over President Clinton's pardon of Marc Rich and Pincus Green. 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. We had extraordinary testimony, extraordinary cooperation from people within Marc Rich's organization, which demonstrated the guilt to which his companies pleaded guilty.

The notion that this pardon was, quote, on the merits, as has been said by our former President, a man who I voted for twice, is simply incorrect. The merits of this case were unquestionably in the government's favor.

Mr. Quinn has said that, in presenting the pardon applicant, he presented the views of the prosecutors. But when one reads the pardon application, one sees the indictment, which does express the charges, but does not set forth the facts.

One of the linchpins of the attack on the case is an analysis that was done 10 years ago by two very distinguished tax professors and was presented to the U.S. Attorney's Office in December 1990, directed to the distinguished prosecutor who went on to become himself a professor at Columbia Law School and now, with the advice and consent of the U.S. Senate, sits on the Federal bench in New York.

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, and this is in tab C to the pardon application, 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.

Since 1983, when I began working on this case, I have had numerous conversations, both as a prosecutor and after leaving the U.S. Attorney's Office, about the merits of this case. Mr. Rich and Mr. Green reached an impasse with the U.S. Attorney's Office, not because the U.S. Attorney's Office was unreasonable and was unwilling to listen to their arguments and analysis, they reached an impasse because of the facts.

Mr. Rich and Mr. Green are commodities traders. By its nature, that is a gambling profession. And there is an old song about the gambler which says, you have to know when to hold, know when to fold up, know when to walk away, know when to run. And they ran, and they ran because of the facts. And they couldn't come back because of the facts.

And it was only by circumventing a process that they had gone through years and years and years ago and continue to go through,

a process which involved a careful consideration of their arguments against the facts of the case that allowed them to come back.

Now, the one card we did not have was the get-out-of-jail-free card. Mr. Rich and Mr. Green now have that card. And I believe that one of the functions that this committee can perform is not only the function of looking at the Presidential pardon process and encouraging the current President and all Presidents who follow him to never again make the mistake for whatever reason it was made by Mr. Clinton in pardoning fugitives who have turned their back on the United States, who have engaged in conduct pleaded guilty to by their companies that constituted thumbing their noses at American laws in times of crisis, the energy crisis.

In 1973 and 1974, I had the privilege of working for the House Commerce Committee, and I will never forget the hearings that were held with respect to the energy crisis. It was a crisis of great proportion for the American people. A response was crafted by government, perhaps an imperfect response, but a real response. Mr. Rich and Mr. Green chose to evade the law with respect to those controls. They chose to make illegal profits at a time when Americans were suffering under extraordinarily high energy prices.

When we had a hostage crisis in Iran, we attempted to respond to that by having legislation and regulation. Mr. Rich and Mr. Green, as alleged in the indictment, chose to put their personal profits ahead of the needs and the laws of the United States. The notion that a President of the United States in the future might make the same mistake and act on a pardon application that may reflect the prosecutor's views but not present to him the facts is a mistake I would urge this committee to ensure never happens again.

The other thing I would ask this committee to do in its oversight function is to look to the future. Mr. Rich and Mr. Green announced long ago that they have renounced their citizenship. We took the position that they were still citizens of the United States, still subject to our jurisdiction and extradition. But they took the position that they were citizens of the world. If they, in fact, renounce their citizenships and are no longer Americans, then I believe they have no absolute right to return to this country. And I think that this committee should call upon the State Department and the White House to consider whether Mr. Rich and Mr. Green are welcome in America, or whether that their complete contempt for the laws of the United States and for the courts of the United States, as reflected in the conduct that Mr. Weinberg described, which led them to pay \$21 million in contempt fines, fines they preferred to pay rather than produce documents—and I believe that if those documents had demonstrated their innocence, those documents would have been on our doorstep before we asked for them. I believe that we have to look at their contempt and say, if you are not American citizens and have no right to be here, you are not welcome here.

Alternatively, if they are U.S. citizens free to come and go as they please, then we have to look at their civil liabilities.

Mr. Quinn wrote to the President saying that Mr. Rich and Mr. Green would waive all the procedural obstacles to the government pursuing them with respect to civil liabilities arising from the

transactions for which they were indicted. That, Mr. Chairman, is a completely hollow promise. It is utterly meaningless. It is less than ice in winter. It is an empty glass.

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.

We have been accused of being reckless and overreaching. We did not charge Marc Rich and Co. A.G. with tax evasion because it was not a U.S. taxpayer. We did charge Marc Rich and Co. International Limited with tax evasion. It pleaded guilty, and it satisfied its tax liabilities. That civil liability is gone.

With respect to the Energy Department and the energy regulations, that civil liability is gone. That was never an individual liability of theirs. It was a corporate liability. Their liability was a criminal liability.

And so I would ask the committee to ensure that, if they are welcome to return to the United States, that we do everything in our power to hold them responsible for any liabilities they may have, including, of course, tax liability for the past 17 years.

It is my impression, perhaps incorrect, but I believe not, that for the past 17 years, they have taken the position that they are not U.S. citizens and need not pay U.S. income tax. During that period, as one of Mr. Rich and Mr. Green's lawyers informed me several years ago, they went from owning the second largest commodities trading company in the world to owning the largest commodities trading company in the world, which Mr. Rich and Mr. Green proceeded to sell at enormous personal profit. If they made such profits and have not paid their taxes, I hope this committee will ensure that they do so.

One last thing I would say, when you make a deal with the devil you ought to get paid. I don't know what the deal was or whether there was a deal that led to Mr. Rich's and Mr. Green's pardon. I see the fingerprints of Mr. Rich and Mr. Green in the way that this was approached because, in the course of our investigation, in the course of watching his contact over the years, I have come to understand the way Mr. Rich and Mr. Green do business and why they had been such phenomenally successful commodities traders. They do information arbitrage. They take advantage of the fact that the guy on the other side of the table doesn't know what they do.

It happened here again. They take advantage of building special relationships with people in government, which they can then exploit, sometimes at the cost of those people's own allegiance to their true employers.

I'm not suggesting that Mr. Quinn is anything other than a deeply loyal American. I believe we all are, but I am suggesting that Mr. Rich and Mr. Green exploited one of the techniques that made some so successful and so rich.

If in fact one of the compelling parts of the pardon application was the charity that they have bestowed, and I assure you that at the time that they had been indicted we were aware that particularly Mr. Green, was an extremely charitable person. Mr. Green is a deeply observant religious man. His religious beliefs preclude him

from making money between sundown on Friday and sundown on Saturday. And so he chose to have his profits go into a charitable trust for that period. I applaud that. I think that is wonderful.

But I do not believe that the \$220 million of charity that is reflected in this pardon application wipes out their guilt. What it does suggest, however, is that, if we have made a deal with the devil, there is a good way for him to pay. Not only should the tax liabilities, if they are American citizens, be fully satisfied, but I call on them both to increase their charity.

They offered to pay \$100 million to settle these matters. I call upon them, I call upon this committee, I call upon the Congress and the people of the United States to say to them now prove that you are truly charitable men. Prove that you are not simply looking for a way to buy yourself back into somebody's heart. Put up the money now. If you don't owe the civil liabilities that Mr. Quinn was prepared to have you satisfy, establish charitable foundations. Put that money on the table now so that at least the American people can receive some benefit from the extraordinary wealth that you achieved by turning your back on American law.

Thank you, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Auerbach. It was very interesting testimony.

We will now go to the 30 minutes on each side.

Mr. SHAYS, we will recognize you for the first 10 minutes on our side.

Mr. SHAYS. Good morning, gentlemen. This committee, the Government Reform Committee, and the Governmental Affairs Committee in the Senate has had approximately 80 people refuse to testify before this committee exercising their fifth amendment rights, and now Denise Rich is just one more person added to that number. And, Mr. Quinn, I may have a lot of feelings about what you did, but I think it takes a lot of guts to be here, and I appreciate you being here.

Mr. QUINN. Thank you.

Mr. SHAYS. There are some who believe, and I am one of them, that former President Clinton appears to have pardoned two traitors to their country and our country, and I want to just deal with the part of the indictment that people refer to as trading with the enemy.

Mr. Quinn, you claimed in the pardon application that the Southern District of New York dropped the trading with the enemy charges against Mr. Rich's companies because they somehow lacked merit. Is that correct?

Mr. QUINN. Yes, sir.

Mr. SHAYS. Mr. Quinn, you argued in your petition for pardon that because the trading with the enemy charges against the company were dropped the charges against Messrs. Rich and Green should have been dropped also; is that correct?

Mr. QUINN. Well, the central argument on this point, sir, is that the regulations in question do not reach individuals who are engaged in such trading on behalf of foreign corporations.

Mr. SHAYS. Is it your position that your clients did not trade with Iran or that it was not illegal if they did?

Mr. QUINN. The latter.

Mr. SHAYS. That it was not illegal if they did?

Mr. QUINN. That's correct.

Mr. SHAYS. Did they trade with Iran?

Mr. QUINN. It was my understanding that there was such trading but that it was on behalf of foreign corporations, and that being the case, the regulations in question did not reach that conduct.

Mr. SHAYS. Mr. Weinberg, could you explain why the charges against the company for trading with Iran were dropped?

Mr. WEINBERG. Yes. When Mr. Rich and Mr. Green became fugitives, we were left with trying a case against two corporations and a third individual who was a principal of this company called Listo. His name was Clyde Meltzer. By the way, he did not get a pardon, even though he ended up being the one person that pled guilty in this case. But because Mr. Meltzer was not involved in any of the trading with the enemy charges, it created a real problem for trying the case without Marc Rich and Pincus Green there because Mr. Meltzer took the position that he was entitled to a severance and that there would have to be two trials.

So in order to avoid having two trials, we superseded the indictment and took the trading with the enemy counts out of the RICO charges as they applied to the companies and dismissed them as to the companies and told the court that, if we tried this case, we would not have those counts that Mr. Meltzer believed were so inflammatory to him that he would not get a fair trial. But we also made it clear that the charges would remain outstanding as to the individuals.

But just in response to what Mr. Quinn said, we charged that these—these trades were made by Mr. Rich and Mr. Green from their New York office. I mean, that's what the indictment charges and that is what the proof would have been, and that we were very confident that the U.S. laws and regulations prohibited Americans from making deals and, regardless of whether the deal was for their Swiss company or their American company, but they couldn't in the United States make deals that caused U.S. money to go from U.S. banks to the Iranians, which in this case we would have proven I believe.

So we felt strongly about the charges. We dismissed them as to the company because we wanted to have one trial and not two.

Mr. SHAYS. So it's your testimony that you certainly wouldn't have dropped it as it related to the individuals?

Mr. WEINBERG. No. It really applied more to the individuals because it was the individuals in this case that were American citizens. It was the individuals in this case that actually did the deals. It was the individuals that were the—you know, had violated, you know, the trading with the enemy counts.

Mr. QUINN. Mr. Shays, may I add one—

Mr. SHAYS. Sure.

Mr. QUINN. As you can see, as I hope you will see through the course of this hearing on this and a number of other points, we disagree. I do not believe that those regulations reached this conduct. I want—and I am going to try in the course of this hearing to comment on as many of the harsh things said by these gentlemen as I can. But I do want to single out one particular aspect of this, and

that is this, the fact that this gentleman renounced his U.S. citizenship. And—

Mr. SHAYS. I'd like to come back to that. We will come back unless it relates directly to this point.

Mr. QUINN. Well, it is going to be a simple point.

Mr. SHAYS. OK.

Mr. QUINN. I want to be clear that I did not recommend he do that. I would never recommend that any American do that. I do not condone that. But I want you to know that I do not think that fact was pertinent to the charges against him.

Mr. SHAYS. OK. This is a fugitive from justice who was a U.S. citizen, who then left after being prosecuted, renounces his U.S. citizenship.

Mr. QUINN. Well—

Mr. SHAYS. Let me just go on.

During the last 20 years, did Marc Rich or his companies trade with Qadhafi or Libya?

Mr. QUINN. I don't know the answer to that, sir.

Mr. SHAYS. Should it make any difference to you if he did?

Mr. QUINN. The pardon application goes to the legal merit or lack of merit of the indictment. I did not act here as a character witness for these people. I took on the indictment within its four corners.

Mr. SHAYS. I only have 10 minutes, so I would like you to be precise here. I'm saying, should it have made any difference? The answer is yes or no.

Mr. QUINN. I think not.

Mr. SHAYS. Did you try to find out whether he did?

Mr. QUINN. No, because I had no information that it might have been the case.

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. I mean, the President in—

Mr. SHAYS. In the last 12 years, did Marc Rich or any of his companies trade embargo—excuse me, did they trade with Iraq, with Iraqi oil?

Mr. QUINN. I don't know the answer to that.

Mr. SHAYS. Should it make any difference to you if this was true?

Mr. QUINN. If it didn't go to the allegations of this indictment, it would not, in my view, have undermined the legal case we made against the indictment.

Mr. SHAYS. Did you try to find out if it did, if they did?

Mr. QUINN. No, because again I—

Mr. SHAYS. So the answer is no?

Mr. QUINN. That's correct.

Mr. SHAYS. No. Then the next question is: Should it have made a difference to the President of the United States?

Mr. QUINN. Again, I think the President could and should take into consideration whatever information he chooses to take into consideration. I can speak only to the information I provided to him.

Mr. SHAYS. You felt no obligation to tell the President whether Marc Rich or Mr. Green may have traded with Libya, traded with Iran, or traded with Iraq; and you don't think you had any obligation to inform the President of that?

Mr. QUINN. I know what my obligation as a lawyer was. It was to argue this case forcefully. And by the way, as I think you know, the Prime Minister of Israel, whom one would expect to have been concerned if those sorts of nefarious trade dealings were under way, would not have been as vocal as he was in support of this pardon.

Mr. SHAYS. During the trade embargo of South Africa, during the days of apartheid, did Marc Rich or his companies trade with the South African Government?

Mr. QUINN. I don't know the answer to that.

Mr. SHAYS. Should it make any difference to you that he did?

Mr. QUINN. It would not have made any difference to whether or not this indictment had merit.

Mr. SHAYS. Should it make a difference to the President of the United States?

Mr. QUINN. Again, I think the President could and should take into account whatever information he chose to.

Mr. SHAYS. Do you know whether Rich or his companies traded with Cuba?

Mr. QUINN. I do not.

Mr. SHAYS. Were any of Mr. Rich's assets or any assets of his company frozen for illegal trading with Cuba?

Mr. QUINN. I don't know the answer to that.

Mr. SHAYS. OK. If, in fact, Marc Rich or Pincus Green were traitors to the United States, should they be pardoned?

Mr. QUINN. With all due respect, I think it's an unfair question, because I did not believe that they were traitors.

Mr. SHAYS. No, you said, you said that it wasn't part of your request in the pardon. You didn't say whether or not you believed that, because you didn't check. You have an indictment trading with the enemy, and you basically said that was irrelevant and shouldn't apply.

Mr. QUINN. I said that the charge was without merit because the regulations in question do not reach a situation in which individuals are trading on behalf of a non-U.S. company.

Mr. BURTON. The gentleman's time has expired.

Mr. SHAYS. Thank you.

Mr. BURTON. Let me just real briefly make one comment; that is, I think, when a pardon is looked at in addition to the charges brought against people like these gentlemen, they ought to look at what they've done since then to see if there is any contrition. And they did deal with those countries just mentioned during the em-

bargoes. So there was no contrition whatsoever. They went on with the same modus operandi that they had before. So there was no contrition, and I can't understand why that wasn't taken into consideration.

Mr. SHAYS. Mr. Chairman, can I have you yield 1 second?

Mr. BURTON. Real quickly.

Mr. SHAYS. I point out, in the process, they made a fortune.

Mr. BURTON. A fortune.

Mr. SHAYS. And in the process, they didn't declare those taxes.

Mr. BURTON. That's right.

I have one question, then I'll yield to my colleague, Mr. LaTourette.

If these gentleman, Mr. Rich and Mr. Green, had a good case, why did they flee the country and why did they try to smuggle subpoenaed documents out in steamer trunks that were only caught because there was a tip? I mean, if there was no case, if this was a house of cards, why did they flee the country? And why did they try to smuggle subpoenaed documents out of the country?

Mr. QUINN. Let me answer you in several parts. First of all, it is my understanding that when they were indicted they were outside the country. Second, what they did was fail to return to the country after the indictment. That is my understanding.

Second, it is also my understanding that the U.S. Government has never alleged that their absence is in and of itself unlawful.

Third, with regard to the documents, what I have been told is that those documents were going to Switzerland for the purpose of being reviewed for privilege by the lawyers.

That is their answer, sir.

Mr. BURTON. I'm sure the counsel that was involved in the prosecution would like to respond real briefly.

Would counsel like to respond real briefly?

Mr. AUERBACH. A couple of things, Mr. Chairman.

First, I would note that when you look at the pardon application, point one is not a discussion of the legal merits of this case, but of who these men are and why they are entitled to come back. It's not until you get to page 20 of the pardon application that you begin to reach a discussion of the merits of this case.

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 than 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?

So when we get down to the merits of this case, I'm afraid Mr. Rich and Mr. Green do not win.

Mr. WEINBERG. As far as fugitivity is concerned, very briefly, I think it's a distinction without a difference. They weren't indicted. They were well aware of the investigation. There were negotiations

on with Mr. Williams that had been reported before the indictment, the \$100 million offer. They chose not to come home. There were arrest warrants outstanding.

They renounced their citizenship to avoid extradition. They became citizens of Bolivia at the time. These are fugitives, and I still believe that a fugitive that has renounced his citizenship should not be at the top of the list of people that are considered for the ultimate act of mercy that the Constitution reserves to the President, which is a pardon power.

Mr. BURTON. Thank you, Mr. Weinberg.

Mr. LaTourette.

Mr. LATOURETTE. Mr. Chairman, could I ask the counsel how much time remains of our side's 30 minutes?

Mr. BURTON. Because I kind of interrupted there, I think you have about 7½ minutes, let's say.

Mr. LATOURETTE. Could I ask that counsel notify me when we have 10 left, because I want my friend, Mr. Barr, to have a full 10 minutes to explain what is on his mind.

Mr. BURTON. I will yield my 5 minutes to you in the second round since I took your time.

Mr. LATOURETTE. I thank you very much.

Mr. Quinn, I want to begin where Mr. Weinberg just left off, because there's a couple of things about this that concern me, and it has to do with definitions.

I mentioned in my opening remarks, when we get to the second panel and you're joined by Mr. Holder, I want to talk to you about some definitions that have been used in interpreting Executive Order 12834. But for this round, I want to talk about the issue of fugitivity.

Apparently, as I understand the media accounts and other things, and maybe if you could refer to exhibit No. 15 in the committee hearing exhibits, apparently there was a conversation between you and Bruce Lindsey in Belfast, Ireland.

[Exhibit 15 follows:]

Quinn Gillespie
P.C. ASSOCIATES LLP

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



Mr. LATOURETTE. One of the things that was of concern to the Clinton administration was the fact that somebody was telling them at least that Marc Rich and Pincus Green were fugitives from justice. And in response to that conversation, you apparently felt compelled to send Mr. Lindsey at the White House a letter on December 19, 2000, and in particular say, "I want to followup on an issue you raised in our conversation while in Belfast on the subject of the pardon for Marc Rich and Pinky Green. You expressed a concern that they are fugitives, and I told you that they're not. Here's why. Rich and Green were, in fact, residing in Switzerland when they were indicted in September 1983."

I think that's what Mr. Weinberg was just addressing, sort of the distinction without a difference. And here's why it's troubling.

We had a hearing in this committee last year where we had a former Cuban intelligence official, and he explained to us that it was his belief that Fidel Castro helped pay for and orchestrate the largest armored car robbery in the history of the United States; \$7 million was taken. And then Fidel Castro, according to this witness, helped smuggle the person out of the United States and back to Cuba. And if we can go to exhibit 101 in the committee's documents, like your client, he wound up on the Top Ten list of those most wanted by the Federal Bureau of Investigation. His name is Victor Manuel Gerena.

[Exhibit 101 follows:]

FBI TEN MOST WANTED FUGITIVE

**BANK ROBBERY; UNLAWFUL FLIGHT TO AVOID PROSECUTION
- ARMED ROBBERY; THEFT FROM INTERSTATE SHIPMENT**

VICTOR MANUEL GERENA



Photograph taken in 1983 Age Enhanced Photograph

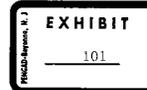
Aliases: Victor Ortiz and Victor M. Gerena Ortiz.

DESCRIPTION

Date of Birth:	June 24, 1958	Hair:	Brown
Place of Birth:	New York, New York	Eyes:	Green
Height:	5'6" to 5'7"	Complexion:	Dark/Medium
Weight:	160 to 169 pounds	Sex:	Male
Build:	Medium/Stocky	Race:	White
Occupation(s):	Machinist, security guard	Nationality:	American (Puerto Rican descent)
Scars and Marks:	He has a one-inch scar and a mole on his right shoulder blade.		
Remarks:	None		

CAUTION

VICTOR MANUEL GERENA IS BEING SOUGHT IN CONNECTION WITH THE ARMED ROBBERY OF APPROXIMATELY \$7 MILLION FROM A SECURITY COMPANY IN CONNECTICUT. HE ALLEGEDLY TOOK TWO SECURITY EMPLOYEES HOSTAGE AT GUNPOINT AND THEN HANDCUFFED, BOUND AND INJECTED THEM WITH AN UNKNOWN SUBSTANCE IN ORDER TO



FURTHER DISABLE THEM.

CONSIDERED ARMED AND EXTREMELY DANGEROUS.

IF YOU HAVE ANY INFORMATION CONCERNING THIS PERSON, PLEASE
CONTACT YOUR LOCAL FBI OFFICE OR THE NEAREST U.S. EMBASSY OR
CONSULATE.

REWARD

The FBI is offering a \$50,000 reward for information leading directly to the arrest of Victor Manuel Gerena.

May 1984
Poster Revised March 1999

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[[Ten Most Wanted Fugitives](#)] [[Most Wanted Page](#)] [[FBI Home Page](#)]

FBI TEN MOST WANTED FUGITIVE

MALICIOUSLY DAMAGED, BY MEANS OF AN EXPLOSIVE DEVICE, BUILDINGS AND PROPERTY AFFECTING INTERSTATE COMMERCE WHICH RESULTED IN DEATH AND INJURY

ERIC ROBERT RUDOLPH



Date of photograph unknown Date of photograph unknown Date of Sketch July 1998

Aliases: Bob Randolph, Robert Randolph, Bob Rudolph, Eric Rudolph and Eric R. Rudolph.

DESCRIPTION

Date of Birth:	September 19, 1966	Hair:	Brown
Place of Birth:	Merritt Island, Florida	Eyes:	Blue
Height:	5'11"	Complexion:	Fair
Weight:	165 to 180 pounds	Sex:	Male
Build:	Medium	Race:	White
Occupation(s):	Carpenter, roofer and handyman	Nationality:	American
Scars and Marks:	He has a noticeable scar on his chin.		
Remarks:	None		

CAUTION

ERIC ROBERT RUDOLPH IS CHARGED IN CONNECTION WITH THE BOMBING OF A HEALTH CLINIC IN BIRMINGHAM, ALABAMA, IN WHICH A POLICE OFFICER WAS KILLED AND A NURSE CRITICALLY WOUNDED. HE

IS ALSO CHARGED IN CONNECTION WITH THE FATAL BOMBINGS AT CENTENNIAL OLYMPIC PARK IN DOWNTOWN ATLANTA, GEORGIA, THE DOUBLE BOMBINGS AT THE SANDY SPRINGS PROFESSIONAL OFFICE BUILDING NORTH OF ATLANTA, AND THE DOUBLE BOMBINGS AT THE OTHERSIDE LOUNGE IN MIDTOWN ATLANTA. THESE BOMB BLASTS INJURED MORE THAN 150 PEOPLE. RUDOLPH IS KNOWN TO OWN FIREARMS AND TO HAVE TARGETED LAW ENFORCEMENT.

CONSIDERED ARMED AND EXTREMELY DANGEROUS.

IF YOU HAVE ANY INFORMATION CONCERNING THIS PERSON, PLEASE CONTACT YOUR LOCAL FBI OFFICE OR THE NEAREST U.S. EMBASSY OR CONSULATE.

REWARD

The FBI is offering a \$1,000,000 reward for information leading directly to the arrest of Eric Robert Rudolph.

May 1998
Poster Revised April 2000

[[View PDF Version](#)] [[Centennial Olympic Park Bombing](#)]
[[Ten Most Wanted Fugitives](#)] [[Most Wanted Page](#)] [[FBI Home Page](#)]

Mr. LATOURETTE. And the conduct on that occasion was that he took two security employees hostages at gunpoint, handcuffed them, bound them and injected them with an unknown substance to further disable them. However, the indictment for Mr. Gerena wasn't issued until he was safely back in Cuba.

Now, if we take your definition of what a fugitive is in your letter to Mr. Lindsey, it would appear that the FBI has made another mistake by putting this fellow on the Most Wanted list because he's not a fugitive either.

Now how can you say that that's the definition of fugitivity?

Mr. QUINN. Well, sir, the facts as stated in my letter are, I believe, accurate. It has not been my impression that Mr. Weinberg or any other representative of the U.S. Government alleged that their failure to return was itself criminal. And you and I are perhaps using different definitions of fugitivity, and I accept that, but I do not understand their absence to have been criminal.

Mr. LATOURETTE. OK.

Mr. QUINN. The purpose of my letter was to make that point.

Mr. LATOURETTE. But apparently—I mean, again, as I read it—and I will let Mr. Weinberg jump in here in a minute. I used to do this, not as skilled as these fellows; I used to be a simple county prosecutor, and I guess when I had a defendant who was facing 300 years, throwing in a fugitive from justice, securing a year and a half really didn't mean a whole lot to the guy.

But the fact of the matter is, if we take your definition, and Bruce Lindsey seemed to be worried about the fact that you were asking a fugitive from justice to receive a Presidential pardon, your answer to them is, hey, good news, Bruce, he's not a fugitive because he was already over in Switzerland.

And I would assert to you that if Marc Rich wasn't a fugitive then neither is Mr. Gerena. We had a famous case here a couple years ago where a fellow fled to Pakistan after murdering a CIA agent in the parking lot, and he wouldn't have been a fugitive.

The last observation, and maybe you can then tell me what the difference is. Mr. Weinberg was talking about you're not his first lawyer; Mr. Rich, he had Edward Bennett Williams a great, great lawyer, and if we could just go to a written a biography when this case is mentioned, and if you could go to exhibit 102, maybe. The excerpt from Mr. Williams' biography reads that, as follows: "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 into 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.'"

It appears that one of Mr. Rich's former lawyers seemed to think that he was a fugitive from justice and undeserving of any favorable treatment and, certainly, a pardon, I would suggest, by the American justice system. And I guess—how do you—how have you reached a different conclusion than Mr. Williams as to the fugitivity question?

[Exhibit 102 follows:]

**EDWARD BENNETT WILLIAMS
TO MARC RICH**

“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.’”

- from *The Man to See* by Evan Thomas



Mr. QUINN. Well, again, sir, my position on fugitivity is laid out in that letter to Lindsey.

But to the point that I reach a different conclusion about this case than Mr. Williams did, I learned about this case in excruciating detail from such people as Lewis Libby, who is now Vice President Cheney's Chief of Staff, Larry Urgenson.

Mr. LATOURETTE. I understand your arguments on the merits, but Mr. Williams is talking about the issue of fugitivity here. He said that your client, "spit on the American flag" was his conclusion. You reach a different conclusion.

Let me ask Mr. Weinberg. Mr. Weinberg, do you think that fellow was a fugitive from justice?

Mr. WEINBERG. He is a fugitive from justice. What Mr. Quinn is talking about when there's an outstanding arrest warrant for you and you've been indicted and you know about it and you don't turn yourself in, you're a fugitive whether you took a vacation to Switzerland, because he was living in New York at the time.

But whether you took a vacation to Switzerland and chose not to come back, or not, you're a fugitive. What he's saying is that he didn't commit the crime of bail jumping, because there wasn't bail set, because he hadn't been indicted when he chose apparently not to come back. He's a fugitive. Up until the pardon, there were arrest warrants.

The marshals have been quoted recently as saying he was one of the Top Ten list. They tried many times to capture him. There have been a number of extradition requests. He chose not to come back; he's a fugitive.

Mr. LATOURETTE. Mr. Auerbach.

Mr. BURTON. The gentleman's time has expired.

Mr. LATOURETTE. May I ask Mr. Auerbach the question?

How do you feel about this fugitivity issue?

Mr. AUERBACH. There's no question that Marc Rich and Pincus Green were fugitives and knew it. We sought their extradition from Switzerland. If you look at our agreement with their companies with respect to their guilty pleas, they specifically provided that we would wait to see whether the Swiss were going to grant our extradition requests, because if they were, we reserved the right to go ahead to trial as they did. And it was only when it was clear that they were not going to get extradited as fugitives that we proceeded.

Mr. LATOURETTE. I thank you.

I yield to you, Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

Mr. Weinberg, I think you in one phrase or one sentence really summed up why we're here. Nobody in this room seriously believes that we're here because all of us on this committee and the American people don't understand that there are other important things that Congress needs to be doing. Congress is doing those things.

If members on the other side want to work on health care for the elderly and prescription drugs, then they ought to be on those committees. That's not what brings us here today. What brings us here today is, as you said in your testimony, how our judicial system is supposed to work. That is really what brings us here.

Some on the other side might think that simply because we are at the core of this discussion talking about a constitutional authority, that there's nothing that any of us can do about it. Once the President exercises anything that is a power under which the Constitution he has, then we all have to just back away and bow down and say, yes, sir, we can't look into this, it's black magic, we have to go away and just accept what you've done.

I think all of us here, whether anybody is willing to admit it or not, understand that's not the way our system of government operates. We have an obligation here, the same as you and Mr. Auerbach have an obligation, as does Mr. Quinn, to see that justice is done, to uphold our system of laws, our system of checks and balances.

And if, in fact, there's evidence, as there is in this case, that the system has not worked, that it perhaps has been subverted in some way, then we have a legitimate reason to look into it, to try and at least bring to the attention of the American people that something wrong has gone on here, and if steps can be taken, to take those steps.

Also, in looking at the grant of executive clemency or a pardon, we're not operating in a vacuum here. We're not operating as if President Clinton is the first person ever to extend grants of clemency or to grant pardons. There is, in fact, a long history of documentation.

There is a very clear process and procedure which every prior President until this President at the 11th hour of his administration has followed. There are documents that lay out that process and procedure such as, for example, the U.S. attorneys manual.

I ask unanimous consent to include these pages from the U.S. attorneys manual that relate to grants of clemency and pardons in the record.

Mr. BURTON. Without objection.

[The information referred to follows:]

3RD SECTION of Level 1 printed in FULL format.

United States Attorney's Manual

Current Through Blue Sheet No. 9.003, July 28, 1999

TITLE 1 DEPARTMENT OF JUSTICE ORGANIZATIONS AND FUNCTIONS
1-2.000 ORGANIZATIONS AND FUNCTIONS

USAM @ 1-2.110

@ 1-2.110 Office of the Pardon Attorney

The Pardon Attorney assists the President in the exercise of his power under Article II, Section 2, clause 1 of the Constitution (the pardon clause). See Executive Order dated June 16, 1893 (transferring clemency petition processing and advisory functions to the Justice Department), the Rules Governing the Processing of Petitions for Executive Clemency (codified in 28 CFR Sections 1.1 et seq.), and 28 CFR Sections 0.35 and 0.36 (relating to the authority of the Pardon Attorney). The Pardon Attorney, under the direction of the Deputy Attorney General, receives and reviews all petitions for Executive Clemency (which includes pardon after completion of sentence, commutation of sentence, remission of fine and reprieve), initiates and directs the necessary investigations, and prepares a report and recommendation for submission to the President in every case. In addition, the Office of the Pardon Attorney acts as a liaison with the public during the pendency of a clemency petition, responding to correspondence and answering inquiries about clemency cases and issues. The following sets forth guidance on clemency matters.

4TH SECTION of Level 1 printed in FULL format.

United States Attorney's Manual

Current Through Blue Sheet No. 9.003, July 28, 1999

TITLE 1 DEPARTMENT OF JUSTICE ORGANIZATIONS AND FUNCTIONS
1-2.000 ORGANIZATIONS AND FUNCTIONS

USAM @ 1-2.111

@ 1-2.111 Role of the United States Attorney in Clemency Matters

The Pardon Attorney routinely requests the United States Attorney in the district of conviction to provide comments and recommendations on clemency cases that appear to have some merit, as well as on cases that raise issues of fact about which the United States Attorney may be in a position to provide information. Occasionally, the United States Attorney in the district in which a petitioner currently resides also may be contacted. In addition, in cases in which the petitioner seeks clemency based on cooperation with the government, the Pardon Attorney may solicit the views of the United States Attorney in the district(s) in which the petitioner cooperated, if different from the district of conviction. While the decision to grant clemency generally is driven by considerations that differ from those that dictate the decision to prosecute, the United States Attorney's prosecutive perspective lends valuable insights to the clemency process.

The views of the United States Attorney are given considerable weight in determining what recommendations the Department should make to the President. For this reason, and in order to ensure consistency, it is important that each request sent to the district receive the personal attention of the United States Attorney. Each petition is presented for action to the President with a report and recommendation from the Department, and the recommendation by the United States Attorney is included in this report.

The United States Attorney can contribute significantly to the clemency process by providing factual information and perspectives about the offense of conviction that may not be reflected in the presentence or background investigation reports or other sources, e.g., the extent of the petitioner's wrongdoing and the attendant circumstances, the amount of money involved or losses sustained, the petitioner's involvement in other criminal activity, the petitioner's reputation in the community and, when appropriate, the victim impact of the petitioner's crime. On occasion, the Pardon Attorney may request information from prosecution records that may not be readily available from other sources.

As a general matter, in clemency cases the correctness of the underlying conviction is assumed, and the question of guilt or innocence is not generally at issue. However, if a petitioner refuses to accept guilt, minimizes culpability, or raises a claim of innocence or miscarriage of justice, the United States Attorney should address these issues.

In cases involving pardon after completion of sentence, the United States Attorneys is expected to comment on the petitioner's post-conviction rehabilitation, particularly any actions that may evidence a desire to atone for the offense, in light of the standards generally applicable in pardon cases as discussed in the following section. Similarly, in commutation cases, comments

may be sought on developments after sentencing that are relevant to the merits of a petitioner's request for mercy.

In pardon cases, the Pardon Attorney will forward to the United States Attorney copies of the pardon petition and relevant investigative reports. These records should be returned to the Pardon Attorney along with the response. In cases involving requests for other forms of executive clemency (i.e., commutation of sentence or remission of fine), copies of the clemency petition and such related records as may be useful (e.g., presentence report, judgment of conviction, prison progress reports, and completed statement of debtor forms) will be provided.

The Pardon Attorney also routinely requests the United States Attorney to solicit the views and recommendation of the sentencing judge. If the sentencing judge is retired, deceased, or otherwise unavailable for comment, the United States Attorney's report should so advise. In the event the United States Attorney does not wish to contact the sentencing judge, the Pardon Attorney should be advised accordingly so that the judge's views may be solicited directly. Absent an express request for confidentiality, the Pardon Attorney may share the comments of the United States Attorney with the sentencing judge or other concerned officials whose views are solicited.

The United States Attorney may support, oppose or take no position on a pardon request. In this regard, it is helpful to have a clear expression of the office's position. The Pardon Attorney generally asks for a response within 30 days. If an unusual delay is anticipated, the Pardon Attorney should be advised when a response may be expected. If desired, the official views of the United States Attorney may be supplemented by separate reports from present or former officials involved in the prosecution of the case. The United States Attorney may of course submit a recommendation for or against clemency even if the Pardon Attorney has not yet solicited comments from the district. The Pardon Attorney informs the United States Attorney of the final disposition of any clemency application on which he or she has commented.

5TH SECTION of Level 1 printed in FULL format.

United States Attorney's Manual

Current Through Blue Sheet No. 9.003, July 28, 1999

TITLE 1 DEPARTMENT OF JUSTICE ORGANIZATIONS AND FUNCTIONS
1-2.000 ORGANIZATIONS AND FUNCTIONS

USAM @ 1-2.112

@ 1-2.112 Standards for Considering Pardon Petitions

In general, a pardon is granted on the basis of the petitioner's demonstrated good conduct for a substantial period of time after conviction and service of sentence. The Department's regulations require a petitioner to wait a period of at least five years after conviction or release from confinement (whichever is later) before filing a pardon application (28 CFR Section 1.2). In determining whether a particular petitioner should be recommended for a pardon, the following are the principal factors taken into account.

A. 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. The background investigation customarily conducted by the FBI in pardon cases focuses on the petitioner's financial and employment stability, responsibility toward family, reputation in the community, participation in community service, charitable or other meritorious activities and, if applicable, military record. In assessing post-conviction accomplishments, each petitioner's life circumstances are considered in their totality: it may not be appropriate or realistic to expect "extraordinary" post-conviction achievements from individuals who are less fortunately situated in terms of cultural, educational, or economic background.

B. 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 fraud 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. Victim impact may also be a relevant consideration. When an offense is very old and relatively minor, the equities may weigh more heavily in favor of forgiveness, provided the petitioner is otherwise a suitable candidate for pardon.

C. 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 attempt to minimize or rationalize culpability does not advance the case for pardon. In this regard, statements made in mitigation (e.g., "everybody was doing it," or "I didn't realize it was illegal") should be judged in context. Persons seeking a pardon on grounds of innocence or miscarriage of justice bear a formidable burden of persuasion.

United States Attorney's Manual USAM @ 1-2.112

D. Need for Relief. The purpose for which 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. For example, a specific employment-related need for pardon, such as removal of a bar to licensure or bonding, may make an otherwise marginal case sufficiently compelling to warrant a grant in aid of the individual's continuing rehabilitation. On the other hand, the absence of a specific need should not be held against an otherwise deserving applicant, who may understandably be motivated solely by a strong personal desire for a sign of forgiveness.

E. 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. Apart from their significance to the individuals who seek them, pardons can play an important part in defining and furthering the rehabilitative goals of the criminal justice system.

6TH SECTION of Level 1 printed in FULL format.

United States Attorney's Manual

Current Through Blue Sheet No. 9.003, July 28, 1999

TITLE 1 DEPARTMENT OF JUSTICE ORGANIZATIONS AND FUNCTIONS
1-2.000 ORGANIZATIONS AND FUNCTIONS

USAM @ 1-2.113

@ 1-2.113 Standards for Considering Commutation Petitions

A commutation of sentence reduces the period of incarceration; it does not imply forgiveness of the underlying offense, but simply remits a portion of the punishment. It has no effect upon the underlying conviction and does not necessarily reflect upon the fairness of the sentence originally imposed. Requests for commutation generally are not accepted unless and until a person has begun serving that sentence. Nor are commutation requests generally accepted from persons who are presently challenging their convictions or sentences through appeal or other court proceeding.

The President may commute a sentence to time served or he may reduce a sentence, either merely for the purpose of advancing an inmate's parole eligibility or to achieve the inmate's release after a specified period of time. Commutation may be granted upon conditions similar to those imposed pursuant to parole or supervised release or, in the case of an alien, upon condition of deportation.

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. A combination of these and/or other equitable factors may also provide a basis for recommending commutation in the context of a particular case.

The amount of time already served and the availability of other remedies (such as parole) are taken into account in deciding whether to recommend clemency. The possibility that the Department itself could accomplish the same result by petitioning the sentencing court, through a motion to reward substantial assistance under Rule 35 of the Federal Rules of Criminal Procedure, a motion for modification or remission of fine under 18 U.S.C. Section 3573, or a request for compassionate relief under 18 U.S.C. Section 3582(c)(1), will also bear on the decision whether to recommend Presidential intervention in the form of clemency. When a commutation request is based on the serious illness of the petitioner, transmission of the United States Attorney's response by facsimile in advance of mailing the original is always appreciated.

When a petitioner seeks remission of fine or restitution, the ability to pay and any good faith efforts to discharge the obligation are important considerations. Petitioners for remission also should demonstrate satisfactory post-conviction conduct.

On January 21, 1977, the President by Proclamation 4483 granted pardon to persons who committed nonviolent violations of the Selective Service Act

United States Attorney's Manual USAM @ 1-2.113

between August 4, 1964 and March 28, 1973 and who were not Selective Service employees. Although a person who comes within the described class was immediately pardoned by the proclamation, the Pardon Attorney issues certificates of pardon to those within the class who were actually convicted of a draft violation and who make written application to the Department on official forms. When these applications are received by the Pardon Attorney, they are forwarded to the United States Attorney for the district in which the applicant was convicted to verify the facts of the case. The verification should be returned to the Pardon Attorney promptly.

Mr. BARR. And we look, for example, even at Mr. Quinn's own, very-well-put-together, two or three, whatever it is, inches of papers in his petition, the last two tabs of which I and J, I believe, include a number of former documentations from a number of former Presidents regarding grants of clemency and executive pardons.

In every one of those, the President lays out the case for the American people, why he believes that this pardon is in the interests of justice.

Now, we may agree or disagree with it, but it's all there; it's on the record. The former President has chosen to operate, as he has so many times in the past, with utter disdain and disregard for the process whereby the American people are deemed to have a right to know what is going on, because that's the only way we can tell if justice is, in fact, being done.

I would also ask unanimous consent to include in the record the executive grant of clemency signed by former President Clinton on January 20th in this case.

Mr. BURTON. Without objection.

[The information referred to follows:]

Executive Grant of Clemency

WILLIAM J. CLINTON

President of the United States of America

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

BE IT KNOWN, THAT THIS DAY THE PRESIDENT HAS GRANTED UNTO

MARC RICH

A FULL AND UNCONDITIONAL PARDON

FOR THOSE OFFENSES charged in a superseding indictment (Docket No. S 83 Cr. 579 (SWK)) filed in the United States District Court for the Southern District of New York on March fifth, 1984, for violation of Sections 1343 and 2, Title 18, United States Code (Counts One through Twenty-Three and Forty-Three through Fifty-Seven); Sections 1341 and 2, Title 18, United States Code (Counts Twenty-Four through Thirty-Eight); Sections 1962(c) and 2, Title 18, United States Code (Count Thirty-Nine); Section 1962(d), Title 18, United States Code (Count Forty); Section 1963, Title 18, United States Code (Forfeitures), Section 7201, Title 26, United States Code (Counts Forty-One and Forty-Two); and Section 1705, Title 50, United States Code; Section 2, Title 18, United States Code; and Sections 535.206(a)(4), 535.208, and 535.701, Title 31, Code of Federal Regulations (Counts Fifty-Eight through Sixty-Five).

THE PRESIDENT HAS DESIGNATED, directed and empowered the Pardon Attorney as his representative to sign this grant of executive clemency.

In accordance with these instructions and authority I have signed my name and caused the seal of the Department of Justice to be affixed hereto and affirm that this action is the act of the President being performed at his direction.

Done at the City of Washington, District of Columbia, on January 20, 2001.

BY DIRECTION OF THE PRESIDENT

Roger C. Adams

PARDON ATTORNEY



Executive Grant of Clemency

WILLIAM J. CLINTON

President of the United States of America

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

BE IT KNOWN, THAT THIS DAY THE PRESIDENT HAS GRANTED UNTO

PINCUS GREEN

A FULL AND UNCONDITIONAL PARDON

FOR THOSE OFFENSES charged in a superseding indictment (Docket No. S 83 Cr. 579 (SWK)) filed in the United States District Court for the Southern District of New York on March fifth, 1984, for violation of Sections 1343 and 2, Title 18, United States Code (Counts One through Twenty-Three and Forty-Three through Fifty-Seven); Sections 1341 and 2, Title 18, United States Code (Counts Twenty-Four through Thirty-Eight); Sections 1962(c) and 2, Title 18, United States Code (Count Thirty-Nine); Section 1962(d), Title 18, United States Code (Count Forty); Section 1963, Title 18, United States Code (Forfeitures); Section 7201, Title 26, United States Code (Counts Forty-One and Forty-Two); and Section 1705, Title 50, United States Code; Section 2, Title 18, United States Code; and Sections 535.206(a)(4), 535.208, and 535.701, Title 31, Code of Federal Regulations (Counts Fifty-Eight through Sixty-Five).

THE PRESIDENT HAS DESIGNATED, directed and empowered the Pardon Attorney as his representative to sign this grant of executive clemency.

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Done at the City of Washington, District of Columbia, on January 20, 2001.

BY DIRECTION OF THE PRESIDENT

Roger C. Adams

PARDON ATTORNEY



Mr. BARR. And also a letter from the Department of Justice dated February 6, 2001, which lists some 44, it looks like, individuals listed in the prior document—

Mr. BURTON. Without objection.

Mr. BARR [continuing]. Who did not submit petitions.
[The information referred to follows:]



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 Prospero
29. Dorothy Rivers
30. Thomas Wilson Waddell III

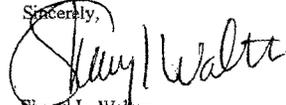
Although the following persons had previously filed clemency applications with the Department of Justice, such applications had been denied by President Clinton on December 28, 1998, and thus were not pending with the Department at the time of President Clinton's clemency grants on January 20, 2001:

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.

10191 P. 04

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. Walker

cc: The Honorable Henry Waxman
Ranking Minority Member

Mr. BARR. As to at least those people, I think a very legitimate question can be raised whether their pardons or grants of clemency are not valid, are void ab initio, because in his rush to judgment or his effort to obfuscate or not answer questions or lay out for the American people what President Clinton did in this case is simply list dozens upon dozens of individuals, including Messrs. Rich and Green, without giving any reason or any details and simply saying that he hereby grants a full and unconditional pardon to all of the following named persons for those offenses against the United States described in each such request.

The question apparently that some folks, including perhaps some of us, will look into is as to all of the people who did not submit a request, there can't be a pardon, because we don't know the terms of it.

Mr. Rich, however, did submit a petition, a very lengthy petition, and one that lays out in great detail, as you described, Mr. Weinberg, his position.

There's nothing necessarily wrong with that. That is how the pardon or executive clemency process starts, and that's virtually every case—not every case, but most cases.

What happened thereafter though is very unusual. There is no documentation from the Department of Justice. There is no documentation from the FBI, the CIA, the National Security Agency, the Department of State, all of which are agencies that in the case of a fugitive, a foreign fugitive from justice, as to whom very serious allegations in evidence have been raised regarding trading with the enemy and so forth, that normally would be consulted. That's a very serious question.

Why was the President so eager to grant Mr. Rich a pardon without looking into any of these matters? These are, in fact, very serious. And this is the reason why we're having this hearing and why we will have the petition or the next panel.

I have some specific questions, but I think we will probably have some additional time, Mr. Chairman, to go into specific questions.

Mr. BURTON. We will, and I will try to see that we yield to you what time you need.

Mr. Waxman, you're recognized for 30 minutes.

Mr. WAXMAN. Thank you very much.

It's clear from the testimony that we received from this point there's a strong difference of opinion on this panel regarding the merits of pardoning Marc Rich.

Mr. Weinberg, you clearly believed that Mr. Rich does not deserve a pardon.

Mr. WEINBERG. That's correct.

Mr. WAXMAN. Mr. Auerbach, you agree with Mr. Weinberg on that?

Mr. AUERBACH. Absolutely, Mr. Waxman.

Mr. WAXMAN. Mr. Quinn, you obviously disagree with the prosecutors? You feel that the pardon was justified on the merits; is that your position?

Mr. QUINN. Yes, sir.

Mr. WAXMAN. Well, based on what I've heard on this matter, I would have to agree with the prosecutors on the merits of this pardon. It seems to me that the arguments against granting Mr. Rich

a pardon outweigh the arguments in favor of granting him a pardon. If I were considering this matter, I wouldn't have reached this conclusion.

There is a tremendous difference, however, between a bad judgment and criminal conduct. Some people believe that the Clinton administration acted illegally or corruptly in granting the pardon. I'm not sure that the evidence sustains this theory.

The evidence, in my opinion, sustains a theory that the President used incredibly bad judgment.

Mr. Quinn, of the witnesses here today, you had the most extensive firsthand knowledge about the President's consideration of the pardon. You had direct contact with the President regarding the matter.

Do you have any reason to believe that the President's conduct in the pardon was in any way criminal or corrupt?

Mr. QUINN. Absolutely not. And in point of fact, as I said earlier, and I would like to repeat it, not a single word of the conversation I had with him about this matter had to do with anything other than the merits of this case.

And if I may, it's very hard in this format to be able to respond to everything that is being thrown up here. And, again, I'm going to try to weave into my answers some of the responses to the comments that lead you to the conclusion you just articulated, but I would like to make this point.

No. 1, the two tax authorities whose opinion was central to my effort, Professor Martin Ginsburg of Georgetown and Bernard Wolfman of Harvard, they accepted the allegations in the indictment as being true when they did their analysis. That is how I read and understand their opinion.

Second, the prosecutors to my left conveniently never chose to talk about RICO. There have been references here to these defendants being exposed to being jailed for 300 years. The reason for that was because of the RICO charge. In 1989, the Department of Justice said that in precisely this sort of case it's inappropriate to rely on the racketeering statute.

Third, what they didn't tell you is that another agency of the U.S. Government, the Department of Energy, saw this case in precisely the opposite way that they did. The Department of Energy analyzed these transactions in a proceeding against ARCO. ARCO is the oil company here with which Mr. Rich was doing most of his trading. ARCO paid millions of dollars of fines because it had failed to link the domestic transactions in which they were engaged with foreign oil transactions.

The prosecutors, in concluding that Rich evaded taxes on \$100 million completely overlook or reject the reality that those transactions were linked to foreign transactions that involved Rich paying significantly more for oil than it was worth; and that results in a very significant reduction of that \$100 million. This is admittedly enormously complex.

But the point I want to make here is that this case was about tax evasion, mailing wire fraud, RICO, and the violation of the IEPA regulations involving trading with Iran. The RICO count could never have been brought today. The Department of Justice's policy prohibits the use of RICO in a case like this. The mail and

wire fraud cases could not be brought today under a line of cases beginning with McNally in the Supreme Court of the United States.

The tax evasion case—and I understand that these gentlemen want to dismiss the analysis of Ginsburg and Wolfman, or dismiss the view of the U.S. Department of Energy about what was going on in these transactions, but there is another side to these charges; and the point in response to your question is whether at the end of the day you believe that their view of it is better than my view. What I assure you is that it is my view and that discussion occupied the communication I had with the President, and it was clear to me that he had read this material.

Mr. WAXMAN. Where did the President get this material, from you?

Mr. QUINN. Yes, sir. I filed this petition on December 11th.

Mr. WAXMAN. And do you know whether he had any other input in reaching his conclusion than the petition you filed?

Mr. QUINN. Yes. I'm confident he had other input. I'm confident of that from several facts. One, among other things, his former Chief of Staff, Mr. Podesta, said on Nightline that this was a matter that was, in fact, vigorously debated in the White House over a period of time. I don't know whether he said 10 days or 2 weeks, something to that effect.

Second, I knew in the course of dealings I had with the White House Counsel's Office that they were engaged in discussions with him.

And then, third, as I think you know, I believe, that—admittedly late, but that at some point in the process the White House Counsel's Office consulted with the Department of Justice, in fact, with the senior person at the Department of Justice with the responsibility for being liaison with the White House on pardon matters.

Mr. WAXMAN. Well, in the next panel we're going to go into some of the issues of whether the President had the benefit of the analysis of others who could advise him on the merits of this case.

Mr. QUINN. That's right. Right. I can't tell you, by the way, whether the intelligence agencies—I don't know the answer to the question who else may have participated in his deliberations on that. I know part of the story.

Mr. WAXMAN. Well, it's my view that if a President is going to make a decision like this, he should have the input from all the sources and all the information that is relevant to his decision-making.

Your obligation as a lawyer for your client is not to provide all of that information, but to represent your client's case; isn't that correct?

Mr. QUINN. Yes, sir. And I do feel that the application was filed at a time that permitted—that would have allowed any consultation that one would deem necessary or appropriate.

Mr. WAXMAN. I don't know whether the President got all the information he should have had before he made this decision. My guess is, maybe he didn't. I gather the President's decision was made because he saw the merits as you do.

From my point of view, it's a complicated matter. My impression from the testimony I have received is that isn't the conclusion I

would have reached had I been the President of the United States, but I'm not the President.

President Clinton had the constitutional authority to evaluate this. If he didn't fully evaluate it, we should be critical of him. If he made a bad decision on the merits, we should be critical of him. But the question, it seems to me, other than being critical of his conclusion, is, was there any wrongdoing in reaching that conclusion.

It seems to me, Mr. Quinn, from your answers you believe that the President acted properly. One can disagree with the conclusion that he reached, but not with the fact that he used his best judgment; isn't that correct?

Mr. QUINN. Yes, sir.

Mr. WAXMAN. Was there any quid pro quo for gifts or campaign contributions?

Mr. QUINN. I don't believe so. I never had a conversation with him about those matters. I saw no evidence of that being on his mind when he spoke to me about the merits of this case. He said nothing about it. And in point of fact, to a very great extent, I didn't know about it. So it just wasn't part of the dialog that I had with him.

And I have seen in my dealings with him, with the Department of Justice and with lawyers at the White House, simply no evidence of any of them having been mindful of those things.

Mr. WAXMAN. Mr. Weinberg or Mr. Auerbach, are you aware, either of you, of any direct evidence that corruption was involved in President Clinton's pardon of Marc Rich?

Mr. WEINBERG. Neither of us would. We're in private practice. All I can say is that from my perspective, and I've said this before, I can see no legitimate reason to grant two people that were international fugitives who had renounced their citizenship with the evidence which is so overwhelming. I won't get into the facts. But what Mr. Quinn just said is really preposterous based on what the evidence was at the time, you know, inflated invoices, off-the-record transactions, people talking about pots, I mean all of that.

If that were the case, if the case were that this had no merit to it, then one does wonder why the only alternative, according to Mr. Quinn, is a Presidential pardon. I mean, why not just come back and try the case? But—

Mr. WAXMAN. You just don't see how he could have reached that conclusion on the merits, that's your view. Mr. Quinn has a different view.

The President had to make his decision. You think his decision was incorrect. You don't have any information, however, that he reached that conclusion based on any direct evidence of wrongdoing or corruption, do you?

Mr. WEINBERG. No. You don't have the right people here to—I mean, I'm talking about for me or Mr. Auerbach to weigh in on that, it would have been nice to hear the other side of the story. If I were the President, if I got to argue both sides, I would never lose a case as a trial lawyer.

And in the President's case, you would have hoped that he would have heard from somebody that knew something about the case from the prosecution's side.

Mr. WAXMAN. I would have hoped so, too. I fully support that position.

Mr. WEINBERG. I'm confident that he didn't.

Mr. WAXMAN. You're confident he did not?

Mr. WEINBERG. I'm confident that he did not, from my conversations with people in the Southern District, you know, and various other people that were involved in the case.

Mr. WAXMAN. You may well be right, and I have a limited amount of time, so I'm going to interrupt. You may well be right that he didn't get all sides argued as fully as he should have. He was making a last-minute decision. There was a long list of pardons that he had to consider, some of which he denied, many of which he granted. I don't know how many he had before him.

But we have had other Presidents who made last-minute decisions on pardons for which we genuinely have been critical—President Bush's pardon of Caspar Weinberger, who was going to go to trial within weeks. And there are other pardons that were granted that we could look at and say, how could the President have ever reached that conclusion. It doesn't make sense. It doesn't appear to be correct on the merits. But unless there's some wrongdoing, all we can say is what terrible judgment the President exercised.

I want to yield some of my time to my colleagues. Mr. Towns. Let me yield to you 5 minutes.

Mr. TOWNS. I will be very brief.

Someone raised the question of ethics, Mr. Quinn, and I would like to ask you, did you feel you violated the ethics ban by contacting the White House about the Marc Rich pardon?

Mr. QUINN. Absolutely not. And I will be happy to explain why.

Mr. TOWNS. Please, yes.

Mr. QUINN. I should tell you, in advance, that I was one of the principal authors of that ethics regulation, and so I certainly believe I know what was intended by everything in this regulation, having had a major hand in writing it.

This regulation specifically does not prohibit you from communicating or appearing with regard to a judicial proceeding or a criminal or a civil law enforcement inquiry, investigation or proceeding or with regard to an administrative proceeding, to the extent that some communications or appearances are made after the commencement of and in connection with the conduct or disposition of the judicial proceeding.

Let me go back to the beginning of it. It allows you to communicate with regard to a judicial proceeding, etc. It doesn't say you can communicate in a judicial proceeding; it says you can communicate with regard to such a proceeding.

There's no doubt in my mind that my communications on this matter were covered by this exception. I specifically discussed this with the White House counsel at the time, and when I drew to her attention this exception, the discussion was over.

She appeared to be satisfied that my appearance in this matter was covered by this exception. She is a person of terrific legal talent and integrity, and I am confident that if she disagreed with my interpretation of this, she would have immediately brought it to my attention.

Mr. TOWNS. Let me ask you this: When you discussed this pardon with President Clinton, did you know the specifics of the pardon application? Did you share everything with him?

Mr. QUINN. What I can tell you, Congressman, is the conversation with him reflected a familiarity with the arguments I had made. And in point of fact, whether Mr. Weinberg thinks it was a good idea, a bad idea, a hollow promise or a meaningful promise, we talked about the fact that ARCO—and God knows why they didn't indict ARCO, which they didn't, which was involved in these transactions, which in fact structured these transactions, that ARCO with regard to these transactions was subjected to civil enforcement proceedings at the Department of Energy.

He was sufficiently aware of the argument I made that it was he who said, but these guys—this happened a long time ago, and they may have statute of limitations defenses or such things; and it was at that point that I said, if you want, I will write a letter committing to waive those defenses.

In short, the conversation with him—and, again, these gentlemen and all of you may disagree whether he made the right conclusion or not, but I can tell you that based on the conversation I had with him, it certainly appears to me—and I have no reason to think otherwise—that he was focused on the arguments that I made. I weighed them and evaluated them, and he made this judgment on the merits.

Mr. TOWNS. So people that are saying, you only gave him one side of the story, you know, what do you say to them?

Mr. QUINN. Well, look, as Mr. Barr said a few minutes ago, I'm an advocate.

Yes, I provided a document and argument as an advocate. But I think everyone understood I was being an advocate. And let me remind you, I did include the indictment. I didn't obscure the indictment; I included it in my petition. It was in the documents I filed with the White House.

And between the filing of the application on December 11, 2000, and the granting of the pardon, on more than one occasion, I urged the White House Counsel's Office to seek the views of the Department of Justice. I did not do anything to circumvent them or keep them out of the process. I encouraged them to seek the views of the Department of Justice.

Now, should I have called Mr. Weinberg up and said, guess what, I'm seeking a pardon; I hope you will get up here and argue against it? Of course not. But I do not believe that I did anything less than what was professionally responsible and ethically required.

Mr. WAXMAN. Thank you, Mr. Towns.

I want to yield to Mr. Kanjorski 5 minutes.

Mr. KANJORSKI. Thank you, Mr. Chairman.

Mr. Weinberg and Mr. Auerbach, you obviously have very strong emotions on this case and you expressed that. You had the opportunity to read Mr. Quinn's petition?

Mr. AUERBACH. Yes.

Mr. WEINBERG. Yes.

Mr. KANJORSKI. Do you feel that is a fair and adequate representation of the facts and circumstances that the President should have had before him to make this analysis?

Mr. WEINBERG. No.

Mr. AUERBACH. Absolutely not. It is like looking at half the scoreboard and thinking you know the score in the game.

Mr. KANJORSKI. Do you think there's any question, whether it doesn't rise to the level of an advocate?

Mr. WEINBERG. No. Let me make myself clear.

From an advocate's point of view, and I've been in Mr. Quinn's position on a number of occasions, the piece he put together is an advocate's piece. The problem is, in my opinion, it completely mischaracterizes what the merits of the case were.

Mr. KANJORSKI. So you had the information in your files that should have been before the President, and therefore it was up to Mr. Holder, the Deputy Attorney General of the United States, to again call and get that information so that the President would be adequately prepared to see both sides of the issue?

Mr. WEINBERG. What typically—

Mr. KANJORSKI. It's not the President's fault that the facts weren't before him. Somebody failed to provide the information, it would seem to me.

Mr. WEINBERG. I think you will hear today what would typically happen, in a case like this particularly, that was such a high-profile case with a fugitive, that they would seek something in detail from the Justice Department about the case.

Mr. KANJORSKI. Well, this fugitive thing does disturb me. You have very strong feelings that you have a definition of "fugitive," and Mr. Rich and Mr. Green fit that definition. Mr. Quinn in his petition denies that he was a fugitive. That seems to me to be a very substantial piece of information that the President should have had before him.

You make that point, and I think—at least on that point, you agree that there's something misleading in the petition here?

Mr. WEINBERG. Well, it's not so much the petition, it's that letter which I hadn't seen before.

Mr. KANJORSKI. Isn't that an exhibit to the petition?

Mr. WEINBERG. I don't know that it was an exhibit to the petition.

Mr. KANJORSKI. I thought Mr. LaTourette laid it out very well. I thought he indicated it was a stark contrast in legal definition between what you categorized these two gentlemen to be and what Mr. Quinn categorized.

Mr. WEINBERG. Right. If there's an arrest warrant out for any of us and we know about it and we don't turn ourselves in, we are fugitives.

Mr. KANJORSKI. You made a point to say that Mr. Rich and Mr. Green have a habit of knowing how to exploit people and personalities and political relationships?

Mr. AUERBACH. That is correct.

Mr. KANJORSKI. After all, that's what we're here for, to find out whether there was anything wrong or improper, or bad judgment, as Mr. Waxman indicated.

On the third page of Mr. Quinn's testimony, he talks about several other lawyers—maybe I should direct this more to you, Mr. Quinn—Mr. Garment, who served President Nixon as his White House counsel; Larry Ferguson, who held a senior position in the Reagan Justice Department; and Lewis “Scooter” Libby. Not being at the Washington bar, I don't know any of the three gentlemen. Mr. Libby, I do know, who now serves as the chief of staff to the Vice President of the United States in the present time.

What is the last time that these people were engaged in transactions representing Messrs. Rich and Green?

From what I read in your testimony, it looks like right up to the period when you were preparing the petition, you were receiving information, or relying on facts and information, from these lawyers; or am I to assume that you threw the switch-eroo on them and talked to Mr. Rich? I don't quite understand.

Mr. QUINN. No, sir. Let me answer you this way.

Since I became involved in this case, sometime I believe in the spring of 1999, in that period—in the year 1999 when we were approaching the Department of Justice and the Southern District of New York of the people—and if you look at appendix A of my testimony, there's a list of all of these lawyers—

Mr. KANJORSKI. Let me understand you: You were having somebody in the Justice Department contact the Southern District, or you were?

Mr. QUINN. I wrote a letter to the Southern District at the suggestion of the Justice Department.

Mr. KANJORSKI. This was for preparation of the legal judgment you were going to make as to what course to pursue, whether you were going to go for some settlement of the transaction pending in New York and present it at that time or to go for the pardon?

Mr. QUINN. Correct. In 1999 we were focused on trying to work out a resolution of this matter with either Main Justice or the Southern District. And in that period of time of the people listed in appendix A, I worked with Ms. Behan, Mr. Fink, Mr. Green, Mr. Libby, and Mr. Urgenson. And, in fact, Ms. Behan was a partner of mine at the time, but all the other gentlemen are the lawyers who basically educated me initially about the case.

Mr. KANJORSKI. Do they continue to represent Mr. Rich, or up until the time they took official capacity?

Mr. QUINN. Well, today, Mr. Libby is in government.

Mr. KANJORSKI. I understand. But up until the time he went into the government, was he still actively representing Mr. Rich?

Mr. QUINN. He may have—he may have been part of the campaign. I don't know precisely when, but yes.

Mr. KANJORSKI. I'm not trying to highlight them, but except it's very peculiar, not peculiar for Washington, but anywhere else in the United States. All of these lawyers seem to be on the Republican side of the spectrum, as opposed—I think you're on the Democratic side, aren't you, Mr. Quinn?

Mr. QUINN. I'm not going to crack a joke. I was told not to do that. But, yes.

Mr. KANJORSKI. The point I'm trying to make is, obviously Mr. Rich and Mr. Green were exercising their incredible intellectual ability to figure out how to play the game, and they realized that

the Republicans wouldn't probably have the entree to the White House or the President that a Democrat who had just recently been chief counsel to the President would have.

Mr. QUINN. Well, Congressman—

Mr. KANJORSKI. I think that's the suggestion the two witnesses are making. And the point I'm trying to make is, I sort of react—Jack, you know I like you, and I don't want you to take this incorrectly.

I react to this idea that nobody seems to be at fault here for an awful lot of substantial misinformation of facts and information that should have been presented to the President of the United States in making this determination.

Everybody is sort of saying the pot is hot, but it's not my pot, and you are kicking it up and finally, yes, he's the decisionmaker, there's no question about it. But the important thing is whether there was criminality, whether he made bad judgment, as Mr. Waxman indicated or what happened, and we can't quite get to that, unless we attack this one other issue.

In your mind, you said you were an advocate. I find it very difficult knowing your relationship to the White House and with the President that you were able to penetrate the natural defenses of a high official. No different than if my chief of staff or former legislative director who was a lawyer and left my office would come to me to present a petition, I would make the assumption that it wouldn't be just an advocate's position, that they would arm me with the negatives also. Or they would make certain at least that they in their own mind were going to be certain that I would gain that information that was important to make that judgment.

Mr. WAXMAN. Mr. Kanjorski, I am going to reclaim my time because we only have a few minutes left.

Mr. KANJORSKI. Let me frame the question. Did you then or do you now in retrospect feel that your position and your ability to penetrate the natural defenses of the President may have caused him the difficulty of not getting the full and thorough information that he should have had to make a good judgment in this case?

Mr. QUINN. No, sir, I do not. And if I may just add a sentence or two, I don't think anyone thought I was acting as anything other than an advocate. And let me remind you, I urged them to seek the views of the Department of Justice.

I should not be the one looked to to present the views of these prosecutors. I was representing Mr. Rich. I did not discourage anyone from contacting the Department of Justice, the Southern District, the IRS or anyone else. In fact, I urged them to seek the views of the Department of Justice.

Mr. WAXMAN. Mr. Quinn, you were part of a team of lawyers representing Mr. Green and Mr. Rich?

Mr. QUINN. Yes, sir.

Mr. WAXMAN. And Mr. Kanjorski talked about others on that team, including a large number of prominent Republicans—Leonard Garment, William Bradford Reynolds, "Scooter" Libby, who is now Vice President Cheney's chief of staff. You were part of a team, and they obviously were hiring prominent lawyers with some political connections, but just prominent lawyers.

Were you hired solely for the pardon issue, or were you part of the team dealing with Mr. Rich's problems much before it ever came to the issue of a pardon?

Mr. QUINN. Yes, I was hired in, I believe it was the spring of 1999, to work on the effort to try to achieve resolution, either at Main Justice or in the Southern District.

Mr. WAXMAN. And that did not involve the President of the United States or your special relationship, whatever it might have been?

Mr. QUINN. It did not. Look, I would like to think that people think I'm a pretty good lawyer, and I would like to think that people believe that my experience in government has equipped me with an understanding of how best to pursue a client's interests.

Mr. WAXMAN. I've known you over the years and I think you're an excellent lawyer. I think you make a good case advocating on behalf of your client. It appears to me that's what you've done successfully.

Some of us have questions of whether the President got the other side, which we think he should have had, and whether in the judgment he had to make, he made the right judgment. But I have no question in my mind that you did a good job for your client.

And under the ethics of lawyers, that's what lawyers are supposed to do: when you're hired by a client, to advocate their side of the case.

Thank you, Mr. Chairman.

Mr. BURTON. We will go now to the 5-minute round.

I will start off with my 5-minute round, and I will yield part of it to Mr. LaTourette.

First of all, let me say that you're the one that did have access to the President, though, and you're the one that went directly to him and talked to him, correct?

Mr. QUINN. Yes, sir.

Mr. BURTON. OK. The other thing is, did you ever talk to Denise Rich?

Mr. QUINN. Yes, sir.

Mr. BURTON. Did you talk to her about the letter that was sent to the President asking for pardon?

Mr. QUINN. Yes, sir.

Mr. BURTON. OK. So you did have correspondence or contact with her, probably on more than one occasion?

Mr. QUINN. Yes, on a number of occasions.

Mr. BURTON. A number of occasions?

Mr. QUINN. I encouraged her and the daughters to write letters of support.

Mr. BURTON. Sure, I understand.

Now, Ms. Rich has decided, according to her attorney and in correspondence to us, to take the fifth amendment to the Constitution to protect herself against self-incrimination. And I think that one of the things that you said is that other people who have a little bit more information on what kind of influence may have been exerted on the President should testify to those facts. But you have no knowledge whatsoever about any influence Ms. Rich might have been able to exert on the President, other than the letters?

Mr. QUINN. No. And I know that she mentioned this orally to the President that she had written.

Mr. BURTON. OK.

Mr. QUINN. What I know is that she mentioned it to him and that she wrote a letter.

Mr. BURTON. I understand. The thing I think that we're going to have to do, since she's exercised her fifth amendment right, is if we're going to find out—because in correspondence that she sent to us, she indicated that she had given or they had—there had been an extraordinarily large contribution, I think her attorney said that, an extraordinarily large contribution to the Clinton library. And so what we will probably have to do is go to the Justice Department and ask that we get her a grant of immunity so she will have to testify at some point.

I thought I would get that on the record, because I think Ms. Rich is probably going to be one of the key people to give us all the information that we need.

Mr. LaTourette, I will yield the balance of the time to you.

Mr. LATOURETTE. Thank you, Mr. Chairman.

Mr. Quinn, I want to talk a little bit about where Mr. Kanjorski was and others were, and that's with this Executive Order 12834, which you indicated you had something to do with writing, and I understood that.

Actually, what drew that to my attention more than anything else, there was a—I don't know if you saw the Washington Post on February 5th, but the headline, with a nice picture of you, was "In Rich pardon case, did Quinn violate the ethics rule that he wrote?" Did you have a chance to read that article, sir?

Mr. QUINN. I did, sir.

Mr. LATOURETTE. In the article, there's a fellow, an ethics guru—and everyone is a guru today—there's an ethics guru up at the New York University Law School; and we had the opportunity to chat with him because he's quoted in here. And his observation and mine would be, too, if you look at 2(C)—maybe if we can put that up so everybody can see what we're talking about—the last paragraph, get up to the last paragraph, C, that's the one that you were reading to us before. You have to get to C?

[The information referred to follows:]

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HEADLINE: In Rich Pardon Case, Did Quinn Violate the Ethics Rule He Wrote?

BYLINE: James V. Grimaldi, Washington Post Staff Writer

BODY:

President Clinton's first executive order, signed minutes after he took the oath of office in 1993, barred his senior aides from lobbying the government for five years after leaving office.

Just moments before he left the White House eight years later, Clinton granted clemency to 176 people, including fugitive financier Marc Rich, whose primary advocate had been Clinton's White House counsel only three years earlier.

What attorney Jack Quinn did for billionaire Rich and his colleague Pincus Green, who had been accused of bilking the IRS out of \$ 48 million in taxes, resembled the routine work of lobbyists. The only difference was Quinn's extremely well-placed connections in the highest levels of government. The very reason Clinton created the ethics rules.

Quinn stopped Clinton adviser Bruce Lindsey on a trip to Northern Ireland, on which the attorney was invited because he had been White House counsel. He called Lindsey and White House counsel Beth Nolan many times. He said he made a "pain in the neck of myself" in arguing the case. He wrote a letter addressed to Clinton. He sent his petition for Rich's pardon directly to the White House, circumventing Justice Department protocol (though he says he kept Deputy Attorney General Eric Holder in the loop).

On its face, the work of Quinn for Rich would seem to violate Executive Order 12834 of Jan. 20, 1993, "Ethics Commitments by Executive Branch Employees."

But Quinn, and his colleague Kathleen "Kitty" Behan of Arnold & Porter, said there is an exception to the order, under Section 2, subpoint (c), point [1]. Lobbying does not include "communicating or appearing with regard to a judicial proceeding or a criminal or civil law enforcement inquiry, investigation or proceeding," the order states.

How does Quinn know the order so well? He says he wrote it. Back when he was working for Clinton, at the beginning of his term.

However, one ethics guru, Stephen Gillers of New York University law school, says 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

The Washington Post, February 05, 2001

government employees who are advocates in courts. In those cases, it is all right for a government employee to take an adverse position to his or her former employer in a matter because the matter would be disposed of in court. In a judicial proceeding, opposing sides are notified and there would be a full airing of all positions by all parties. A judge, who must follow ethical strictures too, would hear or oversee the matter. Court proceedings would open to the public and the process would be transparent, or in the sunshine.

The Rich pardon, Gillers said, fails on all counts to meet the judicial exception.

"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," Gillers said. "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."

Without those safeguards, the exception does not and cannot apply, Gillers said.

"I don't think any reasonable interpretation of the language, in light of the history of this exception, can support his claim," Gillers said.

But Quinn and his colleagues say that Gillers is reading something into the lobbying ban that does not exist.

"It clearly makes an exception for communicating with regard to a 'criminal law enforcement . . . proceeding,' " said Jeff Connaughton, a colleague of Quinn's and a former White House lawyer. "And a pardon is the resolution of a criminal law enforcement proceeding."

Robert W. Jordan, President Bush's long-time attorney, is under serious consideration for the job of assistant attorney general for the antitrust division of the Justice Department. A Dallas-based Baker Botts litigator, Jordan has helped Bush steer through legal difficulties, including a 1990 Securities and Exchange Commission investigation. He has resolved antitrust matters for companies such as GTE Corp., Bell Atlantic Enterprises Inc., Dr Pepper Co. and Mary Kay Inc. In addition to sharing the president's middle initial, Jordan often shares Bush's view that legal disputes are better settled out of court than litigated at trial. (Could he be the man to settle the Microsoft Corp. antitrust case?)

Also near the top of the short list for antitrust chief is J. Thomas Rosch of Latham & Watkins's San Francisco office and former consumer-protection bureau director at the Federal Trade Commission in the Ford administration. Rosch, a longtime antitrust lawyer, has been chairman of the antitrust sections of the American and California bar associations. He represented the San Francisco Chronicle after the newspaper was sold to Hearst Corp.

Others trustbuster candidates: former FTC competition bureau director Kevin Arquit of Clifford Chance Rogers & Wells, who likely would have to recuse himself from the Microsoft antitrust case because of his work on the matter;

The Washington Post, February 05, 2001

Phillip Proger and Charles A. James of Jones, Day, Reavis & Pogue, which has represented America Online Inc.; Deborah Garza, who now heads Covington & Burling's antitrust practice now that her longtime colleague Charles "Rick" Rule has departed; and Coca-Cola Co. general counsel Tad Lipsky.

But Timothy Muris, a veteran of the Florida electoral fight and a George Mason University law professor, appears to be headed for an FTC chairmanship.

U.S. District Judge Thomas Penfield Jackson was cracking up the courtroom again last week.

At a hearing on a race-discrimination lawsuit filed against Microsoft Corp., Jackson heard arguments about whether the case should be combined with a similar proceeding in Washington state. You might recall that Jackson oversaw a little matter involving the software giant, the landmark trial after which he ordered the company broken into companies that would eventually compete.

Plaintiffs lawyer Tricia C.K. Hoffler of Willie E. Gary's high-stakes Florida law firm argued against combining the cases, insisting that the exchange of information in the other case had only just begun, Washington Post reporter Carrie Johnson reports.

"Microsoft," Hoffler argued, "is an international company with operations all over the world."

In his typical deadpan, Jackson replied: "I'm familiar with it, counsel."

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LOAD-DATE: February 05, 2001

Mr. QUINN. Yes, I have it in front of me.

Mr. LATOURETTE. Good. One of the problems is that it talks about—this is a pretty standard thing. I mean, we have it here in Congress that our staff can't leave and lobby us for a year, and there are exceptions to that.

And as I understand the executive branch, it is 5 years according to this policy that you wrote that you can't lobby, and then there are exceptions to what "lobby" means and you were citing to us an exception. And the exception that you cited—and it's quoted in the article and also in your policy—that it doesn't include communicating or appearing with regard to a judicial proceeding and then some other things. But it's not unqualified. It's not unqualified.

The question I have for you, the qualification is to the extent that such communications are made after the commencement of and in connection with the conduct of a judicial proceeding.

Now, in order for you to have fallen—and just so the record is clear, when did you leave the White House?

Mr. QUINN. February 1997.

Mr. LATOURETTE. So there's no question that this conduct was within 5 years of your leaving the White House?

Mr. QUINN. That's correct.

Mr. LATOURETTE. In order for your definition, and again we went around and around on the issue of fugitivity before, and I guess we disagree what that means, but in order for your exemption or exception to qualify, your communications had to have been made after the commencement of and in connection with a judicial proceeding. Is it your observation that an application for a pardon by the President of the United States is a judicial proceeding?

Mr. QUINN. No, sir, and that's not the reading I'm trying to give this.

Mr. LATOURETTE. OK.

Mr. QUINN. And I read the Washington Post article. I understand the point made by Mr. Gillers who, as I read the piece, was speaking about his knowledge of how these regulations are generally drafted. I can tell you Mr. Gillers was not involved in drafting this one, and it seems pretty clear to me that I was communicating with regard to a judicial proceeding.

And, again, the White House counsel and I had a specific conversation about whether or not I was covered by the Executive order. When I brought to her attention this exception, she appeared to be satisfied that my appearance was permissible.

Mr. LATOURETTE. OK. My time is expired. When I get the chance, I need to come back to this, because I still have some questions, but I thank you.

Mr. QUINN. By the way, sir, in terms of the qualification you mentioned, 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.

Mr. LATOURETTE. But your client was a fugitive from that judicial proceeding?

Mr. QUINN. Well, but it doesn't say anything about fugitivity in here. And you also—you know, you left out the reference to the disposition of the judicial proceeding. And I would submit to you that a pardon is the disposition of a judicial proceeding, if anything is.

Mr. LATOURETTE. OK. Thank you.

Mr. BURTON. We're about to go to Mrs. Mink.

Do any of the witnesses need a break for 5 minutes?

Mr. WEINBERG. No.

Mr. BURTON. I mean, I don't want Mother Nature to be excluded from the hearing.

Mr. AUERBACH. His team says, take a break.

Mr. BURTON. His team says, take a break. We don't worry about the lawyers in the background.

Mr. QUINN. I think we can continue.

Mr. BURTON. What we will do, just for everybody's information, after we get through this with panel, we will take about half an hour so people can grab a bite to eat, then we will get back to the next panel.

Mrs. Mink, you're recognized for 5 minutes.

Mrs. MINK. Thank you, Mr. Chairman.

The hearing that we're embarking on is specifically for the purpose of trying to find out the circumstances of this particular pardon, what the nature of the indictments were which are the basis of this pardon, and to find out whether there were any extenuating circumstances that could be explained that might justify the pardon, because I think most people were greatly troubled by reading the newspaper articles about these two individuals.

But I also understand that the committee's responsibility is basically to try to see whether any criminal conduct was engaged in, any acts of corruption or fraud on the part of the people that came together to produce this result. That it is not the purpose of this committee to alter the pardon.

We have no capacity in that direction. So our inquiry, I think, is rather limited. I have heard a lot of the questions with reference to whether, Mr. Quinn, you had provided adequate information to former President Clinton before he made his decision.

And one of the things that you were questioned about earlier was to what extent, since you were first engaged as the lawyer in this particular situation, did you discuss this matter with the Department of Justice, with the U.S. attorneys in the Southern District of New York or other people representing the so-called prosecutorial attitudes in this case?

And if you could just describe that. I call your attention to one letter that I have before you in your appendix that you wrote to the Honorable Mary J. White, December 1, 1999.

Was that your first major inquiry with respect to whether the U.S. Government had any predisposition whatsoever to negotiate, to plea bargain, to try to come to terms with what your task was, to see if there could be any resolution of this matter without going to court?

Mr. QUINN. Yeah. And I've tried to summarize my contacts with Justice in the Southern District in appendix B.

In essence, initially I had hoped that Main Justice would participate actively in achieving a resolution. I hoped that the Criminal Division, Tax Division and the Deputy's Office would either agree to take this matter on itself for purposes of—

Mrs. MINK. My time is extremely limited. You made all of those contacts, and the answer was always no, that they would not nego-

tiate; is that an accurate summarization of your work on this case prior to them coming to the decision that the only way out was a pardon?

Mr. QUINN. That's fair, yes.

Mrs. MINK. So this letter to the Honorable Mary J. White was the only communication in writing or was there a series of letters that were written to the Department of Justice or to the Southern District?

Mr. QUINN. Well, there were written communications with the Southern District going—

Mrs. MINK. Other than to Mary J. White.

Mr. QUINN [continuing]. Years back, but not from me, because the answer I got from the Southern District was basically just a wave off, saying, forget it, we don't want to discuss it.

Mrs. MINK. This was your sole correspondence with either the Justice Department or with the Southern District? I'm just trying to determine how many documents like this there would be in your appendix, since I haven't been able to go through them all.

Mr. QUINN. With respect to the Southern District, this, I believe, was the only written communication.

Mrs. MINK. OK.

Now, in submitting your application then to the President, former President Clinton, with respect to the pardon, did you include this letter that you had written to Mary Jo White so that they would have had the opportunity to understand that you had exerted—

Mr. QUINN. Yes.

Mrs. MINK [continuing]. All that you could to try to resolve this case and that, therefore, the last resort was to seek a Presidential pardon? That's all I'm trying to establish.

Mr. QUINN. Yes, ma'am, I included my letter, the one you're referring to. I included the response I got from the Southern District. I included, as well, the earlier letter that Mr. Urgenson had written and the response he got.

Mrs. MINK. Now I have submitted many—not many, several requests for pardons, either going through the pardoning attorney or sometimes writing directly to the White House. And I have found that it's an extremely difficult process and, in fact, most of the ones I submitted have been denied. I was very disappointed that in this recent January 20th announcement none of the ones that I pleaded for were successful. So I can understand the gravity of the situation.

Now, in arguing for a pardon one doesn't try to dwell on the egregious crimes that were committed, in this case the egregious circumstances that led to the indictment 20 years ago. What one tries to look to is were there any extenuating circumstances that might have altered the situation when one examines the purposes of the pardon.

And as I read the materials we have been given and listen to the testimony, the only thing that I can really find is that the Justice Department changed its viewpoint with respect to RICO prosecutions.

Now, to Mr. Weinberg and Mr. Auerbach, does this change of position and policy by the Department of Justice with reference to

RICO prosecutions in your mind rise to the level of an extenuating circumstance—

Mr. WEINBERG. No.

Mrs. MINK [continuing]. That should lead to a reconsideration of the initial indictment?

Mr. BARR [presiding]. The time of the gentlelady has expired. The witnesses can answer the question.

Mr. WEINBERG. No, and there is a very good reason. RICO was 1 count out of 51. The guts of this case was a tax fraud case. It had to do with \$100 million worth of income, which happened to be illegal as a result of violations of the energy regulations, that were laundered out of the country. And it was a crime in 1983 to not pay taxes on \$100 million worth of income and to devise a scheme to avoid paying taxes, and it's a crime in 2000. It was a crime in 1983 to violate the energy regulations, and the fact that there are no regulations anymore doesn't make the crime any less. It was a crime to lie about it.

Mrs. MINK. That was really not my point, that it made it any less. I asked the question as to whether the change in policy justifies consideration of the new circumstances as extenuating.

Mr. WEINBERG. I'll answer that directly. I think not. 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, 20 years have passed and, you know, the courts now interpret or the Justice Department interprets the RICO statute differently.

Mr. AUERBACH. May I, Mr. Chairman, very briefly?

Mr. BARR. Yes.

Mr. AUERBACH. 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.

Mr. BARR. Thank you. The Chair recognizes himself for 5 minutes.

Mr. Quinn, Mr. Rich is a citizen of two countries I believe, neither of which are the United States; namely, Spain and Israel. Is that correct?

Mr. QUINN. That's my understanding, sir.

Mr. BARR. OK. His colleague in all this, Mr. Green, considers himself, in addition, a citizen of Switzerland; is that correct?

Mr. QUINN. That is my understanding as well.

Mr. BARR. Thank you. And he also no longer considers himself a citizen of the United States; is that correct?

Mr. QUINN. Yes.

Mr. BARR. OK. Thank you. On January 10th of this year, Mr. Quinn, you caused to have sent to the Department of Justice two letters, one addressed to Mr. Holder from you and the other an attachment thereto, which was a copy of a letter dated January 5th from you to the President; is that correct?

Mr. QUINN. Yes, sir.

Mr. BARR. I know there is some dispute over whether Justice received those. Do you have your copy of the courier receipt that you would have kept as a very meticulous lawyer at the time you caused that document to be given to the courier for delivery?

Mr. QUINN. I have a copy of the courier receipt, and it was included in the documents I submitted to the committee. I don't have it in front of me.

Mr. BARR. We have—that's not the document I'm talking about. The document that the courier company sent back, we do have, and they attest that they delivered to the Department of Justice. Would you not have had—at the time you sent the document from your law firm, as probably all of our offices do when the courier comes to the office, you hand them the envelope, and you fill it out, and they give you a carbon copy of the receipt. You don't have that?

Mr. QUINN. I don't know the answer to that, sir, because I would have to ask my assistant who handled the engaging the courier service and having it delivered. I just don't know the answer. I believe that—

Mr. BARR. If there was some dispute, and this is a very material element here, when Mr. Holder knew about this, and to what extent. Have you searched your records? I notice there is some activity going on behind you with your lawyers. Do they have a copy of that, and could you make that available?

Mr. QUINN. Well, if we had any further documentation, I'm confident it would have been included among the materials that we provided to the committee. So I believe that the only documentation we have is that which we did provide.

Mr. BARR. Do you mind, take a moment to see what your counsel is handing you.

Mr. QUINN. Yeah. But I don't know exactly when this was generated. You know this—yeah, whatever we have was provided. This—this document reflects that someone whose name is K, the letter K, Gray accepted this document at the Department of Justice, at a Department of Justice office on January 10th.

Mr. BARR. The document that we are talking about here is three pieces of paper, that's correct, isn't it?

Mr. QUINN. Well, I have two, sir.

Mr. BARR. I mean, the documents that were transmitted to DOJ.

Mr. QUINN. That's correct.

Mr. BARR. OK. It is true, is it not, that at no time did you submit this notebook, this petition to Eric Holder? That's not what you are talking about that you sent him on January 10th, correct?

Mr. QUINN. That's correct. May I make one other point about the underlying document you're talking about? The letter I sent to him on January 10th—and I understand there may be some dispute as to how many days it took to get from one Justice office where—

Mr. BARR. I'm not really worried about that right now.

Mr. QUINN. OK.

Mr. BARR. My concern is that, first of all, that the package apparently was not addressed to Eric Holder. It was just addressed to the Department of Justice, and the document itself was not the petition. I think there may be an impression that some people would like to believe that on January 10th this entire several-inches-thick document was transmitted to Mr. Holder. That's not true, right?

Mr. QUINN. That is not true.

Mr. BARR. The only thing you gave him is a letter that said, quote, I hope you can say you agree with this letter. Your saying positive things, I'm told, would make this happen. Thanks for your consideration.

And the letter to which you refer is your letter of January 5th to the President. That's all you sent Mr. Holder, correct?

Mr. QUINN. That's correct. But I think one thing you said is not correct. I'm advised that my assistant addressed the envelope, not to just the Department of Justice, but to the Deputy Attorney General.

Mr. BARR. So the courier company has made an error here, because their records reflect it was sent just to the Department of Justice.

Mr. QUINN. Yeah, I think they're reflecting where they made the delivery, but the envelope—

Mr. BARR. You apparently didn't keep a copy of the receipt when you actually physically gave the document to the courier, at which time they would normally give the sending person a receipt.

Mr. QUINN. Right. Right.

Mr. BARR. That's unfortunate, isn't it?

Mr. QUINN. Well, the point I wanted to make earlier, and I think it's important to make now, is I wanted Eric Holder to see this letter.

Mr. BARR. Why didn't you want him to see the petition?

Mr. QUINN. It's not that I didn't want him to see the petition.

Mr. BARR. You didn't send it to him.

Mr. QUINN. I did not send it to him. I notified him that we were filing it with the White House. I told him this goes back to November, at the time that I hoped I would be able to encourage communication with him by the White House Counsel's Office. And I asked him at that time should I let the White House counsel know in writing. He said no, just have him call me.

I—remember, Congressman, an awful lot of the materials in this pardon application either come from the Department of Justice or I've shared in one way or another with the Department of Justice.

Now, when we get to January 10th, I want him to see this, because I want him to see the case I'm making. I'm hoping that he will say something supportive. I wasn't looking to have this letter misdirected or get to him late. I think the letter reflects the fact that I wanted him involved in the process.

Mr. BARR. Thank you. Now the Chair recognizes the gentlelady from the District of Columbia, Ms. Eleanor Holmes Norton, for 5 minutes.

Ms. NORTON. Thank you, Mr. Chairman. I have a couple of questions. One may seem marginal to this proceeding, but it is not as far as I'm concerned. It's about an impression that may be left from the way this matter is being discussed here and in the press.

First, let me say that we have a question of whether or not, and it's been raised here before, we have the notion that we best be leery of prejudgment. Prejudgment, I suppose, is as faulty as bad judgment even though the facts in this case do lend themselves to prejudgment, I must say.

I do want to compliment the President of the United States for the way in which he has left the pardon power free from criticism from the top. Because what I'm going to ask about has to do with the pardon power and how we are perhaps educating the public about that power. I approach this as a constitutional lawyer and former civil liberties lawyer and must say I'm weary of actions or impressions cast out on important powers or, for that matter, rights.

Here I see a huge problem. If this committee has anything to say to future Presidents, it probably is a word about the transparency of the process by making it a truly adversarial process. I make everything in my office an adversarial process. If a staff member comes, I want to hear what the other side is. It's the only way to save yourself from getting in trouble.

The President has said something about the time pressure at the end. I'm sure there were a lot. Mrs. Mink said she called with—she had some matters that she wanted considered for pardon. I had one that I called at the last minute on. I wanted the President to pardon seven Washingtonians who stood up during the D.C. appropriation process and are being retried for saying "Free D.C." because this Congress insists upon looking at the budget passed in the District of Columbia, which has nothing to do with any Member of this body. And I wanted him to consider pardoning those folks. So, at the last minute, I'm sure there was a rush of pardons.

Mr. AUERBACH. You hired the wrong lawyer.

Ms. NORTON. No. I think that there were probably weightier matters, and I'm not sure this was one of them.

My concern is whether or not it is the position of anybody here that a fugitive should never be pardoned. Now, we know that whenever anyone commits a crime and the police search for them, we all say turn yourself in. I would always say that. I can think of very few instances when that would not be said. And in fact, routinely, people do turn themselves in. Even for the most terrible crimes, they turn themselves in so that they can be judged one way or the other rather than go on the lam. Of course, most people can't go on the lam the way Mr. Rich did.

But I am concerned, as a person who has lived with American justice and, of course, studied the history of American justice over hundreds of years, there would never be a—that we leave the impression that it would never be appropriate for the President to pardon a fugitive. I'm concerned about that as a Black person. I'm concerned about that, frankly, having seen the awesome power of the prosecutor, and I do not believe that prosecutorial power can never be abused or that it can always be corrected. In fact, I consider prosecutorial power the most awesome power any individual can hold. It is more awesome than the power of the President of the United States, as he, himself, learned.

In your discretion is the authority to chart essentially the path of another person's life, one way or the other, by saying this or that. And of course, if you are—if you do justice, as the prosecutor is supposed to do, then, of course there's nothing to worry about. I don't think the zillions of prosecutors in every part of the United States can always be counted upon to do that.

So I just want to know if it's a position of anybody sitting at the table that it is never—it is never appropriate to pardon a fugitive.

Mr. WEINBERG. Well, I would never say never, because I know of one other case, and it involves somebody that you know was a—who avoided the draft, you know, during that—during the controversial Vietnam War. And I think the pardon in that case was appropriate. So I wouldn't say never.

What I would say is that it's inconceivable to me that any President would have ever considered the pardon in this case, particularly of someone who had all the resources to defend himself, had the best lawyers in the country, who renounced his citizenship, and who didn't come back and answer these charges, who had his companies plead guilty. And one of the documents that Mr. Quinn didn't give the President was the guilty plea allocation when the lawyers for the Marc Rich Co. stood up in 1984.

Ms. NORTON. Look, my question went simply to correcting the possible impression. I am not suggesting by any means that this was an appropriate case for pardon. I do know that people look at these hearings. I also know that people look at these televised court proceedings and that these proceedings are on "Dateline NBC" and "60 Minutes," and that all the time we hear of cases where there have been extraordinarily overzealous prosecutors. And the end of the story is that some poor person was subjected to prosecution and went through due process. And anybody looking at that "Dateline NBC" or anybody looking at that "60 Minutes" would have thought that was a case of overzealous prosecutorial authority.

So I'm certainly not talking about this case. I am telling you you are educating the American public about what a President can do or even should do, and I just want that to be on the record.

Now I have another question.

Mr. BURTON [presiding]. The gentlelady's time has expired about a minute and a half over. But we'll get back to you.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. BURTON. Would you like to respond?

Mr. AUERBACH. Over the course of years as a defense lawyer, I myself have encountered overzealous prosecutors. I don't believe we

were that at all. And I believe that since I left the U.S. Attorney's Office in 1987, there have been 13 years of other prosecutors who have had the opportunity to reflect on this case. And Mr. Rich and Mr. Green, each time they approached the office and I had the opportunity to provide input, were never talking about arranging to come back and avail themselves of the judicial process. They were talking about getting a free pass, and we never said to them you have to come back and go to jail. We said simply you have to come back and face the charges.

And so whether it is ever appropriate for a President to consider pardoning a fugitive, I think in a case in which the fugitive is given an opportunity to negotiate, as tab F to the pardon application reflects, it is a letter to Mr. Urgenson from the Justice Department, they were amenable to talking about the terms under which Marc Rich and Pinkie Green could come back to the United States to face charges, to avail themselves of the judicial system, to make all the arguments that were made to the President. And that is the problem with this case. They chose not to do that.

Mr. WEINBERG. One sentence. In response to your specific question, Congresswoman, I don't, and I don't think anybody on this panel believes that we should entertain or consider in any way limiting the power of the President to pardon anyone. I mean, that is the ultimate act of mercy that was left to the President by the founders. And I don't think any—this committee or any of us should tamper with it. We are only here commenting on what we believe was an ill-considered exercise of that pardon power in this particular case.

Mr. BURTON. Thank you, Mr. Weinberg. Do you have a real brief comment, Mr. Quinn?

Mr. QUINN. Thank you, Mr. Chairman. 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.

Mr. BURTON. Mr. Shays.

Mr. SHAYS. Thank you. Mr. Quinn, as I've watched you, you tried to put a good face on this pardon application. But as I look at this application and as I listen to your testimony, everything about it seems sleazy. You have a fugitive from justice, and that is clear he was a fugitive from justice. I think Mr. LaTourette nailed that one pretty good.

It's clear he traded with the enemy. But your point is somehow it's not illegal. But it's clear to us that Mr. Rich traded with Libya when we had the embargo. He traded with Iran when we had the U.S. hostages being held captive. He traded during the 12 years with Iraqi—with Iraq when we had our conflict. He traded grain with the Soviet Union when we had an embargo. He traded with South Africa with the apartheid government when we had that embargo. He traded with Cuba. And it's likely that assets were held in the process. So he's a fugitive from justice who basically traded with the enemy.

Now we've had some portray you as just a lawyer doing your job, and I need to understand why I should think of you as just a law-

yer. When President Clinton took office, he said, if you work for the White House, you don't lobby the White House for 5 years. You were the lawyer who had the contact with this President to get him to do something in my judgment that is unexplainable.

So what I want to know is why should I view you as just a lawyer doing your job when you were counsel to the President and you were hired specifically because you had his ear?

Mr. QUINN. I was hired initially to deal with the Department of Justice, not with the President. That's my understanding of why I was brought into this matter, and I operated there to try to bring about a resolution of this.

You and I see this very differently. I accept that. But I think the job I did was professional. It addressed the indictment. It didn't address the other matters you've raised, which were not the subject of the indictment.

Mr. SHAYS. But you also served the President of the United States. Don't you have some loyalty to the President; and if not to this President, to the Office of President? I mean, you were advocating that basically someone be given a pardon who was a fugitive who traded with the enemy, and you said that wasn't of concern to you. Then I asked should it be of concern to the President? And then you said probably. Didn't you have some obligation to at least inform him that there were these accusations?

Mr. QUINN. Mr. Shays, when I got into this case, I came to believe, as I believe today, the indictment was flawed. I came to believe much later that was a reasonable basis upon which to request a pardon. You don't see it that way.

Mr. SHAYS. I think legally—

Mr. QUINN. I accept that.

Mr. SHAYS. Legally as a lawyer you could justify it. But you weren't just a lawyer. You were the President's former counsel who I think he held you in some trust. For instance, more misleading things in your application. I have a university president in my district who has contacted us to say his letter thanking Mr. Rich for a \$25,000 contribution was in no way related to a pardon. He was doing the pro forma thing. And we know others did the same thing. That was misleading. You were trying to present this man as a man of character. But in response to my questions about his character, in fact your entire application is about character, all four corners deals with character. And yet when it comes to trading with the enemy, you don't want to talk about character.

Mr. QUINN. Mr. Shays, I presented the facts as I saw them, the legal arguments that I thought justified this pardon. I encouraged the White House to seek the views of the Department of Justice. I started doing that long before January 19th. I did not try to keep the White House or the President from obtaining information—

Mr. SHAYS. But you tried to mislead—

Mr. QUINN. I did not.

Mr. SHAYS [continuing]. Because you missed—

Mr. QUINN. No, sir, I did not.

Mr. SHAYS. The way you tried to mislead is you suggested he wasn't a fugitive when he was. You suggested that it wasn't illegal trade, but it was illegal trade. You're just trying to say that some-

how he wasn't an American, but he was. And so as an American, he traded illegally with these countries. That's misleading.

Mr. QUINN. It might be misleading—

Mr. SHAYS. It's misleading.

Mr. QUINN [continuing]. If you were correct about the underlying legal argument. But I see it a different way. And I don't frankly think it's fair to attack my character when I—when what I did was act as an advocate on the basis of a good faith belief I had. You may not agree with me. I understand you agree with me about none of that. But I acted professionally and honorably and ethically.

Mr. SHAYS. The president in our university in our district doesn't think you acted professionally because he thinks you misused his letter to give the impression that he was supporting his character.

Mr. BURTON. The gentleman's time has expired.

Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Quinn, you in an answer earlier, I think it was to one of Mr. Shays questions, you started to say that you—now correct me if I'm wrong—you learned—one of the ways you learned about this case was from Mr. Cheney. Do you remember that?

Mr. QUINN. No, no, no. No, sir.

Mr. CUMMINGS. What did you say?

Mr. QUINN. I mentioned a number of lawyers who, when I was initially approached about coming into the case, had educated me about the background and the legal arguments. One of them happens to be Vice President Cheney's chief of staff, but his name is Mr. Libby.

Mr. CUMMINGS. OK. And what part did he play in informing you about the case?

Mr. QUINN. A major role. He was one of a number of lawyers, the other being Mike Green and Larry Urgenson and Bob Fink who had worked on the case, as I understood it, for at least a decade, perhaps longer, and with whom I spent a great deal of time having them walk through all of the particulars of the indictment and educate me about their responses to it.

Mr. CUMMINGS. And the gentleman knows—he's presently Vice President Cheney's chief of staff?

Mr. QUINN. Yes, sir.

Mr. CUMMINGS. So did he agree with your opinion that these charges were of such a nature that perhaps he—Mr. Rich should be pardoned, or did you ever get there?

Mr. QUINN. No. It wouldn't be fair for me to bring him that far along, because he was not part—he had gone into the government at that point. What I can say, I believe, is that he agreed that the indictment was flawed and that the charges didn't have merit.

Mr. CUMMINGS. Now, when you initially came up and you gave your opening statement, you talked about representing your clients to the best of your ability based upon the oath that you took. We all as lawyers take similar oaths in various States. And one of the things I think that we all try to do, and I was a defense counsel for about 18 years, is that we believe in fairness. And I'm just wondering, when I look at the—listen to the testimony of Mr. Auerbach and Mr. Weinberg, for them not to be able to present their side of

the case, I mean do you think that's fair? I mean, it sounds like they were probably the two individuals who were most familiar with the case, I mean from the prosecutorial side, that is.

Mr. QUINN. Well,—

Mr. CUMMINGS. And I'm not saying it was your duty to bring them in. I'm just asking, do you think that's fair for a President to make a determination when these gentlemen had worked years with regard to this matter?

Mr. QUINN. I don't think, sir, it's really for us to decide whether it's these gentlemen or somebody else in the prosecutor's office. I encouraged the White House to seek the views of the Department of Justice. I encouraged those specifically to speak to the official of the Department of Justice who's responsible for liaison with the White House on pardons. And I think that was what in fairness I needed to do. As to who in the chain of command after that might be brought into the process I think is not for me to decide.

Mr. CUMMINGS. I see. One of the things that concerns me about this 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.

And President Bush a few—a week or so ago when he met with the Congressional Black Caucus said something that I will never forget. He said he is concerned about the idea that a lot of people, and he was particularly talking about African American people, believe that there are two systems of justice. And he—it troubled him that in this American system that he believes in and he supports, that he knows that there are people who really believe in that.

Then when you see something like this happen, don't get me wrong, I understand the President has the right to pardon whoever he wants to pardon, I understand that, but it does concern me that we have a situation with folks who will go outside the country and then are able to basically, for all intents and purposes, evade the system.

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 because my constituents have a major problem with that, and I do, too.

Mr. BURTON. The gentleman's time has expired. It's a powerful statement there, Mr. Cummings.

Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman.

Mr. Quinn, I believe you recognize these incidents, but you sort of flip-flopped on the citizenship issue of Mr. Rich. You said on NBC's Meet the Press that the client was a citizen, and later you said to the Wall Street Journal that he was mistaken. And then you referred the questions about the matter to Robert Fink. Just what is it? What is he? Is he Bolivian? Is he Spanish? Is he a citizen of the United States? He's been all three, apparently.

Mr. QUINN. I did misspeak when I was on Meet the Press. Not purposefully, inadvertently. And upon finding out that I had misspoken, I promptly faxed a letter to Mr. Russert letting him know that I had misspoken.

The pardon application itself is accurate as to his citizenship. I misspoke because at some point in the early days of being involved in this matter, I had heard discussion about the effort to renounce his citizenship and the position on the part of the U.S. State Department that in fact the renunciation was, in the Department's view, ineffective and that it regards him as a U.S. citizen.

I misspoke because, again, this was not among the elements of the indictment that I was assisting in trying to resolve. And I frankly just didn't have the facts straight when I was on Meet the Press, and I apologized for that.

I understand—nor, by the way, have I been engaged by Mr. Rich or anyone else on this aspect of his legal affairs. So I wasn't working for him on this citizenship issue before, and I'm not working for him on this issue now.

Mr. HORN. Well, I understand that the pardon application has his citizenship status listed as Spanish and Israeli.

Mr. QUINN. That's correct, sir.

Mr. HORN. And was that your doing?

Mr. QUINN. Well, yes. And that was his position.

Mr. HORN. In other words, it wasn't Mr. Behan's or Mr. Fink's. I take it, you did that.

Mr. QUINN. No, I can't say that. I mean, who drafted that particular part of it?

Mr. HORN. Yeah.

Mr. QUINN. I did not.

Mr. HORN. Did you do any research to determine whether that information was accurate and complete?

Mr. QUINN. Well, I never thought I had to do research because it was my understanding that was how he regarded himself.

Mr. HORN. Well, we've got various newspaper columns that says he's a citizen of Bolivia. Is that accurate?

Mr. QUINN. Not to my knowledge. But, again, I'm not engaged to represent him in connection with citizenship issues. And I don't want to mislead you. I don't understand that to be the case. But I don't have the knowledge to give you a concrete answer to that.

Mr. HORN. Well, since it wasn't added on the pardon and it was only the Spanish and Israelis, but Bolivia was left off—

Mr. QUINN. Right.

Mr. HORN [continuing]. I would have my feelings hurt if I was a Bolivian.

Mr. QUINN. All I can tell you is that the information provided to me did not include anything about Bolivia.

Mr. HORN. Did you make the President aware that Mr. Rich had renounced his U.S. citizenship?

Mr. QUINN. I did not.

Mr. HORN. Don't you think you should have to protect him before he decides do I give this man a pardon or don't I?

Mr. QUINN. Again, I didn't—I understand that, from the point of view of appearances, we all might agree that is an element that has helped inflame the reaction to this pardon. I was focused on the indictment against these men and what I thought to be the shortcomings in that indictment. So I did not focus on that chapter of his life, and I did not bring it to anyone's attention.

Mr. HORN. You've said Mr. Rich isn't a fugitive, and you also say he renounced his citizenship, I believe. So why would he have been obtaining other citizenships and renouncing his U.S. citizenship unless he were running from the indictment?

Mr. QUINN. Congressman, and I'm not trying to be evasive here, I have not been engaged on these issues. I was focused on the indictment, the charges in it, and the responses that our legal team had to those charges. I have not been engaged by him to work on citizenship issues, and I feel uncomfortable making representations to you that I can't be certain of.

Mr. HORN. Mr. Auerbach, do you believe attempting to renounce one's citizenship should be relevant to considering a pardon application?

Mr. AUERBACH. I certainly do, Congressman. One of the things that concerns me, and I have great regard for Mr. Quinn, but I have the impression with respect to a related issue, the issue of fugitivity that Beth Nolan raised, the concern that Mr. Rich was in some sense a fugitive, and that Mr. Quinn explained why he was not. It was hard for me to believe that any of us could think that in no sense was Marc Rich a fugitive. So there were, I believe, time after time in this process important factual issues that Mr. Quinn did not advise the President of, and it may have been because he was himself unaware of the facts. But I sure wish the President had the facts when he made his decision.

Mr. HORN. Mr. Weinberg, do you agree with that?

Mr. WEINBERG. I do. The reason, by the way, that he renounced his citizenship in 1983 and tried to become a citizen of Bolivia, which was the first place, was to avoid extradition. That was the whole point, is that he took the position he wasn't a citizen and therefore we couldn't extradite him. And the United States—and the State Department—it was like an Abbott and Costello thing. The State Department said, no, we don't recognize that. Rich and Green said, no, we've renounced our citizenship. That was all part of their effort to avoid extradition in this case.

Mr. HORN. What would be the implication for the taxes for Mr. Rich?

Mr. WEINBERG. Well, I'm not—

Mr. BURTON. We'll let you answer that.

Mr. WEINBERG. I'm not here to give that kind of advice. But if Mr. Rich were in fact—I suppose when he 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, without knowing it, 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.

Mr. BURTON. The gentleman's time has expired.

Do you think it was the next day or 15 minutes later?

Mr. WEINBERG. I'm not sure.

Mr. BURTON. Mr. Davis.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman.

I think it's clear to all of us who have been observing and listening to these hearings that Presidential power to grant commutation and pardons is absolute. There is no question about it. The President has the power to make those decisions and that determination, and that Congress likewise has no power to change, alter, or do anything except know that those decisions have been made.

And so one probably would have asked why the hearing. I think that question has been asked. I also think that you've answered it, Mr. Chairman. I agree with you that the public has the right to know, although sometimes, out of these hearings, you wonder what it is that the public has actually learned. And that is we get a great many facts, but we also get a great many opinions. I mean, we get feelings. We get what people think. And of course we all have a right to what it is that we think and what it is that we feel.

And I think that this has been very instructive, especially to the current President and to future Presidents that they could use this discussion when they get ready to make decisions and determinations about future pardons.

One of the things, though, that we also get is we get insinuations; that is, projections and feelings that, because somebody did one thing, somebody else may have done something else. And the question of Denise Rich has been brought into the discussion, knowing that she made contributions to Democratic politics and that she has supported the Presidential Library.

But I think it's also important to note that she is the former wife of Mr. Rich. And while people often part amicably, I would suspect that there are just as many who don't. I don't necessarily know an awful lot of former wives who are advocates for their former husbands or former husbands who are advocates for their former wives.

So my question, Mr. Quinn, to you: Is there any reason for you to believe that there is any connection between the contributions that Mrs. Rich has made and the ultimate decision to pardon her former husband?

Mr. QUINN. None of the conversations I had with the President, anyone working at the White House, or anyone in the Department of Justice give me any reason to believe that this was decided on anything other than what the President thought to be the merits.

Mr. DAVIS OF ILLINOIS. I would also like to ask Mr. Weinberg and Mr. Auerbach if you have feelings about that question as well.

Mr. WEINBERG. I mean, I have feelings, but I obviously have no information. And the problem I have with all of this is that it's the appearance. I mean, you know Mr. Quinn's intimacy with the President, you know Mrs. Rich's contributions, in my opinion, the lack of any merit whatsoever in the application, the fact that he was a fugitive and renounced his citizenship. I was asked can I see any legitimate reason for the pardon? And the answer is, no, I don't. Do I know that there was anything illegal, any wrongdoing? No, I don't.

I have no idea why the President did this. I just don't think—I disagree with Mr. Quinn. I really don't think he did it on the merits of the case because he chose not to apparently seek anything of any substance from anybody on the prosecution side that knew about the case.

Mr. AUERBACH. I would note that, as Congressman Cummings said, part of the problem here is the perception of inequality. And I have to believe that Denise Rich's extraordinary contributions and connection to the White House and Mr. Quinn's very special place of trust and confidence in the President's eyes gave Marc Rich the kind of extraordinary access to the White House and to the ultimate decisionmaker that virtually nobody else in the country and perhaps in the world could have achieved. And to have made a decision in a fashion which seems so insulated from critical facts is ultimately very troubling.

Mr. DAVIS OF ILLINOIS. Thank you. That leads to my second question, which is simply, there has been a great deal of discussion about going directly to the White House or appealing directly to the President as opposed to submitting the petition through the Justice Department. Is there anything in either one of your minds that would be legally, morally, or ethically wrong with taking that approach to get the petition in front of the ultimate decisionmaker?

Mr. WEINBERG. From Mr. Quinn's perspective, in other words, the perspective of an advocate, no, I don't. And I also don't believe, just so the record is clear here, that, you know, there should be any limitation whatsoever in the pardon power. In other words, I don't think Congress can—I mean, it's a constitutional right—limit in any way that power or require the President to go through or require application to be done in a particular way.

I just think the problem in this case is that because it was such a high profile case and because Mr. Rich on his face was so unsuited for a pardon for the reasons that the various Congressmen and women have set forth that, at a minimum, I would have thought that the President would have sought out in some detail information from the prosecution side as to why in this case this person who had chosen to thumb his nose at the system for such a long period of time would get the ultimate act of mercy.

Mr. BURTON. Go ahead.

Mr. AUERBACH. I understand that Mr. Quinn wrote the rules and perhaps, therefore, has special insight as to how to interpret what his authority was. But I think that the principle is that one does develop special relationships of trust and that one ought not to be drawing on those special relationships so soon after leaving that position of trust.

Mr. DAVIS OF ILLINOIS. Mr. Quinn. If no answer, thank you, Mr. Chairman. That concludes my questions. I just say I think maybe these proceedings should be given to all future candidates who run for President, maybe the first thing they ought to read.

Mr. BURTON. If I might, if the gentleman will yield since he's out of time real quickly, one of the things we want to do with this hearing, as the other hearing we had on the Puerto Rican terrorist, is to make sure that future Presidents do think about all these things before they make these decisions because Congress will look into them.

We have been asked by counsel for Mr. Quinn if we would like to take the 30 minutes now. But if we do that, we want the panel to return because we do have more questions for this panel. So unless there's objection.

Mrs. Morella, would you like to go ahead and take your 5 minutes? OK. We'll allow.

Mrs. MORELLA. Gentleman, will you persevere for 5 minutes?

Mr. BURTON. We'll allow Mrs. Morella to take her 5 minutes, and then we'll take—

Mrs. MORELLA. Thank you, Mr. Chairman.

Mr. BURTON. One second.

Mrs. MORELLA. Yes, sir.

Mr. BURTON. I know she's anxious to get started. All I want to say is that we will take a 30-minute break right after this, and I would like for everybody to be as punctual as possible because we do have a lot of ground to cover.

Mrs. Morella.

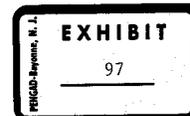
Mrs. MORELLA. Thank you very much. Mr. Chairman, in conjunction with my responsibilities as chair of the District of Columbia Subcommittee, I have a series of meetings within this time, which is why I very much appreciate the courtesy of allowing me just to ask a few questions now.

I know a lot has been covered. But I also noted, Mr. Quinn, that with the pardon application were a list of letters of support of Mr. Rich. And I—yet I notice in exhibit 97, we have a list of some of the—maybe exhibit 97 could be put on the screen. It has a list of those letters of support. And it's entitled "Letters Expressing Support For the Pardon of Mr. Marc Rich." But then when information was brought to this committee in exhibit 98, it says "Letters of Support For Marc Rich and Foundation." The same names are there. So I'm rather curious about why the change of the title, letters of support of the pardon versus letters of support for Marc Rich and Foundation.

[Exhibits 97 and 98 follow:]

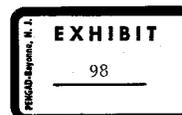
**Letters Expressing Support for the
Pardon of Mr. Marc Rich**

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



**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
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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 Transplantation Biology Weizmann Institute of Science, Rehovot



Mr. QUINN. 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 sought simply 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.

Having said that, I do think that they are what they are and they are—there are a good many of them that are addressed to the pardons and others which are just addressed to his charitable activities.

Mrs. MORELLA. I know initially when I read about the situation, I thought, my lord, you have a Prime Minister and you have academia, other foundations writing their letters of commendation actually in support. And then later on, as you've alluded—

Mr. QUINN. Yes.

Mrs. MORELLA [continuing]. There were articles in the paper that said these were simply letters of acknowledgment of contributions that had in fact been made. But I think my colleague Congressman Shays, I think, probably referred to one of his constituent groups, Sacred Heart Academy in Fairfield, CT, actually university, and the President Anthony Cernera said that it was the—a letter that was just a routine thank you written in acknowledgment.

Mr. QUINN. Yeah.

Mrs. MORELLA. So I think—maybe this is exactly what you're saying, it comes off as very deceptive.

Mr. QUINN. I understand that. Again, I'm accepting responsibility. It's something I wish I had been aware of at the time. At a minimum, those letters would have been more accurately described. But I'm not going to make excuses. I'm here to both press my case, but also take responsibility for anything that shouldn't have happened—that happened the way it shouldn't have. And I accept responsibility for that.

Mrs. MORELLA. We were certainly disappointed, distressed, felt it was very deceptive, but I appreciate your commenting on the fact that you would not have done this.

Mr. QUINN. I certainly would not.

Mrs. MORELLA. And you regret it happened.

Mr. QUINN. I can assure you I did not know it before the fact.

Mrs. MORELLA. Thank you. I'm done.

Mr. BURTON. Would the gentlelady yield since she has a few seconds?

Mrs. MORELLA. Yes.

Mr. BURTON. Did you read the letters?

Mr. QUINN. I can't say I read each and every one of them, no, sir.

Mr. BURTON. Did you read any of them?

Mr. QUINN. Yes, certainly.

Mr. BURTON. So you knew those letters were in the information being sent to the President asking for pardon?

Mr. QUINN. Oh, I knew there were letters being included. There was no letter that came to my attention before we filed it which signaled to me that it was something that we might be mischaracterizing it.

Mr. BURTON. Well, I mean this letter from this university president thanking him for the \$25,000, did you read that letter?

Mr. QUINN. I did not.

Mr. BURTON. You did not read that letter. Thank you. Just 1 second.

Mr. QUINN. By the way, since you mentioned the Prime Minister, the Prime Minister knew what this was about of course.

Mrs. MORELLA. So did he write on behalf of the pardon?

Mr. QUINN. Prime Minister Barak?

Mrs. MORELLA. Barak.

Mr. QUINN. He spoke to the President on several occasions about it in support of it.

Mrs. MORELLA. And Mr. Rich had given significant contributions to a number of the foundations in Israel.

Mr. QUINN. Yes. And it's my understanding that the Prime Minister believed that at least some of his charitable giving in Israel was constructive in the peace process.

Mr. BURTON. If the gentlelady would let me—yield to me for one last question.

Mrs. MORELLA. Yes, I do.

Mr. BURTON. One of the things that we want to do is have confidence in what you say, Mr. Quinn. And it's troubling to me that, if you were not very thorough in looking at these letters, how can we have confidence in any of the other things that have dealt with this issue?

Mr. QUINN. Well, I'm trying to be very careful to testify as to the—only those things I know about. But the questions—

Mr. BURTON. But you put the petition together and you sent it to the President.

Mr. QUINN. But not all by myself.

Mr. BURTON. Well, I know, but you were responsible for it. You were the attorney that was putting it to the President. I mean, you sent to the President information that you didn't look at thoroughly, is that what you're telling us?

Mr. QUINN. I'm not trying to leave you with that impression. I was focused on the legal arguments in this case. Frankly, the letters of support I thought were necessary and useful but not central to this petition. So I did not read each and every one.

Mr. BURTON. Well, counsel reminds us that the first 20 pages of your petition was about the character of Mr. Rich and I think this was—was this a part of that? This was a part of that. So it seems that would have been something that you would have taken a good look at before you sent it to the President.

Mr. QUINN. Right. And I certainly went over carefully the first 20 pages.

Mr. BURTON. OK. We will stand in recess for 30 minutes. I hope everyone will be back here by about 20 after 2.

[Recess.]

Mr. BURTON. If everyone would take their seats. Things always seem to speed up as we get further along, so we may be able to conclude this by 4, 4:30 with the second panel.

Mr. LaTourette, you are recognized for 5 minutes.

Mr. LATOURETTE. Thank you, Mr. Chairman.

Mr. Chairman, it is my understanding that Mr. Quinn is going to be with us on the next panel, too?

Mr. BURTON. Yes, Mr. Quinn will be on the next panel, too.

Mr. LATOURETTE. It is a long day for you, I'm sorry, Mr. Quinn, because I want to get back to that Executive order, but while I still have the prosecutors here, there was a series of questions that I wanted to ask.

When I was watching the—I don't know if it was the Sunday shows or the Tuesday shows or the all-day, all-the-time cable network, a point was made that we should take heart here, because even though that Mr. Rich wasn't going to be prosecuted criminally, he was still going to waive any defenses that he had to civil penalties.

It reminded me a little bit of the impeachment discussion that was had on Capitol Hill a few years ago. You know, don't do the articles of impeachment because the President will face charges after he leaves office. And the way that I remember the news accounts—and maybe you can help me if I am wrong, Mr. Quinn—but it seemed to me there was a conversation between you and then-President Clinton on January 19th, if I understood those accounts right—

Mr. QUINN. Yes, sir.

Mr. LATOURETTE [continuing]. Where this issue was discussed.

Mr. QUINN. Yes, sir.

Mr. LATOURETTE. And if we go through it, you submitted your application. You talked to Bruce Lindsey. He was afraid they were fugitives. You told him that they weren't fugitives, based upon your understanding of what a fugitive was. And then the President said, well, you know what, I'm a little concerned they are not going to face any regulation by anybody, so can you fax me over something that says they will waive any statute of limitations difficulties relative to civil penalties. Is that pretty much what happened?

Mr. QUINN. Yes, sir.

Mr. LATOURETTE. So the President was at least of the opinion, after reading your application, that there still should be something. And the reason that I wanted to talk about this for just a few minutes is that I saw either a news account, either read it or saw it, that there is another attorney representing Mr. Rich, a fellow by the name of Mr. C. Michael Green. Are you familiar with Mr. Green?

Mr. QUINN. Yes, sir.

Mr. LATOURETTE. Mr. Green is quoted someplace advising the media saying that Mr. Rich doesn't have any civil responsibilities left. And I thought I understood either Mr. Weinberg or Mr. Auerbach or both saying that this is what we used to call in law enforcement a soup sandwich. There is no substance to the fact that there is anything he is coming back for.

So, I guess I would ask you, Mr. Weinberg, if he were to come back is there any civil penalty that now flows as a result of this investigation to Mr. Rich personally?

Mr. WEINBERG. No.

Mr. LATOURETTE. Were they extinguished in the course of that \$150 million or whatever—

Mr. WEINBERG. There never were any personally. Those were corporate responsibilities that were extinguished when we received a total of \$200 million at the time of this global resolution with the companies. That is as empty a promise as I have ever seen.

Mr. LATOURETTE. Mr. Auerbach, do you have a different opinion?

Mr. AUERBACH. No, it is absolutely correct. This is a hollow promise.

Mr. QUINN. May I respond?

Mr. LATOURETTE. I was going to ask you next. Do you have a different opinion?

Mr. QUINN. Yes, I do, and I had a different understanding at the time I made the commitment. I think Mr. Auerbach and Mr. Weinberg are referring to the tax side of the equation here. Let me back up a couple of steps.

A central part of the argument for the indictment involved these transactions with ARCO that I described to you earlier.

Mr. LATOURETTE. Right. Right.

Mr. QUINN. And we took the position and continue to take the position that the basic—one of the central flaws of the indictment was the failure to understand the linkage between these domestic and foreign transactions and, indeed, the conclusion of the agency charged with implementing and overseeing the energy regulation—the price control regulations in question, a conclusion that was precisely contrary to that of the prosecutors in New York, namely that ARCO and not Rich had failed to properly account for the transactions. In fact, the Department of Energy concluded that Rich properly accounted for the transactions.

Mr. LATOURETTE. I remember reading that. Is it your—but do you agree with the—C. Michael Green that Mr. Rich doesn't have any civil responsibilities?

Mr. QUINN. I'm trying to get there.

Mr. LATOURETTE. Go ahead.

Mr. QUINN. In this connection, it is certainly my understanding that they have always maintained they never did anything wrong, either from the DOE point of view or an IRS point of view. But it was my understanding when I made that commitment that the Department of Energy could reopen the matter if it chose to. And that, for example, if they concluded now, contrary to their earlier conclusion, that Rich improperly accounted, that there could be penalties that would attach to that, for example, for aiding and abetting the misreporting of these transactions to the agency.

So the commitment was made in good faith. I don't know what the outcome of that proceeding might be or whether it would take place.

Mr. LATOURETTE. Let me say I don't have any problem with what you did in good faith. The question is—the President was concerned about whether this guy was a fugitive. No, he is not a fugitive. The President apparently said, even after reading all of this

stuff, knowing he's not a fugitive, "I would like him to be subject to something." So he got a letter saying, OK, if he comes back he will waive the statute of limitations.

I guess I would go back to you gentlemen. What did the President get when he got that letter saying he would waive that statute of limitations?

Mr. WEINBERG. He got an empty promise. Because there is no individual civil liability for what this indictment was about that I am aware of, or ever was aware of. I mean, as far as the individuals were concerned, in my opinion it was never about money. It was about money as far as the corporations were concerned. But when Mr. Williams—when Edward Bennett Williams came into my office before the indictment and offered \$100 million to resolve everything and have no charges against Mr. Rich and Green, I told him then and I think every office told every other lawyer who came in for Marc Rich, that it wasn't about money for them.

And that promise, like some of the other things in the application, just is very empty.

Mr. LATOURETTE. Mr. Auerbach.

Mr. AUERBACH. Related and beyond this, the civil liabilities were fully extinguished. They were corporate liabilities. They were fully extinguished in 1984. And a number of times Mr. Quinn has referred to ARCO and the Department of Energy's treatment of ARCO.

I would make several points. First of all, ARCO cooperated with our investigation. They were a cooperating witness, and Congress has specifically provided for different treatment for people who cooperate.

Second, with respect to the excerpts that appear at tab E in the pardon application that are extracts from the Department of Energy proceedings, they refer to the fact that Marc Rich & Co. International accounted for transactions on their books in a particular way.

One of the points we have made this morning and one of the points that was evident in the guilty pleas of these companies is what they put on the books was not the reality, and I do not believe that the Department of Energy ever concluded that Marc Rich had treated these transactions properly.

Mr. LATOURETTE. Thank you. Thank you very much.

Mr. BURTON. The gentleman's time has expired.

Mr. Lewis has not yet asked questions. Mr. Lewis.

Mr. LEWIS. Thank you, Mr. Chairman.

Mr. Quinn, being an advocate for your client before the former President, as you said earlier, it isn't the same as a legal proceeding where arguments are made on both sides of a case. It is different. You know, in those instances, you have the prosecution make their case and the defense make their case.

So do you feel that when you made your case before the former President, that as a friend and as a former counsel to the President that you owed him more information that would allow him to make a good decision? That wouldn't put him in the position of probably where he wouldn't want to be making a decision like that on his last day in office and to be remembered for that decision? Is that—

do you feel like you maybe should have told him more now that he could have maybe made a better decision?

Mr. QUINN. I do not think I failed in my responsibility to anyone, including to the former President. The thing I believe was most important in this regard was that I forthrightly, and on more than one occasion, urged the lawyers in the White House working for the former President to contact the Department of Justice. I think that discharged my responsibility, because I think if there was to have been a presentation in as much depth as anyone wanted that was the place it should come from.

Mr. LEWIS. Did the former President ask a lot of questions or did he ask for more information from you? Do you think he was trusting you totally for the information that he needed? Because evidently he did not pursue this any further with the Justice Department.

Mr. QUINN. I do not believe that he relied entirely on my representation of the case and our arguments against it. It is my impression that there was a robust debate about this in the White House Counsel's Office. I'm not privy to—

Mr. LEWIS. Did they have more information to provide the President than what the Justice Department would have?

Mr. QUINN. I don't know, sir. But I do believe that the application was discussed with some thoroughness. I am not privy to those conversations, and so I don't know the precise nature of them. But I am as confident as I can be that the President did hear from people who disagreed with my application.

And, again, I believe I discharged my responsibility to him when I urged the White House counsel to contact the Department of Justice and when, at the same time, I made efforts to alert the Department of Justice that this matter was being considered and, again, in the hope that I would get some constructive involvement, positive involvement on their part.

But with both the White House lawyers and the Department of Justice, I was pushing them to be engaged in this process.

Mr. LEWIS. Do you think the President—and I'm asking you to make a judgment here—have you talked to the President since that pardon and how—does he feel like he's made a mistake now? That it was a wrong decision? That he shouldn't have done it because of the information that is out there now?

Mr. QUINN. That is not my impression. I have spoken to him just once several days later. And he—the impression I got in that conversation was that he believed he did the right thing, and he was confident he did it for the right reasons. He thought I should be more aggressive about getting the particulars of the arguments we made out to the news media.

Mr. BURTON. Would the gentleman yield real briefly?

Mr. LEWIS. Sure.

Mr. BURTON. When you refer to you asking them to check with the Justice Department, now, the Justice Department did not have your documents, did they?

Mr. QUINN. They did not have them from me, that's correct.

Mr. BURTON. Did they have them from anybody? You don't know?

Mr. QUINN. No.

Mr. BURTON. But you did not give them to them.

Mr. QUINN. That's correct.

Mr. BURTON. All you did was talk to Eric Holder.

Mr. QUINN. That's correct.

Mr. LEWIS. Thank you, Mr. Chairman. I just want to change gears a little bit.

Mr. BURTON. We will let you ask one more question, since I interrupted you, and then we will move on.

Mr. LEWIS. OK. In an e-mail, exhibit 73, you wrote to Mr. Rich's other attorneys that you had a great concern that "We're withholding our very good and compelling petition from the press only to protect the tax professors who don't want to be that far out in front."

How were you protecting the tax professors?

[Exhibit 73 follows:]

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-----

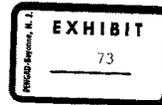
From: Avner Azulay [SMTP:azulrich@redacted]
Sent: Monday, January 22, 2001 7:10 PM
To: Jack Quinn; 'Fink, Robert - NY'; 'Kitty Behan'; 'Mike Green'; 'Gershon Kekst'
Cc: 'Marc Rich'
Subject: Re:

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 opinions. 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>; '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 this is my best judgment.
> I'd
> do it with the NY Times. In the next hour or so. Is that possible?
>



PMR&W 00195

Mr. QUINN. Well, from what I understood from other lawyers involved was that the tax professors did not want to be besieged with media requests and so on. And as a result, there seemed to be some reluctance—not on the part of the professors but on the part of at least one other lawyer—to distribute the Ginsburg/Wolfman tax memo. This was frustrating, because that analysis was critical to the argument that we made in the pardon petition.

And so in this e-mail I think you see reflected my frustration that we need to make sure people understand the analysis that Ginsburg and Wolfman went through and why it was so helpful to our case.

Mr. LEWIS. Did Mr. Ginsburg express any concern that making the tax opinion public might harm his wife's reputation?

Mr. QUINN. No, sir, not at all. Not at all. And it's my understanding that both of those professors absolutely stand by that opinion.

Mr. BURTON. The gentleman's time has expired.

Mr. Kanjorski.

Mr. KANJORSKI. Thank you, Mr. Chairman.

To the prosecutors, as I gather, this process and the fugitive nature of Mr. Rich occurred about in 1984; is that correct?

Mr. WEINBERG. As I understand it, it was—he was indicted in September 1983, and by that time he just chose not to come back to the United States.

Mr. KANJORSKI. Now, he was in Switzerland?

Mr. WEINBERG. Apparently, he was in Switzerland. He was living in New York prior to the indictment, and he had offices in Switzerland and stayed in Switzerland after indictment.

Mr. KANJORSKI. Is it correct that any American citizen who is indicted, or may be indicted shortly, can just get on a plane and go to Switzerland and it will guarantee that they will not be able to be brought back to the United States for prosecution?

Mr. WEINBERG. Well, I don't think that is correct.

Mr. KANJORSKI. Well, then were there particular circumstances in this case why Switzerland failed to extradite?

Mr. WEINBERG. Well, first of all, we were told that he was one of the largest taxpayers in Switzerland.

Second—

Mr. KANJORSKI. So money allows judicial process in Switzerland?

Mr. WEINBERG. Well, I believe that had a lot to do with what happened in 1983 and 1984, yes.

Mr. KANJORSKI. Were there attempts after 1983 and 1984 by—that was the Reagan administration, 4 years remaining, the Bush administration for 4 years—did the Justice Department or Southern District do anything over that 8-year period?

Mr. WEINBERG. Yes.

Mr. KANJORSKI. What were the results of that?

Mr. WEINBERG. As I understand, they tried to extradite him from Israel, both of them, and the Israelis turned down the extradition request. And there were persistent attempts to apprehend him in various countries, apparently, as indicated by the marshals.

Mr. KANJORSKI. Were these taken through judicial processes in these various countries?

Mr. AUERBACH. The judicial process in Switzerland and Israel resulted in the Swiss declining to extradite. And while they did indi-

cate that Mr. Rich and his company were the largest taxpayer in the canton in which they are located and one of the largest in country, they also took the position that these were violations, crimes that were not the subject of extradition.

Mr. KANJORSKI. Oh, OK. So there was a judicial vetting in a developed nation of the world that determined that they were not going to send this fugitive or former American citizen or what have you back to the United States for prosecution?

Mr. WEINBERG. Yes, if the process had been in England, Germany, a number of other countries, they would have been extradited. But in Switzerland and apparently Israel they were not.

Mr. AUERBACH. Because of the treaty that we have with those countries that define the crimes for which our citizens can be extradited.

Mr. KANJORSKI. So if you are a commodities operator and you fail to pay taxes in the United States and make an extraordinary amount of money, you can go to Switzerland and be quite safe?

Mr. AUERBACH. You might conclude that from the facts of this case.

Mr. KANJORSKI. Don't you think it's possible also that you might conclude, if you were looking over this petition, that there has been some sort of a vetting as to whether or not, as Mr. Quinn points out, the RICO statute was properly applied in a case like this and the charges that were brought against Mr. Rich and Mr. Green were not necessarily charges that that nation interpreting were fair administration of justice?

Mr. WEINBERG. No, I really don't. I think the main issue in Switzerland was taxes and tax offenses; and, at the time, the extradition treaty did not provide for extradition on tax-related matters.

Mr. KANJORSKI. That nation has been known to change its rules and laws when pressured to do so, has it not?

Mr. AUERBACH. It has, and it has certainly become amenable to providing assistance to the United States in areas like money laundering.

Mr. KANJORSKI. We went through a process in this country about 3 or 4 years ago with the Holocaust victims, particularly with Switzerland, and hammered them into coming up with a considerable amount of money. It is either \$3 or \$4 billion in funds. Did anyone, the State Department or anyone else, particularly the Southern District of New York Attorney's Office, did they think in terms of maybe we ought to include in this package that if we can make them open up the secret bank accounts that we can make them account for 50-year-old money in accounts, that we could make them give back a fugitive?

Mr. AUERBACH. I think they have become amenable to return fugitives. And what I said before, I believe that if this case were brought today it would include money laundering charges and we might well have been able to get people like Rich and Green back on the basis of those charges. Unfortunately, that was not the law at time.

Mr. KANJORSKI. When did it become the law and when did we have that window of opportunity?

Mr. AUERBACH. No, I'm saying if this crime was committed today. If this crime were committed today. One certainly can't go back and rewrite the laws as they applied then.

Mr. WEINBERG. Back in 1980, we didn't have a money laundering statute that would have covered these offenses. We do now, and it is likely that we wouldn't have these same circumstances today because of these other available statutes that could have been used.

Mr. KANJORSKI. Mr. Chairman, that's all.

Mr. BURTON. The gentleman's time has expired.

Who do we have next on our side? Mr. Platts.

Mr. PLATTS. Thank you, Mr. Chairman.

First, I want to thank all three gentlemen for appearing before the committee and Mr. Weinberg, Mr. Auerbach for your service as prosecutors in giving many years of your professional lives to the service of your fellow citizens. I thank you.

Mr. Quinn, I also thank you for appearing here. I may disagree with the belief in the appropriateness of this pardon and that it shouldn't have been done, but I certainly respect your good-faith belief in the appropriateness and the merits of the case that you have made as an attorney on Mr. Rich's behalf.

I do have a concern, though, and I want to ask your opinion. In your testimony, as a fellow attorney, in our duties to the system, to the court, to the process, you stated, "Whatever happened to the American judicial premise that one is innocent until proven guilty? Whether right or wrong, Mr. Rich thought he could not get a fair trial because of the tarnish and taint imposed by his prosecutors."

I guess I would first contend that every day accused believe that they cannot get a fair trial and they are going to be hung out to dry wrongly. And on the American judicial premise that one is innocent until proven guilty, equally important is that the court, either the judge or the jury, will be the decider of guilt or innocence.

Are you worried that as an attorney that you have sent a message that where an accused and his or her attorneys in their hearts believe were innocent that we don't have to uphold that premise, that the court will decide ultimately that we can sidestep the court and in this case go right to the pardon process? That we're sending the message to anyone accused out there that, hey, you don't think you can get a fair trial? Instead of using the procedural process that we provide for ensuring a fair trial, instead you can sidestep the whole judicial process and go right to the President for a pardon? Isn't that a concern to you as an attorney that this is the message that we're sending?

Mr. QUINN. I hope it is not the message of this. I do believe that this was a very unusual case that had been at an impasse for 18 years and that impasse—

Mr. SHAYS. Could the gentleman just put the mic in front? I'm sorry.

Mr. QUINN [continuing]. That impasse never would have been resolved in any other way. These gentlemen who serve, as I also respect greatly, will disagree with me again very strongly. But I think that both sides in this thing contributed to this impasse. I think that the then novel use of RICO in a situation like this was a sledgehammer that resulted in their failure to return and in the guilty pleas that came from the companies.

I think that, in truth, there was at bottom a disagreement between Rich and the prosecutors about the application of the energy regulations and their liability under the tax laws. I think the case was turned into something dramatically different than that when the RICO charges were put in there.

I do not think that this pardon ill-served the interest of justice, and I thought it was the right thing to do. I sought it. I would not have sought it if I thought it ill-served the interest of justice.

I understand—it's abundantly clear that a good many people here disagree with me about that. But I believe we pursued it in good faith, that we pursued it in a fashion that was honorable and ethical and that in the end that's how it was decided.

Mr. PLATTS. Mr. Quinn, one of the great tenets of our process, including our governing process, is the ability to agree to disagree—

Mr. QUINN. Of course.

Mr. PLATTS [continuing]. And we'll certainly have to disagree on the merits of what transpired. But your comment on the 17-year impasse, it seems to me as one not familiar as the three of you very much are with the whole history here, that while both sides may have played a role in that impasse and not given—that the defendant, Mr. Rich, by his company's paying of \$21 million in contempt, which is an admission of trying to stonewall the judicial process, that \$21 million is a pretty good indication of who had the biggest responsibility in the impasse continuing for such a long period of time.

Mr. QUINN. Well, the information provided to me was that the government was seeking documents in Switzerland, the disclosure of which would have violated Swiss law, and that they were caught in something of a Hobson's Choice in this regard.

Mr. PLATTS. I respect that's really outside—prior to your involvement—

Mr. QUINN. It is prior to my involvement, but I want you to know that, before getting involved, I asked a good many questions and—including what happened in that regard. And that is my understanding of it as we sit here today.

Mr. PLATTS. My final question, Mr. Chairman, would be there is nothing that would have prohibited Mr. Rich—that your suggestion that there was no other course but to seek a pardon—there was another course, and that was to actually stand trial and, if found guilty, despite the claim of innocence from all the charges, to then seek a pardon from whoever was in the White House. The pardon avenue was always available even after standing trial. So you would at least acknowledge that is another course that could have been pursued was to stand trial and then, if necessary, pursue a pardon at that time.

Mr. QUINN. That's true.

Mr. PLATTS. Again, Mr. Chairman, thanks for your discretion on the time for me and to all three of our testifiers. As I said, we may agree on some points with the prosecutors, and with Mr. Quinn respectfully disagree, but I very much appreciate all three of you appearing before the committee. Thank you.

Mr. BURTON. Mrs. Davis.

Mrs. JO ANN DAVIS OF VIRGINIA. With your permission, I would like to yield my time to Mr. LaTourette.

Mr. BURTON. Mr. LaTourette.

Mr. LATOURETTE. I thank the gentlelady very much.

Mr. Quinn, one of the things that amazes me and one of the things that probably amazed you about Washington when you were a White House counsel, is how fast things move in this town. And one of the fast things that has happened while we've been here today is someone has published a publication reporting on your testimony today and the headline is: "Quinn says Rich deserved a pardon because of flawed Giuliani prosecution."

Now, I went to the bathroom for 5 minutes during this hearing. Did you ever say that today?

Mr. QUINN. Frankly, I was thinking when we were having lunch, I don't think the Mayor's name has come up in this hearing.

Mr. LATOURETTE. I don't either. And I have seen that reported in the press. And to me at least, since he left the campaign trail and decided not to run against Mrs. Clinton, he seems like a benign character who shows up in Giants' and Yankees' turtlenecks and roots for New York sports teams.

But I want to just read to you what the reporter had to say. Specifically, it said that you argued today that Mayor Rudolph Giuliani, who was the U.S. attorney in 1983, and you guys are mentioned, former assistant U.S. attorneys, Martin Auerbach and Morris Weinberg, Jr., misused the RICO act to indict Rich and that's why he deserved the pardon. Did you say that today?

Mr. QUINN. Well, I have certainly pointed to the use of RICO as dramatically ratcheting up this case and contributing to the impasse. And you were kind enough to point out earlier in connection with my being on both panels that it is a long day and so I will confess that there may be some things that have slipped by me, too. But I don't think that reference to the Mayor has been part of this hearing.

Mr. LATOURETTE. I don't think so either. But I do want to turn to your January 5th letter to the President of the United States where you do write, and I think that's exhibit No. 89 if you want to follow along in our program, where you talk about the outrageously prejudicial and unfair treatment of him by the then new U.S. attorney in New York Mr. Giuliani. Is that your conclusion? That Mr. Rich suffered outrageously prejudicial and unfair treatment at the hands of Mr. Giuliani?

[Exhibit 89 follows:]



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 earliest 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

Mr. QUINN. Yes, sir.

Mr. LATOURETTE. Fellows, how about you? Mr. Auerbach, Mr. Weinberg. How do you feel about that?

Mr. AUERBACH. I'm sorry, what's the—

Mr. LATOURETTE. It's not 89?

Mr. QUINN. I'm familiar with the letter.

Mr. LATOURETTE. You wrote a letter to the President on January 5th.

Mr. QUINN. Yes, sir.

Mr. LATOURETTE. And you remember using the words "outrageously prejudicial" and "unfair treatment by Mr. Giuliani"?

Mr. QUINN. If you are reading it, I'm confident that's what it said.

Mr. WEINBERG. I think that the treatment must have been by me and not Rudy, because Rudy had very little to do with the case until at the end of the case when he participated in negotiating the guilty pleas. Actually, the investigation was done under John Martin. John Martin is now a Federal judge in the Southern District of New York.

I just want to say that I do not believe that it is fair to characterize anything that we did—and I was a 31-year-old prosecutor then—during the investigation as unfair. The reason that Mr. Rich and Mr. Green really found themselves in the position that they found themselves in is because of the extraordinary things that they did during the investigation to obstruct it—the contempt fines, the steamer trucks, trying to sell the American corporation secretly that the court found was fraudulent. Their fugitivity. I mean, this extraordinary effort to avoid turning over documents. I mean, the Swiss Government, quote, seized some documents in Switzerland so that they couldn't be turned over; and then they were the safe haven for Mr. Rich and Mr. Green so they couldn't be extradited.

I mean, the reason that this case attracted the attention that it did was not because of Sandy Weinberg. It wasn't because of Martin Auerbach. It certainly wasn't because of Rudy Giuliani who wasn't even around at the time when all of this publicity was going on. It was because of the extraordinary things—the extraordinary I would say misdeeds that took place during the investigation.

Mr. LATOURETTE. Let me ask you this: Are you fellows familiar with a gentleman by the name of Robert Litt?

Mr. WEINBERG. Yes.

Mr. AUERBACH. Sure.

Mr. LATOURETTE. Did Robert Litt have something to do with this?

Mr. WEINBERG. I will explain to you what Robert Litt had to do with this. Robert Litt was in the appellate section. Bob is a very close personal friend of mine and a partner in Mr. Quinn's old law firm and was in the Justice Department before this. Mr. Litt worked in the appellate—there were six appeals in this case. This person, Mr. Rich, who had these wonderful lawyers involved, brought six appeals during the investigation. We were in the Second Circuit six times. That's how aggressively they litigated it. And Mr. Litt and Mr. Lynch, who one of the letters was to in the early 1990's who is now a Federal judge, they were both in the appellate

section and served honorably; and they worked on these extraordinary issues that we had during the investigation.

Mr. LATOURETTE. And Mr. Lynch, if I understand, you are talk about a fellow by the name of Gerald Lynch?

Mr. WEINBERG. Yes.

Mr. LATOURETTE. He's been nominated and he is now on the Federal bench, an appointment of President Clinton, is he not?

Mr. WEINBERG. As far as I'm concerned, he's the best lawyer I've ever worked with in my entire life.

Mr. LATOURETTE. And Robert Litt, aside from being a partner of Mr. Quinn's at Porter and Arnold, he was also nominated to head the Criminal Division at the Justice Department during the time that Mr. Quinn served as counsel to the President. Does that sound about right?

Mr. WEINBERG. That's right.

Mr. QUINN. May I add in response?

Mr. LATOURETTE. Sure, go ahead.

Mr. QUINN. In terms of the basis for my making the statement I did in the letter, I'm going to read to you three short clips from the Wall Street Journal.

The first reads: It's worth taking a second look at Mr. Giuliani's first big RICO case. This was the much celebrated 1984 case against Marc Rich, the wealthy oil trader. A close reading of these allegations shows that these also effectively reduced the tax charges. The core of the case is that Mr. Rich wrongly attributed domestic income to a foreign subsidiary. Again, this sounds like a standard civil tax issue, not RICO.

Second clip, again from the Wall Street Journal, "The Department of Justice should launch a complete review of all U.S. Attorney RICO cases, from Mr. Giuliani's first RICO expanding case against Marc Rich in 1984 through the current allegations against Chicago pit traders and Michael Milken."

Third, Wall Street Journal, "The major prior RICO abuse was when Rudolph Giuliani, the former U.S. Attorney in Manhattan, in 1984 RICO'd oil trader Marc Rich essentially on tax grounds."

It goes on. I wasn't operating on the basis—in an information vacuum. Others have characterized the use of RICO in cases like this, in the words of the Wall Street Journal, as abusive.

Mr. WEINBERG. If I could just say one thing, take 1 second.

Mr. LATOURETTE. As long as the chairman lets me go, you can talk as long as you want.

Mr. WEINBERG. Just so everybody understands what the process was. In order to bring—in order for the U.S. Attorney's Office to bring a RICO or a tax charge back in 1983 when these gentlemen were indicted, it had to be approved and reviewed in the Justice Department. The RICO charge was approved by the RICO section of Justice, and the tax charge was approved in the Tax Division.

Because of the process, we notified Edward Bennett Williams in advance of the indictment that we were considering RICO and obviously that we were recommending tax charges. Mr. Williams had an opportunity to have a review—to set forth all of his arguments to the Justice Department, not the U.S. Attorney's Office—we were beyond that—to the Justice Department both as to the RICO charge and as to the tax charge. Those arguments were considered

back in 1983. And the Justice Department, which was—you know, this was President Reagan's administration. The Justice Department in 1983 specifically approved filing RICO charges and approved filing the tax charges.

Mr. LATOURETTE. Thank you. Thank you, Mr. Chairman; and thank you, Mrs. Davis.

Mr. BURTON. Mr. Waxman, did you want to take some of your time?

Mr. WAXMAN. Thank you. I'll just take this time to say that we have had a taste of this case. I can't say that we have dug into it in detail. The three of you know it in great detail, and it sounds to me that whenever you have some of these very complicated transactions, whether it was the tax evasion or tax avoidance, there are serious questions. The RICO issues have been quite controversial. You say there might be a money laundering charge today, but there wasn't then. I don't know that this committee can make a final judgment on the merits.

The President, however, was the one who had to make some judgment; and he had to make a decision whether to exercise that unique power that a President has, which is to grant clemency or grant a pardon. We can disagree with his conclusion or question whether he had enough information to reach the conclusion.

So, I know the chairman said this is worth doing to give some signal to all Presidents that when they make this decision it might be examined by a committee of Congress, but let's not kid ourselves. I don't know that we are going to have this President, President Bush's, decisions as carefully scrutinized as we have, in this committee, scrutinized President Clinton's.

For example, if we are looking for things to examine, does anyone think that if the decision in Florida hadn't been reversed and that Mr. Gore was determined to be the President that this committee wouldn't be issuing subpoenas all over the place to examine what went on in Florida? But we are not looking at that at all, even though we know that thousands of people were disenfranchised in Florida and did not get their votes counted, maybe legitimately, maybe not.

But that's not the topic that this committee, the majority, has decided to hold hearings on. This committee majority has decided to hold hearings on an action by President Clinton which many of us disagree with but which he had the constitutional authority to take.

In the few minutes I have left, Mr. Quinn, Mr. Auerbach, Mr. Weinberg, starting with you Mr. Quinn, is there anything that you want to say that you haven't had a chance to say? We fire questions and we get this thing in a very piecemeal fashion. Any points that you think we ought to know about that you don't feel you have had a chance to make or that you want to elaborate on?

Mr. QUINN. Well, to be honest with you, I think that you have heard from the prosecutors, why they brought the charges they did against Mr. Rich and others. You have heard from me, why we thought the indictment was flawed. You have in front of you the indictment. You have the legal arguments laid out in the petition. I don't feel I've left anything out, frankly, so, no, I don't think I need to embellish further the arguments we made.

Mr. WEINBERG. I guess the one thing that does concern me about all of this and about the submission, particularly that part of the submission that talks about how the case was meritless and it was a house of cards and all that stuff, and it just sort of dismisses everything, you know, whether it's RICO or the wire and mail fraud or the tax, whatever it is, it's all dismissed. The fact that the companies pled guilty that's dismissed because they had to plead guilty, according to Mr. Quinn, because they were extorted through all of this aggressive—

Mr. WAXMAN. But aren't you just saying that the petition on behalf of Mr. Rich put the best face on everything and ignored the negative side?

Mr. WEINBERG. Well, I think what I'm saying is that it would have been, I think, fundamentally fair if we are looking for justice here, or the exercise of justice, if Mr. Quinn or somebody had pointed out to the President that, when he is told that the companies pled guilty and he shouldn't consider that, that actually when the guilty pleas took place on October 11, 1984, in front of Federal Judge Shirley Kram, that Marc Rich's lawyers stood up in court and told the judge when the judge asked them what did these companies do wrong—and what they said, amongst the things they said was on page 18 of that transcript: "beginning in September, 1980, International, which was the Marc Rich company in the United States, 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." And then later in here acknowledged that false documents had been delivered to the Department of Energy, hiding those illegal domestic profits, and that the company, the American company, had failed to report millions of dollars of taxable income that they did not pay taxes on.

And so to come in here 18 years later and say that the case was a sham, the case was meritless, is to say that Peter Fleming, one of the most distinguished lawyers in New York City and the country, and Peter Zimroth, one of the most distinguished lawyers in New York, when they stood up in front of a Federal judge and said those things, having been authorized by their clients in Switzerland to say those things, they were just not telling the truth. And that's just not right. It's not fair.

Mr. WAXMAN. My time is up. But could you let Mr. Quinn respond, and then I am sure we will have to move on.

Mr. QUINN. Yes, and we have heard that now twice. And that's an accurate representation of what happened. It is also the position of my clients that this RICO sledgehammer, which would have destroyed this company, caused them to enter into a plea bargain on behalf of the company with the prosecutors.

As I stated earlier in my testimony, I'm not the only one who was of that view. I was one of a long line of respected attorneys as well thought of as Mr. Fleming, who shared my view about this; and we discussed earlier who some of those people are.

Mr. WAXMAN. Let me just say, Mr. Chairman, just in conclusion, when Democrats have raised the issue about Florida, we have been told to get over it, stop whining. Well, it just seems to me if the approach is that the election is over, what is done is done, then it

is hard for me to understand the rationale to continue to investigate Bill Clinton if there is no illegality in the Rich pardon. And it seems very close to a double standard and somewhat partisan that we spend our time looking for things about Bill Clinton to criticize and pay no heed to concerns that people have on other issues like the denial of participation in the electoral process by so many people in Florida and throughout the country, particularly those who are minorities and seniors who did not have their votes counted.

Thank you, Mr. Chairman.

Mr. BURTON. Let me just conclude with this panel that if the RICO charges were so frivolous then why didn't they stand trial? Were they afraid they would be convicted? And I think the case needs to be made that if they thought they had a meritorious defense and they had the best lawyer in the country and they thought they could win the case, why did they renounce their citizenship and try to sneak documents out of the country, flee the country and have been gone 17 years? Why didn't they stand trial?

Did they think that our judicial system is so corrupt that they would have been convicted and put in jail on charges that were not meritorious? Why didn't they stand trial? They had the best lawyers in the country.

Mr. QUINN. Look, Mr. Chairman, what I think is the honest answer to that is that they were not willing to expose themselves to 300 years in jail over what they thought was a tax and energy dispute.

Mr. BURTON. So they thought they might be convicted? So they thought they might be convicted?

Mr. QUINN. Of course they must have.

Mr. BURTON. Why did they think they might be convicted?

Mr. QUINN. I think they thought that they were going to be exposed to 300 years in jail for something they didn't do.

Mr. BURTON. Well, but the point is, if you're innocent, we have a very fair system of justice in this country where the laws apply equally to everybody. According to the prosecuting attorneys, the people who are bringing this case, they had separate sets of books. They had a pot they called it, a pot where they stuck their devious moneys so that the IRS and the government of this country could not find them. And when all of this was uncovered they tried to smuggle the documents out of the country. They left the country. They became fugitives. They changed their citizenship and ran all over the world.

At one point we know that U.S. Marshals were on their tail, and they were in a jet plane, and they got messages from someone in the United States that the U.S. Marshall was in a plane trailing them, and they turned around and went back to Switzerland. That doesn't sound like people who really feel that the justice system in this country works. There must have been something more to it.

Mr. QUINN. Well, Mr. Burton—Mr. Chairman, let me respond to it as much of that as I can, very briefly. I wasn't involved with them 17 years ago. I hope I can tell you honestly I would never, ever encourage a client to flee the jurisdiction. I know I can tell you with complete sincerity I would never condone or encourage the renunciation of one's American citizenship.

With regard to this alleged pot of money, this goes to the moneys that were part of the Department of Energy analysis of these transactions. And, again, another agency of the Federal Government concluded that Rich and not ARCO had correctly accounted for these transactions.

I was dealing with the four corners of the indictment in front of me. I couldn't rewrite their history, sir.

Mr. BURTON. Let me just—I won't make any more points about this. I think we have covered it thoroughly. If Mr. Weinberg or Mr. Auerbach want to conclude, we will conclude this panel.

Mr. AUERBACH. I will just try to respond to what Congressman Waxman said and what other people on the committee have said today, which is that there seems to be a fairly widespread view that, at a minimum, the President made a mistake when he granted this pardon. And I would say at this point one of the things that this committee could do is look to the future and look to Mr. Rich and Mr. Green's future, and I hope that in your government oversight role you will ensure that the appropriate government agency do everything within their power to not compound this mistake.

Mr. BURTON. Mr. Weinberg, anything else?

Mr. WEINBERG. I just appreciate the opportunity of having appeared here today, and I agree with much of what Representative Waxman has said. I'm also a Florida citizen. I'm not sure if my vote counted or not. But I appreciate, Chairman Burton, you looking at this. Because I think that, from my perspective as the prosecutor but as a defense lawyer as well since then, that the system of justice has really been done a disservice in this case.

That to reward two individuals who, in my opinion, thumbed their noses at the system from day 1, who committed, I believe, one of the biggest tax frauds in the history of the United States, who did everything they could to obstruct our investigation, whether it was not turning over documents or trying to smuggle documents out of the country or trying to spirit assets away from the court so that they couldn't enforce the fines, who then chose to do what no—basically, no other citizens in this country can do and that is find a safe haven. And from a distance for 17 years, you know, try to put their defense on through a series of lawyers like Mr. Quinn who, without anybody on the other side, say that this case had no merit.

For people to be allowed to do that, renunciate their citizenship. Whether there is some technical defense or not, which I do not believe that there is, to trade with enemies of the United States while they were American citizens for sure, because that is what was charged in this case, and whatever they have done since, to reward people like that with the ultimate act of mercy is an outrage.

And I as the prosecutor, I as a defense lawyer, I as a Democrat, a lifelong Democrat, I can't find another word for it. I'm outraged by it.

I agree with Mr. Waxman. If there is no criminality—and I'm not sure that this committee can make that determination today—if there is no criminality, there is nothing you can do about it because it is an absolute power. But it is an outrage, and it should be—and I'm proud to be here today to say that it is an outrage, and I do not believe that Mr. Clinton was given the full and complete story,

because I happen to believe that he is way too intelligent and smart to believe that it was appropriate to pardon two people that did not fit one criteria for pardons.

Mr. BURTON. Thank you very much, Mr. Weinberg and Mr. Auerbach.

Mr. Quinn, we will ask you to stay for the next panel.

And we will ask Mr. Holder—is Mr. Holder here?

Mr. QUINN. Mr. Chairman, would it be reasonable to ask if we could take 5 minutes between panels?

Mr. BURTON. Sure, we want to make sure you can do whatever needs to be done in 5 minutes. We will wait for you. We will stand in recess for 5 minutes.

[Recess.]

Mr. BURTON. The committee will come to order.

Mr. Quinn has already been sworn.

So, Mr. Holder, would you please stand and raise your right hand?

[Witness sworn.]

Mr. BURTON. Mr. Holder, do you have an opening statement you would like to make?

Mr. HOLDER. Yes, I do, Mr. Chairman.

Mr. BURTON. All right. Proceed.

**STATEMENT OF ERIC HOLDER, FORMER DEPUTY ATTORNEY
GENERAL, U.S. DEPARTMENT OF JUSTICE**

Mr. HOLDER. Mr. Chairman, and Congressman Waxman, members of the committee, I'm happy, though not as happy as I would have been at 10 o'clock, to have the opportunity to come before you today to discuss the Justice Department's role in the pardon of Marc Rich.

Now, at the outset, I want to emphasize one thing: The career people in the Department worked very hard to process all of the pardon requests that came to them in the waning days and hours of the Clinton administration. They are not to be faulted in this matter. As for my own role, although I always acted consistent with my duties and responsibilities as Deputy Attorney General, in hindsight I wish I had done some things differently with regard to the Marc Rich matter. Specifically, I wish that I had ensured that the Department of Justice was more fully informed and involved in this pardon process.

But let me be very clear, let me be very clear about one important fact. Efforts to portray me as intimately involved or overly interested in this matter are simply at odds with the facts. In truth, because the Marc Rich case did not stand out as one that was particularly meritorious, and because there was a very large number of cases across my desk that similarly fit into this category, I never devoted a great deal of time to this matter, and it does not now stick in my memory. By contrast, I did spend time monitoring cases, especially in those last days, involving people who were requesting commutations of disproportionately long drug sentences.

I would like to briefly go through a chronology of the relevant events so as to explain the Department's involvement in this matter. I think my first contact with the Rich case in late 1999 when Jack Quinn, the former White House counsel, called me and asked

me to facilitate a meeting with the prosecutors in the Southern District of New York concerning the client of his named Marc Rich.

Mr. BURTON. Do you have copies of your statement, some members of the committee—do we have copies? Can you hand those out? I'm sorry to interrupt you. Proceed. Thank you.

Mr. HOLDER. This was not an unusual request. Over the years, other prominent members of the bar and former colleagues, Republicans and Democrats, had asked me to arrange similar meetings with other offices around the country. Mr. Rich's name was unfamiliar to me. I believe that Mr. Quinn explained that he wanted the U.S. Attorney's Office to drop charges that had been lodged against his client because of changes in the applicable law and Department policy.

I asked a senior career person on my staff to look into the matter, and ultimately the prosecutors in the U.S. Attorney's Office declined to meet with Mr. Quinn. Neither I nor anyone on my staff ever pressed the prosecutors to have a meeting.

We simply deferred to them because it was their case. In candor, if I were making the decision as the U.S. attorney, I probably would have held a meeting. In my view, the government—and the cause of justice—often gains from hearing about the flaws, real or imagined, cited by defense counsel in a criminal case. But my only goal was to ensure that the request for a meeting was fully considered.

Consequently, I gained only a passing familiarity with the underlying facts of the Rich case, and after the prosecutors declined to meet with Mr. Quinn I had no reason to delve further into this matter.

On November 21, 2000, members of my staff and the U.S. Marshals Service and I had a meeting with Mr. Quinn and a client of his. Though it was one of eight meetings I had on my schedule that day, I remember the meeting because Mr. Quinn's client had a good idea about using the Internet to help the Marshals Service dispose of properties that had come into its possession as a result of forfeiture actions.

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.

Mr. Quinn has also recently stated that he sent a note to me about the Rich case on January 10th. I never received that note. The correct address of the Justice Department does not appear on the correspondence. The note ultimately surfaced on the desk of the pardon attorney on January 18th, less than 48 hours before the pardon was signed by the President.

On Friday, January 19th of this year, the last full day of the Clinton administration, when I was dealing with such issues as the death penalty, pressing personnel matters and, most importantly, security issues related to the next day's inauguration, I received a phone call from Mr. Quinn at about 6:30. He told me that I would

be getting a call from the White House shortly, and he asked me what my position would be on the pardon request for Mr. Rich.

I told him that although I had no strong opposition based on his recitation of the facts, law enforcement in New York would strongly oppose it. I didn't use exactly those words. Given Mr. Rich's fugitive status, it seemed clear to me that the prosecutors involved would never support the request. But I did not reflexively oppose it because I had previously supported a successful pardon request for a fugitive, Preston King, who, in the context of a selective service case, had been discriminated against in the 1950's because of the color of his skin.

Shortly after my conversation with Mr. Quinn, I received a phone call from the White House counsel, Beth Nolan, asking me my position. I'm not sure if it was Ms. Nolan or Mr. Quinn, I just really can't remember who brought to my attention that Prime Minister Barak had weighed in strongly on behalf of the pardon request, but this assertion really struck me.

With that significant piece of new information, I ultimately told Ms. Nolan that I was now "neutral, leaning toward favorable," if there were foreign policy benefits that would be reaped by granting the pardon.

Even after my conversation with Ms. Nolan on the evening of January 19th, I did not think that the pardon request was likely to be granted given Mr. Rich's fugitive status. I continued to believe this until I actually heard that his name had been placed on a list of pardons to be granted by the White House.

I was informed of this list around 11, perhaps midnight, on the night of the 19th. In retrospect, I now wished I placed as much focus on the Rich case as I did on other pardons involving people such as Derrick Curry, Dorothy Gaines and Kemba Smith, all of whom had received extraordinarily long drug sentences which, I strongly believe, were not commensurate with their conduct. Though I'm speculating somewhat, had I known of the reported meeting that night between the President and counsel for Mr. Rich, I might have become more active in this matter, even at that late date, sensing that there was a real possibility that the pardon request might be granted.

On the morning of January 22nd of this year, Mr. Quinn called me. I returned his call some 4 or 5 hours later. He asked me what steps needed to be taken to ensure that his newly pardoned client was not detained by international law enforcement authorities when he traveled. We talked about how we get detainees removed from computers and notify Interpol of the pardon, and about similar things of a technical nature. At no time did I congratulate Mr. Quinn about his efforts. If I said anything to him about his having done a good job, it was merely a polite acknowledgment of the obvious, that he had been surprisingly successful in obtaining a pardon for this particular client.

Now, as you can see from these facts, attempts to make the Justice Department, or me, the fall guys in this matter are rather transparent and simply not consistent with the facts.

I, and others at the Justice Department, had nothing to gain or to lose by the decision in this matter; we had no professional, personal or financial relationship with Mr. Rich or anyone connected

to him and, to the best of my knowledge, none of us ever saw the Rich pardon application. Indeed, it is now clear, and this is admittedly hindsight that we at the Justice Department, and more importantly, former President Clinton, the American public, and the cause of justice, would have been better served if the case had been handled through the normal channels.

Now, I have now ended a 25-year public service career. All that I have from that time is the good work that I hope I have done, its impact on people and, I hope, a reputation for integrity. I have been angry, hurt, and even somewhat disillusioned by what has transpired over the past 2 weeks with regard to this pardon. But I've tried to keep foremost in my mind the meeting I had at my house with Derrick Curry and his father the week after his sentence was commuted by President Clinton.

I know that my attention to that and similar cases made a difference in the lives of truly deserving people. Of that, I am proud and I am grateful. Thank you, Mr. Chairman.

[The prepared statement of Mr. Holder follows:]

STATEMENT OF ERIC H. HOLDER, JR.
February 8, 2001

Mr. Chairman, Congressman Waxman, members of the Committee, I am happy to have the opportunity to come before you today and to discuss the Justice Department's role in the pardon of Marc Rich.

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Let me be very clear about one important fact -- efforts to portray me as intimately involved or overly interested in this matter are simply at odds with the facts. In truth, because the Marc Rich case did not stand out as one that was particularly meritorious, and because there were a very large number of cases that crossed my desk that similarly fit into this category, I never devoted a great deal of time to this matter and it does not now stick in my memory. By contrast, I did spend time monitoring cases, especially in those last days, involving people who were requesting commutations of disproportionately long drug sentences.

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meeting with the prosecutors in the Southern District of New York concerning a client of his named Marc Rich. This was not an unusual request. Over the years other prominent members of the bar and former colleagues, Republicans and Democrats, had asked me to arrange similar meetings with other offices around the country. Mr. Rich's name was unfamiliar to me. I believe that Mr. Quinn explained that he wanted the U.S. Attorney's office to drop charges that had been lodged against his client because of changes in the applicable law and Department policy. I asked a senior career person on my staff to look into the matter, and ultimately the prosecutors in the U.S. Attorney's office declined to meet with Mr. Quinn. Neither I nor anyone on my staff ever pressed the prosecutors to have the meeting. We simply deferred to them because it was their case. In candor, if I were making the decision as United States Attorney, I probably would have held the meeting. In my view the government -- and the cause of justice -- often gains from hearing about the flaws, real or imagined, cited by defense counsel in a criminal case. But my only goal was to ensure that the request for a meeting was fully considered. Consequently, I gained only a passing familiarity with the underlying facts of the Rich case, and after the prosecutors declined to meet with Mr. Quinn I had no reason to delve further into this matter.

On November 21, 2000, members of my staff and the United States Marshals Service and I had a meeting with Mr. Quinn. Though it was one of eight meetings I had on my schedule that day, I remember the meeting because Mr. Quinn's client had a good idea about using the Internet to help the Marshall's Service dispose of properties that had come into its possession as a result of forfeiture actions. Mr. Quinn has recently stated that 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

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On Friday, January 19th of this year, the last full day of the Clinton Administration, when I was dealing with such issues as the death penalty, pressing personnel matters and security issues related to the next day's inauguration, I received a phone call from Mr. Quinn at about 6:30 p.m. He told me that I would be getting a call from the White House shortly, and he asked me what my position would be on the pardon request for Mr. Rich. I told him that although I had no strong opposition based on his recitation of the facts, law enforcement in New York would strongly oppose it. Given Mr. Rich's fugitive status, it seemed clear to me that the prosecutors involved would never support the request. But I did not reflexively oppose it because I had previously supported a successful pardon request for a fugitive, Preston King, who, in the context of a selective service case, had been discriminated against in the 1950s because of the color of his skin.

Shortly after my conversation with Mr. Quinn, I received a phone call from the White House Counsel, Beth Nolan, asking me my position. I am not sure if it was Ms. Nolan or Mr. Quinn who brought to my attention that Prime Minister Barak had weighed in strongly on behalf of the pardon request, but this assertion really struck me. With that significant piece of new information I ultimately told Ms. Nolan that I was now "neutral, leaning towards favorable" if

there were foreign policy benefits that would be reaped by granting the pardon.

Even after my conversation with Ms. Nolan on the evening of January 19th, I did not think that the pardon request was likely to be granted given Mr. Rich's fugitive status. I continued to believe this until I actually heard that his name had been placed on a list of pardons to be granted by the White House. I was informed of this list around eleven o'clock, perhaps midnight, on the night of the 19th. In retrospect, I now wish that I had placed as much focus on the Rich case as I did on other pardons involving people such as Derrick Curry, Dorothy Gaines and Kemba Smith, all of whom had received extraordinarily long drug sentences which, I strongly believe, were not commensurate with their conduct. Though I am speculating somewhat, had I known of the reported meeting that night between the President and counsel for Mr. Rich, I might have become more active in this matter, even at that late date, sensing that there was a real possibility the pardon request might be granted.

On the morning of Monday, January 22nd of this year, Mr. Quinn called me. I returned his call some four or five hours later. He asked me what steps needed to be taken to ensure that his newly-pardoned client was not detained by international law enforcement authorities when he traveled. We talked about how he might get detainers removed from computers and notify Interpol of the pardon, and about similar things of a technical nature. At no time did I congratulate Mr. Quinn about his efforts. If I said anything to him about his having done a good job, it was merely a polite acknowledgment of the obvious -- that he had been surprisingly successful in obtaining a pardon for this particular client.

As you can see from these facts, attempts to make the Justice Department, or me, the "fall guys" in this matter are rather transparent and simply not consistent with the facts. I, and

others at the Justice Department, had nothing to gain or lose by the decision in this matter, we had no professional, personal, or financial relationship with Mr. Rich or anyone connected to him; and, to the best of my knowledge, none of us ever saw the Rich pardon application. Indeed, it is now clear, and this is admittedly hindsight, that we at the Justice Department -- and more importantly, former President Clinton, the American public, and the cause of justice -- would have been better served if this case had been handled through the normal channels.

I have now ended a twenty five year public service career. All that I have from that time is the good work I think I have done, its impact on people and, I hope, a reputation for integrity. I have been angry, hurt and even somewhat disillusioned by what has transpired over the past two weeks with regard to this pardon. But, I've tried to keep foremost in my mind the meeting I had at my house with Derrick Curry and his father the week after his sentence was commuted by President Clinton. I know that my attention to that and similar cases made a difference in the lives of truly deserving people. Of that I am proud and grateful.

Mr. BURTON. Thank you, Mr. Holder.

Did you review the entire file on Mr. Rich and his partner before you talked to Beth Nolan and those people at the White House?

Mr. HOLDER. No, I had nothing to review.

Mr. BURTON. Well, then how did you—I mean, you said in your opening statement that you would have no objection to the pardon. And I may not quote you exactly but correct me if I'm off a little bit, you said you would have no objection if it would help our foreign policy interests, or words to that effect?

Mr. HOLDER. What I said was that I was neutral but leaning toward. Neutral to me meant I had no opinion based on what I knew. I didn't have a basis to form an opinion.

Mr. BURTON. I understand. But you said you were neutral but were leaning toward it if it would help our foreign policy interests.

Mr. HOLDER. If there were a foreign policy interest.

Mr. BURTON. If there was a foreign policy interest. How could you say that if you didn't review the file and didn't know all the facts pertaining to the case?

Mr. HOLDER. Well, I think in saying I was neutral, which is consistent with what I told them before, which—

Mr. BURTON. You said you were leaning toward it as I recall.

Mr. HOLDER. Neutral but leaning toward. Neutral meaning I don't have a basis to form an opinion consistent with what I told him before. The statement I was making, you have to take this in context, conversations that I had with him before I said that 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.

Mr. BURTON. No. No. I understand that. But when you're talking about pardoning an individual or individuals who have dealt with all of the enemies of the United States when they're embargoed, almost all of them, if not all of them, people who were dealing with Iran, when we had hostages there in violation of the embargo, people that were indicted and fled the country, I just don't see how you can make any kind of a neutral or positive statement or semipositive statement saying that you would have—you were neutral, but leaning toward it if it would help our foreign policy interests.

It seems to me that it would have been logical to really take a look at the file and to call the people in New York who prosecuted the case or tried to prosecute the case before you made any kind of a comment to the Justice Department.

Mr. HOLDER. Well, I mean you assume, as we say in the law, facts not in evidence. I did not have in my mind all of the material that you have just described. The knowledge about the interaction between Mr. Rich and enemies of this Nation, Iran, Iraq, whatever, it was not information that I had. The call also comes in at 6:30 or something the night before the requests—the night before the Clinton administration ends. And as I tried to indicate in my statement, there were a host of other things that we were dealing with on that night.

This is not a matter that had my undivided attention I think at any point during the time it was being considered.

Mr. BURTON. Well, let me ask you a general question. Did you seek or talk to Mr. Quinn and ask for his support in any way to become the Attorney General if there was a Gore administration?

Mr. HOLDER. Sure, we had those kinds of conversations.

Mr. BURTON. So you talked to Mr. Quinn about asking possibly for his help to become the new Attorney General under a Gore administration?

Mr. HOLDER. We had conversations of that nature, yes.

Mr. BURTON. Do you recall, Mr. Quinn, talking to him about his possibly being the new Attorney General in the Gore administration?

Mr. QUINN. I only recall having a conversation once, and I am confident that it was not in connection with this or any other business I was doing. Eric Holder is somebody who I have known for a long time, worked with, have enormous regard for and who has been a friend.

Mr. BURTON. Well, I understand that. But you can see why that question would be asked under the circumstances——

Mr. QUINN. Sure.

Mr. BURTON [continuing]. Because of the possible connection between the Justice Department's nonopposition to the pardon and the possibility that Mr. Holder might be the next Attorney General.

When did this conversation take place? Do either one of you recall where or when or what was said?

Mr. HOLDER. I don't remember when the conversation occurred.

Mr. BURTON. Was it in close proximity to the time when Mr. Rich's pardon was being discussed?

Mr. QUINN. No, sir. My recollection is that conversation took place earlier in the fall before the election, before the decision to seek the pardon and certainly before I discussed with him in late November the fact that we were going to file a pardon application.

Mr. BURTON. OK. Mr. Holder, my——

Mr. QUINN. That's my recollection.

Mr. BURTON [continuing]. My counsel just said that you have indicated that there was more than one conversation with Mr. Quinn about becoming Attorney General; is that correct?

Mr. HOLDER. I don't know how many conversations. I don't remember—I don't remember. I remember one conversation that we had. I don't know—nothing other than that one sticks in my mind. I simply don't know.

Mr. BURTON. Do you remember when that was?

Mr. HOLDER. No.

Mr. BURTON. Was it near the time——

Mr. HOLDER. It was clearly before the election, but I don't know how far.

Mr. BURTON. Were there any conversations after the election, before the administration left office?

Mr. HOLDER. About becoming Attorney General? I didn't think President Bush was going to appoint me, no.

Mr. BURTON. I understand that. But there was some question about whether or not Mr. Bush was going to win the election all the way up until the——

Mr. HOLDER. I see what you mean.

Mr. BURTON. Were there any conversations in that timeframe?

Mr. HOLDER. I don't think so. I really don't know when that conversation occurred. I think it was before the election, but I'm not sure.

Mr. BURTON. Well, I think that's pretty important, because—

Mr. HOLDER. It's only important if you presume something here that I think is not in any way supported by anything that is—any fact—there's any factual basis for what I think you're implying here.

Mr. BURTON. No. No. I understand. I'm not implying anything. I'm asking questions.

Mr. HOLDER. I think you are.

Mr. BURTON. Well, Mr. Holder, you can think whatever you want, and I can think whatever I want, but the thing is you wanted something from Mr. Quinn. You wanted his support for Attorney General of the United States, and he wanted a pardon for Mr. Rich and his partner.

Now, you can understand why somebody would ask a question about that. It's called a quid pro quo. And we don't know that it took place; only you and Mr. Quinn know. The fact of the matter is, you knew Mr. Quinn had great influence with the President and probably the Vice President and you knew that they could help you become Attorney General. So I can—I mean, you must understand why I would ask that kind of a question.

Mr. HOLDER. That's fine, and you can ask the question. Let me just answer that question and make it very, very clear—

Mr. BURTON. Sure.

Mr. HOLDER [continuing]. 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.

Mr. BURTON. I understand. I want to say—I just want to make one more comment, I want to make sure we have this very clear. At 6:30, or approximately, the night before the pardon was granted when the President was leaving office, they called and you said that you were neutral, but you would lean in favor of it if it would help our foreign policy interest; is that correct?

Mr. HOLDER. If there were foreign policy benefits that we would reap from the granting of the pardon, right.

Mr. BURTON. OK. I think we established that we wondered why you were neutral, since you didn't have all the facts before you. That's what I was asking a while ago.

Mr. HOLDER. What I said was when—as I indicated, neutral meant that I did not have a basis to form an opinion. I didn't have a basis to say yes or no. I didn't have enough factual information in front of me.

Mr. BURTON. Why didn't you just say that? Why didn't you say I have no basis for this, Mr. President, or whoever it was, Beth Nolan, because I don't have the file in front of me, and I've been working on other things.

Mr. HOLDER. What I said before was in the context—you have to understand I had at least one other conversation with Ms. Nolan about this, and what I indicated to her was that I was neutral because I didn't have a basis to form an opinion. And when I used the term neutral on the 19th, it was consistent with the way I used the term neutral in other conversations.

Mr. BURTON. Thank you, Mr. Holder.

Did you have something briefly, Mr. Quinn, you would like to say?

Mr. QUINN. I just want to underscore the fact that as far as I'm concerned, the important conversation is the one you were just focused on on the night of January 19th, and there was no doubt in anybody's mind who was going to be President of the United States on January 20th—

Mr. BURTON. Sure.

Mr. QUINN [continuing]. So—

Mr. BURTON. Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman. I want to, first of all, say that I've had the occasion to meet with Mr. Holder on a couple of occasions and to observe his work, and he has certainly given very distinguished service to this country. He has a reputation of high integrity and honesty and extraordinary ability, and if anyone has any evidence of any wrongdoing on your part, they ought to come forward with it, because I don't believe it.

As I listened to both of you, I find it amazing, these things do happen. Sometimes people think things are being said and actions are going to be taken, but they fall through the cracks. And Mr. Quinn thought one thing was being said, and Mr. Holder thought another thing was being said. And you would think that Mr. Quinn might have been attaching a great deal of weight to something that was said that really wasn't on Mr. Holder's mind at the time.

Is that what I'm observing here from either of you, Mr. Quinn? You thought you were letting Mr. Holder know that you were going to be seeking a pardon and Mr. Holder didn't think he was so informed? Isn't that what the way—

Mr. QUINN. I didn't hear Mr. Holder say on November 21st I didn't say that. I think he said that he doesn't challenge my saying I had that conversation with him, but that if we did have it, he simply didn't attach great importance to it.

Mr. HOLDER. Yeah, it was for me, as I said, a rather unremarkable thing, assuming it was said, and I don't doubt what Mr. Quinn said. Given the fact that Mr. Rich was a fugitive and that it was only one of many things that I was dealing with, and also based on my assumption, I think this is the key, that anything that he said to the White House would ultimately work its way to the Justice Department.

So that it was something that I heard, I'm sure, probably didn't even remember the next day.

Mr. WAXMAN. So you thought the petition would get to the Justice Department and it never got to the Justice Department?

Mr. HOLDER. It never did, no.

Mr. WAXMAN. The Justice Department had no opportunity to comment?

Mr. HOLDER. That's correct.

Mr. WAXMAN. Mr. Quinn, did you know whether that was the case or not?

Mr. QUINN. Whether—

Mr. WAXMAN. Whether the Justice Department ever had an opportunity to comment on your petition filed on behalf of your client.

Mr. QUINN. I believe Mr. Holder did comment on it on the night—I'm sorry. It's my impression that he did comment on it.

Mr. WAXMAN. How did you get that impression?

Mr. QUINN. He has so testified here today that he commented on the pardon application.

Mr. WAXMAN. I see. But not in an official way.

Mr. QUINN. You mean the document itself?

Mr. WAXMAN. The document itself and the official process of having the people in the Justice Department look into the submissions that would go to the President, so he could look at all the facts of the matter.

Mr. QUINN. Again, I did not know after filing the petition with the White House whether a copy went to any other agencies of the government. The Los Angeles Times says that 47 of those pardons and commutations were handled at the White House and not through the Justice Department. I don't know the truth or untruth of that assertion.

But I did, and it remains my testimony on more than one occasion, urge the White House counsel to seek the views of Mr. Holder. I did so because it was the right and professional thing to do, and I was hopeful that he would in commenting not necessarily support the pardon, but confirm that we had reached an impasse with the Southern District.

So I believed that I had—I believed that I had informed Mr. Holder on a timely basis that we would be filing the petition. I believe that I had asked the White House counsel to be in touch with the Department of Justice, and I certainly hoped that would happen before the pardon was granted.

Mr. WAXMAN. Mr. Holder, you said something and I wanted a clarification. You had a conversation with Beth Nolan and you were asked about it and you said you were neutral, which meant in your mind that you hadn't looked at it. Is that—

Mr. HOLDER. I had a conversation with her before the conversation on the 19th. I'm not sure exactly when the conversation occurred, but I do remember—I have a memory of a meeting. We were going over to the White House pretty frequently in the last 6, 8 weeks of the administration.

It was the desire of the President to increase the number of pardons that were being processed by the Department, and the White House was not quite satisfied with the way in which the Department was moving these things along. So we went there periodically to talk about ways in which we might process more efficiently pardon requests.

During these meetings, occasionally Beth would ask me questions about particular people, and I kind of remember that in one of those meetings the name Mr. Rich might have come up. And my memory is that I said I was neutral. I didn't have a basis to form an opinion. That's how I used the term neutral.

Mr. WAXMAN. Well, it just strikes me there was a disconnect here, and that's amazing, because we're talking about a matter that was quite important.

Mr. HOLDER. One thing I would say about that, as I said in my commentary, and it's true of people who worked with me, this has obviously become a cause celebre. Everyone at this point knows the name of Marc Rich. I really wonder if we took a show of hands in this room, including people behind the desk here now, if we asked this question 4 months ago, how many of you know who Marc Rich is, whether there would be substantial numbers of people saying yes; I don't know.

But within the Deputy Attorney General's Office when we first heard about this matter back in, I guess the latter part of 1999, none of us were familiar with Mr. Rich.

Mr. WAXMAN. Yes. Well, I can see that. And I can see that's why the whole thing could end up falling through the cracks, as apparently it has. And it's unfortunate, because when the President made his decision, I would have liked to have him—and I'm sure everyone looking at it fairly would have liked the President—to have had the full input before he made his decision. Not just the petition on behalf of the person seeking pardon and the letters of support for those who want that. We would want the prosecutors, and others in the Justice Department particularly, to have their input, and it looks like the President didn't have that input for whatever reason.

Thank you.

Mr. BURTON. Mr. Barr.

Mr. BARR. I might suggest, Mr. Holder, that there are some people that if you would have asked them, if you would taken time to ask them 4 months ago or a month ago or 3 weeks ago about Marc Rich, they would have known darn well who Marc Rich was.

How about the prosecutors that prosecuted the case? Have you ever heard of Mary Jo White, the U.S. attorney for the Southern District who prosecuted the case? Mr. Auerbach, who is sitting right behind you; why don't you tell him to his face that if you would have called him up, you wouldn't have paid any attention to what he said, because that's the import of what you just said.

Just because the public at large might not have known who Mr. Rich was, that is the basis on which you made a decision, that, I think, has been a disgrace and possibly harmed our Nation's security. That may not be important to you.

Mr. HOLDER. That's not what I said, Congressman.

Mr. BARR. But did you pick up the phone and call the CIA? They knew who Marc Rich is. Did you pick up the phone and call NSA? They knew who Marc Rich is. I will tell you some other people who knew Marc Rich is, if you would have bothered to look into this case, the Ayatollah, his people, even though he's no longer around, Muammar Qadhafi, Saddam Hussein, the former apartheid Government of South Africa. These are all people and institutions and governments in terrorist regimes that Marc Rich dealt with against our laws and benefited from.

You sit there and you say that case was unremarkable, and you say that simply because the public might not have known about this case that you didn't have any obligation to look into it.

Who was the senior career person that you asked to look into the matter?

Mr. HOLDER. Mr. David Margolis.

Mr. BARR. And did he look into it?

Mr. HOLDER. He was looking into the matter only to try to facilitate the meeting that had been requested with the Office of the U.S. attorney in the Southern District of New York.

Mr. BARR. His name came up here also in exhibit 1, exhibit 1 is Mr. Quinn's notes of November 8th, 1999, apparently, his recollection—or his notes at the time of the conversation with you. Apparently what he is saying is you suggested to him that he send a letter to Mary Jo White, the U.S. attorney for the Southern District, copy you, which he did, and that you will call her and say you should do it.

Now, that is not consistent, I don't think, with your testimony today. Did you tell him that you would relay to Ms. White that she should do it, meet with him?

[Exhibit 1 follows:]

M. KILPAT FILES

JACK QUINN
[REDACTED]
WASHINGTON, D.C. [REDACTED]

Eric

11/8/99

C.O.S.

Dan Margolis

all third ridicules

Send letter to Mary Jo - not Larry
or me - cc EH + JR (Loritt)

once we get, we'll call her and

say you shd do it.

be reasonable + conciliatory

Prison

Youngstown, Texas

get long. reviewed as DC

in experience.



Mr. HOLDER. No, I don't remember that.

Mr. BARR. I didn't think so.

Mr. HOLDER. Excuse me?

Mr. BARR. I didn't think you had said that, his notes, it's one of a number of discrepancies.

Mr. HOLDER. No. I mean what we were trying to do, as I said, was try to facilitate the meeting. It wasn't a question—and as I indicated in my opening statement, we never pressured anybody to have the meeting; the call was for the Southern District for New York to make.

Mr. BARR. Right. Later on in your testimony at the bottom of page 3, you say shortly after a subsequent conversation with Mr. Quinn, you received a phone call from the White House counsel, Beth Nolan, asking for your position. And then you say further down in that same paragraph, I ultimately told Ms. Nolan that I was now neutral leaning toward favorable.

Was that all in the same conversation?

Mr. HOLDER. I'm not sure I understand the question.

Mr. BARR. OK. You say, shortly after my conversation with Mr. Quinn, I received a phone call from White House counsel, Beth Nolan.

Mr. HOLDER. Right.

Mr. BARR. In the same conversation with her, in other words, you received a call from her, is that when you told her that you were now neutral leaning toward favorable?

Mr. HOLDER. Right.

Mr. BARR. That was just one conversation?

Mr. HOLDER. Yes.

Mr. BARR. OK. So in 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 Mr. Margolis, 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, 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 pre-

sumption as their superior at the Department of Justice that you were going to stand by them and not take a neutral position?

Mr. HOLDER. Sure. I suppose that's the presumption. But as I indicated in my prepared remarks, there was a case involving a man who was a fugitive who had been frankly abused by the system, racial animus allowed to get into the system.

Mr. BARR. That's a red herring, the same as the other fellow was a red herring. We're talking about a case that was an extremely significant white collar crime case with very significant national security ramifications.

Did you make a recommendation to the President on the pardon of Mr. Rich?

Mr. HOLDER. The request—the——

Mr. BARR. Yes or no. Did you make a recommendation to the President, Mr. Holder, with regard to the pardon requests for Mr. Rich?

Mr. HOLDER. What I told the White House counsel was that I was neutral leaning toward positive——

Mr. BARR. Was that your recommendation to the President?

Mr. HOLDER. That is what I told the White House counsel.

Mr. BARR. Why did you tell the White House counsel?

Mr. HOLDER. She asked me what my opinion was.

Mr. BARR. OK. Was she asking that on behalf of the President?

Mr. HOLDER. I don't know what the process is there. I presume——

Mr. BARR. You don't know what the process is there?

Mr. HOLDER. I presume that is what it is. I don't know if she rose directly to the President, whether there's an intermediary, I don't know.

Mr. BARR. It's like—it's like keystone cops, but I don't think it is. I think the President knew exactly what he was doing. You didn't request information, so you could probably say I don't know.

In other words, have you ever heard of the concept of deliberate ignorance? Maybe not. Most prosecutors have.

Mr. HOLDER. I will stand here and have people say that I made a mistake, I will debate that.

Mr. BARR. You don't think——

Mr. HOLDER. You are now implying that I have done something that is essentially corrupt. And I will not accept that. That I will not accept. Not——

Mr. BARR. This is otherwise. You sit here and you tell us you don't know how the White House counsel works. You say, well, you told somebody to look into it. They didn't, but that's OK, it was an unremarkable case. Your own prosecutors have said this was a very significant case, and you say based on one conversation with the White House counsel that mentions a foreign leader's name, that you changed to leaning favorable.

Mr. HOLDER. I said if—what I said was if there were a foreign policy benefit that would come from the pardon—if, if, and I was leaving it to them to make the determination. I didn't have a basis to know that. I said if Barak is calling in and saying this is something significant, and if there is a basis to conclude that we might get a foreign policy benefit——

Mr. BARR. What about the basis of your prosecutors? That counts for nothing?

Mr. HOLDER. I said in connection with that, that I was neutral. I didn't have a basis to form an opinion one way or the other. As the Deputy Attorney General who has to ultimately make a recommendation to the White House in pardon matters, there is certainly a presumption, I suppose, that you presume regularity in the way conditions were obtained; but the default position, seems to me, should not be one way or the other. You should try as objectively as possible to look at all of the evidence, look at the applicable law, and then come up with a recommendation, a determination.

And what I've told—what I told the White House counsel in the meeting, the earlier conversation, I think, consistent with what I said on the 19th, was I did not have a basis to make a determination because I had not had access to the relevant documents, the relevant materials.

Mr. WAXMAN. Regular order.

Mr. BURTON. The gentleman's time is expired.

Mr. Kanjorski.

Mr. KANJORSKI. Mr. Holder, I have a great deal of respect for you over your tenure at Justice Department, and I don't find myself very often in agreement with Mr. Barr, but I do find some of these positions almost incredible from the standpoint when you first heard the name Rich from Mr. Quinn; that triggered no idea of who this was?

Mr. HOLDER. I did not know—

Mr. KANJORSKI. And you didn't assign somebody to find out. This was unusual. You never had been approached by Mr. Quinn regarding a pardon before, had you?

Mr. HOLDER. That's correct.

Mr. KANJORSKI. So this is the first time that Mr. Quinn was involved in a pardon situation with you?

Mr. QUINN. The contact was not about the pardon.

Mr. HOLDER. Well, no, the initial contact with Mr. Quinn—I'm sorry. The initial contact with Mr. Quinn was not about a pardon, the late 1999 contact was not about a pardon.

Mr. KANJORSKI. OK. It was to set up a meeting with the Federal attorney's office?

Mr. HOLDER. Right.

Mr. KANJORSKI. Before you would set up a meeting you would want to know who is the defendant, what are the circumstances; you wouldn't just tell some staff set up a meeting. I mean, it could have been for Adolf Hitler, you know.

Mr. HOLDER. Yeah, I mean I knew enough about the case so that I had an idea of what the meeting was to be about, but I did not delve into it in the degree that the people have testified on panel one. I didn't have that kind of familiarity with it.

Mr. KANJORSKI. Did you know whether he was a fugitive?

Mr. HOLDER. I'm sorry; what? Did I know what?

Mr. KANJORSKI. Did you know whether he was a fugitive or not?

Mr. HOLDER. Yes.

Mr. KANJORSKI. OK. That is a rare classification for someone seeking a pardon. I don't imagine there's a high percentage points of petitioners for fugitives, is there?

Mr. HOLDER. That's correct. But again—

Mr. KANJORSKI. You're a sensitive lawyer. That would ring a bell to you. Then knowing he's a fugitive, the request was made with the Southern District's office. And are you used to, as Deputy Attorney General, being refused a meeting? I mean, I'm really surprised that a Deputy Attorney General can call up one of these lonely Federal attorneys and they say hell no, and OK. I would imagine if I called up and somebody turned me down to a meeting, I would want to find out why they think they're running the Department instead of you.

Mr. HOLDER. I didn't say have the meeting. All I said was this is something that perhaps they ought to consider, and that's why I asked the person in my office to do that, interact with the people in the Southern District to see what they would do.

Mr. KANJORSKI. And they said they wouldn't consider it?

Mr. HOLDER. They didn't want to have a meeting.

Mr. KANJORSKI. Didn't that set off a bell? You didn't ask why a Federal attorney, reasonably asked by a prominent Washington attorney who had been counsel to the President, asked for a meeting and they refused to have a meeting? Wouldn't you want to know why, what's their objection?

Mr. HOLDER. I assumed, and I think it was conveyed to me, was that they didn't want to have a meeting because Mr. Rich was a fugitive.

Mr. KANJORSKI. OK. And then at that point, after you found out a week or two later or you received the letter in January that a petition for pardon was going to be made or was in the process of being made, there's a fugitive out there, your prosecutor won't even have a meeting with him. Didn't it strike you that the President should be informed of some of these circumstances or to know the other side of the case? Or did you make the assumption that Mr. Quinn in his petition, rather than being a straight advocate, would have given both sides of the pros and cons of the individual and had a full explanation, instead of the most positive advocate's position?

Mr. HOLDER. What I assumed was going to happen in late November 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.

Mr. KANJORSKI. Well, finally, the other points that it comes down to in the incredibility of it. I'm a politician. If somebody calls me up and says, do you support a candidate, my answer is not I'm neutral leaning toward, if I don't know anything about them. I don't have a reason—I'm not going to stamp any approval. I'm going to say I have no comment because I have no facts. But you didn't take that position, did you?

Mr. HOLDER. Yes, I did. What I said was that I was neutral on—when I had that initial conversation with Beth Nolan—was I was

neutral because I didn't have a basis to make a determination one way or the other. I didn't have enough factual material to make—to form a conclusion.

Mr. KANJORSKI. Well, at that point, didn't it trigger in your mind that this looks like it's moving at the White House and somebody from the Department of Justice—and that's primarily you as the administrator, to get these facts and make sure that the fact is properly presented to the President, pro and con instead of just pro?

Mr. HOLDER. I guess that's one of the keys. I never really thought this was a case that was going to move, using your term, given the fact that he was a fugitive. I didn't see how it was likely to have—a pardon request was likely to be successful, given the fact that Mr. Rich was a fugitive.

Mr. KANJORSKI. If a foreign leader called up and even though he was a fugitive, that doesn't matter and you would have been leaning toward it?

Mr. HOLDER. No. What I said was I'm neutral, but if Mr.—but if there is a foreign policy benefit that we might get from granting this pardon, if there is, that would make me think I would be leaning toward it. But, again, I didn't know whether or not that was true or not. I was putting—

Mr. KANJORSKI. I understand, Mr. Holder. It doesn't make sense to me, because that would be the Secretary of State that would be saying that or the National Security Advisor. What does the Attorney General have to do with foreign affairs?

Mr. HOLDER. That's why I said if, if there is a foreign policy, I don't know if there is or not.

Mr. KANJORSKI. That's right. It's not even in your bailiwick. It's not important to you. Why should that have an effect one way or the other in the administration of justice? That's for somebody else to weigh in on that proposition and saying for foreign policy reasons we should have some extra consideration here?

Mr. HOLDER. We make decisions within the Department on the basis of foreign policy at times with regard to—I know we certainly had dealt with regard to India—with Pakistan and the purchase of F-16s, there was a foreign policy consideration there that we took into account in forming our ultimate position.

Mr. KANJORSKI. At that point in time, did you know that they had worked with the enemies at time of stress; you knew none of the facts?

Mr. HOLDER. No.

Mr. KANJORSKI. And in spite of that, you said I'm neutral, but if a foreign leader calls, I will be leaning positive if it had foreign policy implications?

Mr. HOLDER. Well, I didn't say if a foreign leader calls. What I said was that I was neutral consistent with what I said before, but if there's a foreign policy benefit, if you all, in essence, determine there's a foreign policy that might accrue from this, then I would lean toward favorable.

Mr. KANJORSKI. I had posed to Mr. Quinn, and I like Mr. Quinn, too. He's a friend of mine, as you, through the years in the administration. Did the fact that he had a prior role at the White House, chief counsel to the President, did that in some way disarm you in

dealing with him on this particular case, that you imagined that he probably would have taken extra steps to make sure that it wasn't just an adversarial role but also a full disclosure role?

Mr. HOLDER. No. I mean, I assume that Mr. Quinn was acting as a lawyer here. I'm not—I don't think that his former status was something that necessarily—

Mr. KANJORSKI. You know what kind of a good lawyer he is. So you know he would put the petition in the best light of his client. Why didn't you think that somebody should be advocating the negative side of that proposition?

Somebody in Justice, somebody in the White House, somebody should have been scurrying around, recognizing one of the best lawyers in Washington is putting a petition in with singularly his side of his client's case, and it's very late in the period of time. And didn't it dawn on you that somebody better make sure that the con should be developed and given to the President?

Mr. HOLDER. Yes. In hindsight, seeing how this turned out, obviously some bells should have gone off, some lights should have gone on. But at the time, again, what stuck in my mind was this was a request of pardon for a person who was a fugitive. And the likelihood—it made this case very unlikely to happen, and it made one that did not make those bells go off for that reason.

It was—if I had known, obviously, that it was going to turn out this way, I mean I certainly would have done things differently. And that's why I said in my opening remarks, yeah, I wish there were things that I had done differently.

Mr. BURTON. The gentleman's time is expired. Mr. Shays.

Mr. SHAYS. Thank you, Mr. Holder. Welcome to the committee. What makes this story so remarkable is that you thought it was unremarkable that a person who was a chief advisor to the President of the United States' counsel would have requested a pardon for a fugitive who basically did business with our enemies.

So please once again try to explain to me why you don't think it was a remarkable request. That's a lot of chutzpah.

Mr. HOLDER. You're presuming again facts that we now know that I did not have in my head at the time. I didn't have before me all the information that the trial lawyers who ably presented in the first panel this morning. So, Mr. Shays.

Mr. BURTON. Mr. Shays, I think this bears—may I just ask one question? There was a phone call, according to your phone logs, from 10 to 11 a.m. that morning with Shirah Neiman. She's the deputy U.S. attorney in New York. You talked to her for almost an hour.

Was this any part of that conversation?

Mr. HOLDER. I don't remember a conversation between Shirah and I.

Mr. BURTON. Your phone log right here has it from January 19th from 10 a.m. to 11 a.m., Shirah Neiman, deputy U.S. attorney.

Mr. HOLDER. No. The call came in at 10, I returned the call at 11.

Mr. BURTON. Well, we would like to know, and I will yield back to my colleague, thank him for yielding, but I would like to know what that conversation was about, and we will probably talk to her as well, so I think it's important that you recall the facts.

Thank you, Mr. Shays.

Mr. SHAYS. Thank you, Mr. Chairman. What you call an unremarkable thing makes me want to ask you what it would have taken to be a remarkable thing. You told Jack Quinn you had no problem with the pardon; is that correct?

Mr. HOLDER. That I had no problem with the pardon? No, I don't remember saying that.

Mr. SHAYS. So you don't recall saying that. You told Jack Quinn you didn't need a copy of the application; is that correct?

Mr. HOLDER. That I didn't need a copy? No, I didn't say that.

Mr. SHAYS. You failed to inform the Southern District of New York or the pardon attorney about Quinn's effort to get a pardon even though you knew back in November; is that true?

Mr. HOLDER. That's true.

Mr. SHAYS. You told the White House you were neutral leaning toward the pardon, and the President took this as a sign as support for the pardon; is that correct?

Mr. HOLDER. I don't know how the President reacted to what I said, but I said what you said, with a little more.

Mr. SHAYS. You congratulated Jack Quinn in the wake of the pardon and offered him advice about handling the press about the Rich matter?

Mr. HOLDER. No, that's not correct.

Mr. SHAYS. None of those things are true?

Mr. HOLDER. No.

Mr. SHAYS. OK. What this hearing has illustrated to me is that we not only have a pardon problem, we have a revolving door problem, because you had an individual who signed an Executive order who adhered to an ethics commitment by executive branch appointees of Executive Order 12834 of January 20, 1993, which was interestingly revoked effective January 20, 2001, and that was signed on December 28th.

Mr. Quinn, did you contact White House officials about the pardon before December 28, 2000?

Mr. QUINN. Yes, sir.

Mr. SHAYS. Did you sign this Executive order like other employees?

Mr. QUINN. Yes.

Mr. SHAYS. OK. Why shouldn't I come to believe that Bill Clinton gave you a pardon? And the pardon is, you're not adhering to this Executive order?

Mr. QUINN. I'm not sure if you were in the room during our earlier discussion of this, but I believed that the Executive order does not cover the communications I had on this matter with the White House.

I specifically had a discussion with the White House counsel about whether it did prohibit them, and I brought them—

Mr. SHAYS. Why did you have that conversation if you didn't think it affected you?

Mr. QUINN. She asked me the first time I mentioned to her—or, perhaps, it was when I filed the petition, she asked if my making an appearance in this matter was permissible under the Executive order.

Mr. SHAYS. Why did she ask you that?

Mr. QUINN. I think it's an obvious question.

Mr. SHAYS. She thought it was not permissible.

Mr. QUINN. No, she had a question; she didn't have a conclusion. And when I brought to her attention the exception that I've discussed before the committee, she asked me no further questions about it. She acquiesced in my making the appearance.

Mr. SHAYS. Acquiesce is a good word.

Mr. QUINN. I think it's accurate. And I think she did not have the view that it was impermissible. I believe her conduct from that point forward indicates that she agreed with me that it was permissible.

Mr. SHAYS. The problem with that logic—

Mr. QUINN. And, in fact, it is permissible.

Mr. SHAYS. The problem with that logic is that you were hired specifically because of your White House connection, because you had defended the President, because you were a close associate of Al Gore's. You were the person to hire. If I went in there, I wouldn't have gotten any impact, obviously not. You had that.

That's the reason why we Republicans and Democrats alike rejoiced when the President signed that Executive order. I was pretty astounded that after you had these contacts, he basically repealed that.

Mr. QUINN. You may think the Executive order should have been drafted differently than it was.

Mr. SHAYS. Right.

Mr. QUINN. But it means what it means. You may even think that the current administration should have a similar Executive order.

Mr. SHAYS. I think Congress should draft one that is very clear, and that's one of the outcomes that I think—

Mr. QUINN. That's fine.

Mr. SHAYS. Because it's very clear to me that Mr. Holder is put in a very tenuous situation. You're coming to ask him and notifying him of something, and he's basically asking you for assistance in a place that you can be very helpful.

Mr. QUINN. Yes. There are a couple other—

Mr. SHAYS. It's a very kind of awkward kind of dialog to have.

Mr. QUINN. I need to address a couple of the points—

Mr. SHAYS. Sure.

Mr. QUINN [continuing]. That I think you are in, I can't remember, or on. First I, again, I was hired in the spring of 1999, not to go to the White House, but to work with main Justice and the Southern District of New York. Second—

Mr. SHAYS. I'm sorry; you weren't an employee of the White House? I'm missing what you're saying. You were not an employee of the White House?

Mr. QUINN. You made the assertion that I was hired, because I had worked in the White House, to go to the White House. That's what I thought you were saying.

Mr. SHAYS. And your contacts with the President. I mean, I think you would even acknowledge that.

Mr. QUINN. We're talking past each other. All I'm saying is that the initial purpose of hiring me was not to go to the White House but to do something else.

Second, in your exchange with Mr. Holder, you asked him, and I may have created this misimpression on your part, but I want to clear it up. Mr. Holder—it is not my testimony that Mr. Holder ever told me he did not have—need a copy of the petition.

Rather, what I was referring to is that in that conversation he and I had on November 21st, when I said to him that I hoped to or wanted to or intended to encourage the White House counsel to contact him, I asked him if he thought I should put that in writing to the White House counsel. And his response was, you don't need to put that in writing, just ask him to call me, I will take their call.

Mr. SHAYS. Just one last question, Mr. Quinn. Do you know how much Denise Rich contributed to the Clinton library?

Mr. QUINN. I do not, sir. And—I do not. And I certainly did not at the time I was working on this matter.

Mr. SHAYS. Thank you. Thank you, Mr. Chairman.

Mr. BURTON. The gentleman's time is expired. Ms. Norton.

Ms. NORTON. Thank you. Thank you, Mr. Chairman.

I have a single question. But before I ask it, I want to say, you recall that I was concerned as to how this hearing would be understood. I thought that the hearing would have in itself, an important effect on precedents, set the kind of precedent we need to have set, because it shows that Congress is willing to do oversight even on the matters it has no control over, which raise appearance problems or even worse.

But I am going to say I am very disappointed that apparently, the news report that came out as this hearing was going on, it was announced that all inspectors are going to introduce an amendment to the Constitution that would give Congress the power to overturn a Presidential pardon.

I mean that is the kind of overkill and overreaction that I just want to separate myself from, and I hope we will separate from this hearing. A President makes a mistake, and somebody wants to turn the Constitution, something we've lived with for 200 years, on its head. Well, I'm not willing to do that on the basis of one President, one pardon and one mistake.

I do want to get at the reasons for this mistake. I want to get at whether there was indeed more than a mistake and I want to get at the appropriate remedy.

Indeed, my question will ultimately go to remedy, because I certainly don't think this is the remedy, nor do I think it will happen. And I think it's the wrong message from this hearing, and I've not heard any of my colleagues say that that's what they were doing. Indeed, I heard the U.S. attorney say that they didn't think the pardon, constitutional pardon power should be tampered with.

Mr. Holder, I know you to be a cautious man. I know you to be a man of high integrity. As I have listened to the exchanges here, one can see that running through this entire episode are a whole set of appearance problems, and that appearance problems create substance problems even when they aren't there. It's very unfortunate that's the way life is.

I must say I part company with those who see your notion of neutral leaning toward, if there are foreign policy implications, as raising some kind of serious question. That is to say, if I put myself in your position, that is to say as a lawyer being asked the question

by another lawyer in a very substantial position, who says what do you think, and I haven't had the opportunity to look at the underlying matter, and so I don't want to say I don't know, and the way in which, at least I learned it in law school is, hey, you don't put yourself on the line. And one way not to put yourself on the line is to say, look, I'm neutral.

From one lawyer to another that means, look, I don't know enough underlying facts to render an opinion on which you should rely. Nor do I find it unusual to say if there are policy implications, if there are foreign policy benefits to the United States of America.

This country does all kinds of things it would not do but for foreign policy benefits to the United States of America. And I'm assuming that Israeli Prime Minister Barak would not intervene and open his mouth on the matter because he's been given some money or he's on the take.

And given the way in which our country is now dealing in the Middle East, I am not going to assume that if somebody says that there's something sinister, that there is. I might want to know what it is, but the whole implication is, oh, my God; but this does not strike me as oh, my God, it strikes me that we do all kinds of things.

We and our allies exchange prisoners and people have done terrible things when we wouldn't do it otherwise, because there are foreign policy benefits. We are all sophisticated enough to know that there probably isn't something sinister behind that.

Now, what I want to know is we're not going to get into this kind of overkill, this kind of headline grabbing, let's go get ourselves a new constitutional power. What are we going to do, because we clearly have to do something. We can't say, oh, well, it was a big mistake, there's nothing we can do about it except rely on the best judgment of the President.

I really think, for the most part, that is going to be sufficient, because any President in his right mind is going to read the transcript and see what this President went through.

But I know that you say, Mr. Holder, and I am quoting now from your testimony, indeed, "it is now clear and this is admittedly hindsight, that we in the Department and, more importantly, President Clinton, and the cause of justice, would have been better served if this case had been handled through the normal channels."

If there is any problem in this case, it is that in this far-flung government, things come at people in different ways and they don't always go through the normal channels.

Now, I want to know what the normal channels are understood to be now, and I want to know what you think the normal channels should be. How can we keep this from happening again? What should have happened; as precisely as you can tell me, what should have happened? And if we were trying to make some recommendation other than let's amend the Constitution of the United States so that we can second-guess the Presidential pardoning power, if we are to try to think of something more constructive, more likely to happen, what changes would we say should occur?

For example, does something need to be written down? Is it sufficiently written down within the Justice Department? Does something have to be written down so that the President of the United

States has something before him? How is it done now? What precisely, given what you know about the flaws that occurred in this process, would you do to make sure that those flaws in particular are remedied?

Mr. HOLDER. Well, there are regulations that now exist that govern the way in which the pardon attorney looks at matters. And that typically is what happens, a matter comes into the pardon attorney's office. The prosecutors are contacted. The FBI is contacted. A check is done to see if there are pending investigations.

Ms. NORTON. But it can go directly to the President, apparently.

Mr. HOLDER. Sure.

Ms. NORTON. And do you think that should be changed? Apparently it can come to the pardon attorney, or it can go directly to the President. That means that already you have the kinds of problems that occurred here.

Mr. HOLDER. Yes. I mean, the President has a constitutional prerogative, and it's hard to see how you can right something short of amending—

Ms. NORTON. We're not telling—we're saying this is an absolute power. You have to understand the nature of my question. I'm not for a constitutional amendment that would say this. I am saying, if you were advising President Bush, for example, would you say that you should not, indeed, to protect yourself, for example, receive pardons directly? Should you always—you can always do what you want to do, but should you always seek the adversarial advice from within the Department before you even look at it? I'm looking for a real remedy, Mr. Holder.

Mr. HOLDER. Yes. I mean, it seems to me it's possible that a President could enact an Executive order of some sort that would be binding on his administration. I'm not sure he could bind successor administrations, but certainly require any pardon filed with his White House counsel to be sent in the first instance or concurrently to the Justice Department's pardon attorney. You can do something along those lines. I don't know, again, if that would have an effect on a successor administration. I suspect not, given the constitutional problems.

Mr. BURTON. The gentlelady's time has expired. I know there's been a request for a break, and we will do that. If we could just hold off for about 5 minutes because Mr. LaTourette has to go to another meeting. If we can just have Mr. LaTourette get his 5 minutes, we will break for 5 minutes.

Mr. LaTourette.

Mr. LATOURETTE. And I thank you, Mr. Quinn. I saw your signal. But actually it's not another meeting. I want to catch a plane to go back to Ohio so I can watch you on Hardball tonight and all the other shows that you are on.

I want to talk a little bit about a time when you were counsel to the President, and there was an interview by Mr. Lehrer, the moderator for the Presidential debates, between your old boss and Mr. Lehrer. He was talking about Presidential pardons. It's exhibit No. 96. The President, Mr. Clinton, said, my position would be that their cases should be handled like others. There is a regular process for that. I have regular meetings on that, and I review those

cases after there is an evaluation done by the Justice Department. I think that's how it should be handled.

I assume that you were—the President's position was your position because you worked on them. You think that's the normal process, a good idea to have the Justice Department look at these things, right?

[Exhibit 96 follows:]

PRESIDENT CLINTON ON PARDONS

“[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.”



- The NewsHour with Jim Lehrer, September 23, 1996

Mr. QUINN. If I was ever aware of that at the time or before filing this pardon petition, I didn't recall it. When this came—this came to my attention after the pardon petition was filed. But to—the question I think underlying your point and Mrs. Holmes Norton's point, I would endorse what Mr. Holder said.

I do think now, in the light of the considerable controversy that this has created, controversy that candidly I didn't fully anticipate, that it would make a good deal of sense for sitting Presidents to consider at least imposing on themselves some—a different sort of process that would ensure the involvement of prosecutors and so on.

I would point out to you in this regard, though, that, in exercising this constitutional power, the President's not acting like a judge. The President's acting as the head of the executive branch; and in that regard is the head of—the head law enforcement official of the Nation.

Mr. LATOURETTE. Let me—I appreciate your response, but you will run out my 5 minutes. I really—he is acting like the king who would grant mercy under our English system, and that was the vestige that was left in our Constitution.

But, more importantly, I understand that you do it differently, Mr. Holder would do it differently, that we have some documents that seem to indicate that you and members of your firm actually wanted to keep this a secret. And let me go through those with you if I can.

And in particular, exhibit No. 79, there is a copy of an agenda that occurred, I believe, among the lawyers on November 21st, 2000. And appropriately enough there is a section entitled “prophylactic issues.” And under prophylactic issues, it says, A, a need for secrecy and a possible likelihood of potential leaks.

[Exhibit 79 follows:]



robert.fink@ [REDACTED] on 11/19/2000 03:18:55 PM

To: jquinn@ [REDACTED] gershon-kekst@ [REDACTED] Kathleen
Behan/Atty/DC/ArnoldAndPorter@ [REDACTED]
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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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.

Mr. LATOURETTE. There then is an exhibit No. 62, which is a series of e-mails between you and Robert Fink, who, I assume, is another lawyer for Mr. Rich, and Mr. Fink refers to an upcoming newspaper article that is going to deal with Marc Rich. And your response is, I think we have benefited from being under the press radar. Podesta—Podesta, I assume is John Podesta—the President's chief of staff, said as much.

[Exhibit 62 follows:]

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@heraldtribune.com]
 Sent: Tuesday, January 09, 2001 1:12 PM
 To: 'Fink, Robert - NY'; 'Gershon Kekst'
 Cc: Jack Quinn
 Subject: RE: Herald Tribune

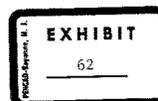
i think we've benefitted from being under the press radar. podesta said as much.

-----Original Message-----
 From: Fink, Robert - NY [mailto:robert.fink@heraldtribune.com]
 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

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PMR&W 00158

Mr. LATOURETTE. Then there is going to be a question in just a second, because then it gets down to actually the day before President Clinton leaves office, there is exhibit No. 69. It's another e-mail from Bob Fink to members of the Rich legal team on January 19th, this year. And it says that the SEC, I suppose that's the Securities and Exchange Commission, found out about the pardon request; and we agree that is not good and that maybe the SDNY knows, too, but we have no information on it.

[Exhibit 69 follows:]

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



PMR&W 00180

Mr. LATOURETTE. And that information in that e-mail, it's being reported that is your observation. And I assume that SDNY, and here is the day before President Clinton leaves office, and this pardon is going to be granted, refers to the U.S. Attorney's Office in the Southern District of New York.

And so that the implication, and you can correct me if I'm wrong, from that series of e-mails is that not only was this purposefully not sent to the Department of Justice so that you can get the second side that Mr. Weinberg and Mr. Auerbach were talking about, but that Mr. Podesta is telling you it's a good thing you're flying below the radar so that the press doesn't report about it.

And on the 19th, you guys are nervous that the Securities and Exchange Commission might jump in, not as strongly as they did in the Milken case apparently, but you're nervous that the prosecutors at the Southern District of New York may have found out about this request as late as the day before President Clinton leaves office. Is that true?

Mr. QUINN. I wouldn't say I was nervous about it. I will say to you that I am sure that, in contrast, for example, to the effort that was made on behalf of Mr. Milken, the fact that a pardon application was pending for Rich but was not the subject of press attention was beneficial.

Having said that, and no doubt if you asked me at the time or ask me now would I have preferred to have the Department of Justice's opinion on this coming from Main Justice or from the Southern District, it's easy. Yes, I wanted those views to be articulated by Main Justice.

Why? Because as I think my documents bear out and my submission here today bears out, my course of dealings with Main Justice with regard to Mr. Rich began in October 1999. And though I may have formed a wrong impression, and Mr. Holder may say I should not have formed the impressions I did, 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.

And that, sir, is why on more than one occasion I encouraged the White House counsel to seek the views of Mr. Holder. I again—had that taken place at an earlier point in time in this process, had it been done in a different way by the White House, had he had more time, he well might have reached out to the Southern District. But for my part, I urged the White House counsel to seek his views and the views of the Justice Department.

Mr. LATOURETTE. I understand that, with the indulgence of the Chair, but is 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. And I certainly, by the way, never, ever discouraged Mr. Holder or the White House counsel or anyone else from seeking the views of any agency of this government.

Mr. LATOURETTE. Thank you.

Mr. HOLDER. Mr. Chairman, if I could just have 30 seconds.

Mr. BURTON. Sure.

Mr. HOLDER. 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.

Mr. QUINN. I'm not trying to suggest otherwise.

Mr. HOLDER. I'm talking about the meeting, the fact of the meeting.

Mr. QUINN. That's accurate.

Mr. BURTON. OK. We'll now excuse Mr. LaTourette and let Mr. Quinn take a 5-minute break and anyone else that wants to. The rest of us as well.

[Recess.]

Mr. BURTON. The committee will reconvene. Is Mr. Cummings here? Mr. Cummings. Did he leave, or does he have questions? Does he have questions?

Mr. Cummings, you are recognized for 5 minutes.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Holder, it is interesting that you've been able to come through to this point with a clear record. You, too, Mr. Quinn. We have sat—I've sat on this committee for 5 years, and one of the things that has always concerned me about this committee is so often allegations have been made. And as a friend of mine once said, when you throw mud on a wall, although most of it may fall, some of it sticks. So I'm just going to ask a few questions to try to clear up some things so that hopefully none will stick.

Mr. Quinn, was there any kind of—and I—this is the first time I had heard this, this whole question of the quid pro quo. You never tried to create any quid pro quo, that is saying that you were going to help with—perhaps if Gore had won, help Mr. Holder with regard to the Attorney General position if he did something for you. Is that—I mean, is that an accurate statement?

Mr. QUINN. That is, sir. There was absolutely no connection between those conversations in either substance or time as far as I'm concerned.

Mr. CUMMINGS. And what about you, Mr. Holder?

Mr. HOLDER. Same thing. The—no, there's no truth to that.

Mr. CUMMINGS. Yeah. It just—see, we in this committee, what happens so often is we have this sensationalism; and the thing that

I'm so concerned about is, after all of the dust settles, people are left with impressions that are simply not true, and they become very unfair. So I just want to keep going.

Now, Mr. Holder, you said that you knew that Rich was a fugitive; is that right?

Mr. HOLDER. Yes.

Mr. CUMMINGS. And you took a neutral—you believed that there was just no way that he was going to be granted a pardon; is that right?

Mr. HOLDER. Yeah. And that's what I meant to say when I said the case was unremarkable. It was unremarkable in that it was just not a case that was going to get favorable treatment, like many other cases that were—that had been brought—that would be considered. That is how I meant the case to be unremarkable. It just wasn't going to happen.

Mr. CUMMINGS. When you spoke to Ms. Nolan, did you ever say, look, why are we even talking about this? This is a guy who is a fugitive. I mean, I just don't see how anything is going to happen, so why are we even talking about this, as opposed to saying, if it has foreign policy considerations? I'm just curious about that.

Mr. HOLDER. Well, because the conversations we had, first of all, were extremely short conversations. We never had a prolonged conversation about this matter. I mean, the conversations that I had with her about these were frequently just the mention of a name and then a comment, not anything that went into any great depth. So there wasn't occasion to have that kind of prolonged conversation.

Mr. CUMMINGS. Now, you said, Mr. Holder, in your written statement, it says at the end of paragraph 2, it says: Specifically I wished that I had ensured that the Department of Justice was more fully informed and involved in this pardon process.

Mr. HOLDER. Yeah.

Mr. CUMMINGS. What did you mean by that?

Mr. HOLDER. Well, I wished that, you know, I guess as Mr. Kanjorski had said before, I think probably before, that maybe the bells had rung, the lights had gone on, and I had either in—at the end of November or at some point said to the person on my staff who worked on pardon matters, you know, you ought to look into this Rich thing.

But you should understand that from what I thought was a fairly unremarkable comment from Mr. Quinn back in late November until sometime in January, this was not something that I was thinking about, not something that I was considering.

I wished there were a point at which I had those lights go on and said to the person on my staff who handles pardon things, let's look into the Rich thing, or see what's going on in the Rich thing, just to somehow get it into the system in a way that it never got.

Mr. CUMMINGS. One of the things that is very interesting, I handle for the Congressional Black Caucus numerous pardons. I was the chairman of the pardons committee. So I had an opportunity to review many, many requests for clemency and pardons and commutations. And the applications quite often were quite lengthy, and there is a lot involved. A lot of those we recommended and—we recommended a few and rejected a lot.

And I was just wondering, what would be the kinds of things that you would take into consideration? Let's say, if you had an opportunity to make a recommendation for or against I think you mentioned Mr. Carey, which was also, by the way, one of the Congressional Black Caucus's recommendations, I mean, what kind of things would you be looking for?

Mr. HOLDER. Well, I mean, I think that the kinds of things you would look for are people who have made contributions perhaps after they have served their sentence, who have turned their lives around. Obviously contrition is important; ways in which people have somehow contributed to society, somehow done something positive for the Nation. Those are the kinds of things I think you take into consideration and I would take into consideration in looking at a pardon request.

Mr. CUMMINGS. Now, is it my understanding that you don't recall receiving the documents from Mr. Quinn, I mean any kind of documents with regard to the details of this, the background of this case?

Mr. HOLDER. That's correct. I don't think Mr. Quinn said that he sent them to us. I was saying that we never got them from the White House. He sent them to the White House. We never received them from the White House.

Mr. CUMMINGS. Now, if you had received those documents, would you have probably reviewed them?

Mr. HOLDER. Oh, sure.

Mr. CUMMINGS. You personally?

Mr. HOLDER. I'm not sure personally, but they certainly would have gone to the pardon attorney and to a woman on my staff who looked at pardon matters. And what I would typically see after that would be a summary that they would prepare of the pardon request and what the pardon attorney generated as a result of his work in interacting with both the investigative agencies and the prosecutors.

Mr. CUMMINGS. I realize that you are—you weren't the President, but, I mean, looking at it from hindsight, reading this document, your statement that is—it appears from this that, if it were up to you, a pardon probably would not have been granted in this case; is that right?

Mr. HOLDER. Yeah.

Mr. CUMMINGS. If it were up to you.

Mr. HOLDER. Knowing everything that we know now, yeah, I think that's right. I'm not so sure that—well, yeah.

Mr. CUMMINGS. Let me put it like this: Would your recommendation—if you knew everything that you know in this case now then before the pardon was granted, would you have recommended to the President that he grant a pardon? That's a better way, I guess, of asking it.

Mr. HOLDER. No. I mean, knowing everything that I now know, I would not have recommended to the President that he grant the pardon.

Mr. CUMMINGS. Why not?

Mr. HOLDER. Well, aside from the fugitive status, which, as I said, I think you can somehow—in extraordinary circumstances can overcome, it was not—it could not overcome it. It was not overcome

in this case. And then just understanding the—the facts of the matter and the breadth of the wrong done by—by Mr. Rich and Mr. Green, things they have done with regard to their citizenship, things I did not know before. I mean, the combination of all of these things, it seems to make these matters not ones for which a pardon would be appropriate. And I would not have made that recommendation.

Mr. CUMMINGS. Now, Mr. Quinn, you had said that—you had said that you felt that Main Justice believed that the Southern District of New York was not making—necessarily being fair. I don't want to take words out of your mouth, OK? And at the end of the questioning just a moment ago, we were trying to get that clear, and I want to make sure we're cleared up.

Did anybody tell that you they felt that—anybody from Main Justice ever tell you that they felt that the Southern District attorneys in New York might be unfair with regard to your client, or was this just an impression that you kind of just got over a course of time?

Mr. QUINN. Yes, sir. It's an impression that I formed quite clearly in my mind based on the course of dealings that I had with Mr. Holder back in 1999. And, again, I don't want to overstate. Mr. Holder never said, the equities are on your side on the underlying indictment, or these guys should never have been indicted. But he quite clearly reported to me, as is reflected, by the way, in the attachments to my testimony here, that senior people of the Department of Justice thought it was in—the word I believed he used at the time was ridiculous that the Southern District wouldn't meet with us.

As we hopefully clarified at the end of the last round of questioning, he did use the phrase “equities on your side,” but in the context of, I believe, saying that the Southern District should have been willing to sit down with us and at least consider the arguments we were making, that these RICO charges couldn't be brought today under current DOJ policy; that under case law developments, the fraud charges were—were wanting; and most importantly that, on the basis of the tax analysis by Professors Ginsburg and what I know to be the conclusions of the U.S. Department of Energy, that, in fact, the tax case shouldn't stand.

Mr. CUMMINGS. Mr. Quinn, let me ask you this, because I'm running out of time. I'm just curious. Are you surprised by all of the controversy that has taken place subsequent to the President's decision; for example, us being here today?

Mr. QUINN. Yes, sir. My notes clearly reflect that I at least considered in the conversation I had with the President pointing out to him that this would be a controversial pardon, but I want to emphasize I had no idea that it would be as—that it would have resulted in the fanfare that it has.

Mr. CUMMINGS. Just one—Mr. Chairman, just one.

Mr. BURTON. Sure.

Mr. CUMMINGS. Why not?

Mr. QUINN. I guess, Congressman, I would have to say to you that when you do, as you know, work on something as a lawyer, come to believe in it, come to believe in the merits and the right-

eousness of your cause, you think others will see your point of view.

Now, here the President saw my point of view. I believe some others saw my point of view. An awful lot of people have not. But, look, you know, I win some, and I lose some. I won this one, and a lot of people ended up on the disagreeing end of that win. But I've lost plenty, too.

Mr. BURTON. The gentleman's time has expired.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. BURTON. Mrs. Davis, you have the time. Can I convince you to yield a little bit of it to me?

Mrs. JO ANN DAVIS OF VIRGINIA. Yes, Mr. Chairman.

Mr. BURTON. Or do you have questions?

Mrs. JO ANN DAVIS OF VIRGINIA. I have one question, and I would be happy to yield the balance, if that is OK.

Mr. BURTON. Proceed. No problem.

Mrs. JO ANN DAVIS OF VIRGINIA. First, Mr. Holder, I would like to say that I have heard very good things about your reputation, and I appreciate you being here today. But having said that, I believe I heard you say earlier that you knew Mr. Rich was a fugitive, and you thought it was remarkable that you were even discussing the pardon.

Given that, would it not have been prudent the night on January 19th, when you talked to Beth Nolan, I believe it was, rather than saying you were neutral but leaning favorable, would it not have been prudent to say, hey, we haven't seen the petition. The Justice Department cannot give a recommendation on this knowing he's a fugitive. Perhaps we should not give the pardon at this time.

Mr. HOLDER. Yeah. And I think that's what I was saying to her. As I said before, I had a conversation with her previously where I used the term "neutral," and said I was neutral because I had not had a chance to look at the materials, the relevant materials. So when I used the term "neutral" again on January 19th, what I was conveying to her, I hope, was that the position I had or the reason I was neutral was the same, but that given this added new thing, the foreign policy possibility, that would be something that might move me toward favorable.

Mrs. JO ANN DAVIS OF VIRGINIA. And you don't think that led her to believe, then, that the Justice Department would be in favor of it? Don't you think you should have said you had not spoken to the prosecuting attorneys?

Mr. HOLDER. Well, I think—I did—that's what I conveyed, I think, in that earlier meeting, as I said in that early conversation that I had with Ms. Nolan, when I said neutral because I don't have a basis to form an opinion.

Mrs. JO ANN DAVIS OF VIRGINIA. I'd yield the balance of my time back to Mr. Chairman.

Mr. BURTON. Thank you very much.

Mr. Holder, you said, I asked a senior career person on my staff to look into the matter, the Rich matter. And ultimately the prosecutors in the U.S. Attorney's Office declined to meet with Mr. Quinn. Neither I nor anyone on my staff ever pressed the prosecutors to have the meeting.

You know, I think it's been brought up earlier that it was strange that your subordinates in the Justice Department would not adhere to your wishes, or the people that you designated this task to, they would not adhere to your wishes by meeting with Mr. Quinn.

And then I read that Mr. Quinn says in this e-mail, I think we've benefited from being under the press radar. Podesta—who was working at the White House at the time, I guess, wasn't he?

Mr. HOLDER. Yes, sir.

Mr. BURTON. Podesta said as much. So Podesta was aware of this, one of the advisors to the President. And Podesta said, you know, it's kind of nice that you guys are keeping this under the radar. You didn't press the people in New York to meet with him, and that was to their benefit. And the reason it was to their benefit, it appears to me, is because if they didn't meet with him, this wouldn't come up on the radar screen. They wouldn't be raising cane about, you know, not meeting with him—they wouldn't be raising cane about the pardon of Mr. Rich because it wasn't on their radar screen. There was no meeting. The meeting was turned down, and you just let the thing go.

Mr. HOLDER. But at the time of the meeting, the pardon request had not been made. That was before the—Mr. Quinn had indicated, I guess, in late November—

Mr. BURTON. Nevertheless—

Mr. HOLDER [continuing]. Almost a year later.

Mr. BURTON. Nevertheless, once they start asking questions, and I think it was at the SEC, somebody got the word over there, and they opposed very much this possible pardon, and they wanted to keep this—and I think it's very clear from Mr. Quinn's e-mail that, I think we've benefited from being under the press radar. Podesta says as much.

So it looks like the White House and Mr. Quinn is in cahoots, saying, you know, this is under the radar screen, that's good, that maybe we can get this pardon done for Mr. Rich.

And then you aren't able to get a meeting for him with the people at the New York office of the Justice Department, the U.S. attorney's. And so it was kept under the radar screen.

Let me just proceed with another question.

Mr. HOLDER. Again, Mr. Chairman, the meeting was well before—

Mr. BURTON. I know.

Mr. HOLDER. Almost a year before.

Mr. BURTON. But was it about Mr. Rich?

Mr. HOLDER. Yeah, but it was not about the pardon.

Mr. BURTON. I know. But the point is this gentleman was very close to the President of the United States, very close. He was the chief counsel to the President. If the former chief counsel of the President goes and talks to two attorneys at the New York District Attorney's Office and asks about Marc Rich, then it's going to come up on their radar screen, hey, something is going on here.

So when you kept them—when the meeting wasn't held, then it's very clear to me, maybe not to anybody else, that this was kept below the radar screen.

Mr. HOLDER. But the people in the Southern District clearly knew that it was Mr. Rich who was seeking the meeting—I mean, Mr. Quinn on behalf of Mr. Rich.

Mr. BURTON. Yes, I understand. But there was no meeting held, so they probably thought the whole issue was being dropped.

Let me just ask this question. I asked you earlier about Shirah Neiman.

Mr. HOLDER. Shirah Nieman.

Mr. BURTON. You talked to her on the day before the pardon was issued. In fact, you talked to Beth Nolan at 6:30, I believe. And you talked to this lady, who is a deputy U.S. attorney in the Southern District of New York about 11 o'clock. Do you remember what you talked to her about?

Mr. HOLDER. No, I do not.

Mr. BURTON. Was it about Marc Rich?

Mr. HOLDER. I don't think so.

Mr. BURTON. You don't think so. Can you say categorically it wasn't about him?

Mr. HOLDER. Yes, I can say that we did not discuss Marc Rich.

Mr. BURTON. Did you discuss pardons at all?

Mr. HOLDER. I don't know. I don't know. There was an ongoing conversation that day, that night, that I found out about between people on my staff, the pardon attorney's office, and people in the Southern District about New York matters that were possibly being considered for pardons.

Mr. BURTON. What other pardons were pending that dealt with the Southern District of New York? Were there a lot of them?

Mr. HOLDER. I think they are called the New Market cases. I'm—involving some Hasidic Jewish folks. I think they're New Market. That's the name of it.

Mr. BURTON. We're aware of that pardon as well, which is kind of controversial. But, nevertheless, it's hard for me to believe or understand why they would talk about other cases that were pending for pardon and not discuss the Marc Rich case. And it's hard for me to believe that you would be talking to them about pardons and not mention the Marc Rich case since this was, you know—was a topic that was highly on—high on the agenda at that time.

I mean, Mr. Podesta at the White House knew about it. Mr. Podesta, a close advisor to the President, had talked to Quinn, said, hey, this is fortuitous that it's being kept under the radar screen. And it's hard for me to believe that the President didn't know about it at that time.

So, you know, I mean, for you not to discuss it with this lady when you called if you were talking about pardons just boggles my mind. But you say you didn't talk to her.

Mr. HOLDER. Well, she called—I was returning—she called me, as I think this is the way it came in.

Mr. BURTON. She called you at 10. You called her back at 11.

Mr. HOLDER. Yeah. So obviously we are discussing something that she wanted to raise. I don't remember what it was.

Mr. BURTON. We'll contact her and ask her then.

Mr. Quinn, do you want to respond?

Mr. QUINN. Mr. Chairman, in the interest of accuracy, just in the interest of making sure the record is correct, I did not myself talk to Podesta. I heard he had said that from a third party.

Mr. BURTON. Who was the third party?

Mr. QUINN. Mike—one of the other lawyers, Mike Green.

Mr. BURTON. But do you have any doubt that Podesta said that?

Mr. QUINN. No. I'm confident that the information is accurate, I just wanted to make sure—

Mr. BURTON. So Podesta said it was fortuitous or good that it was being kept under the radar screen.

Mr. QUINN. That was my understanding.

Mr. BURTON. Why would he say that?

Mr. QUINN. I don't know the answer to that.

Mr. BURTON. You don't know the answer to that?

Mr. QUINN. Well, I think—I assume he was saying, you know, particularly by contrast to the Milken application, you know—

Mr. BURTON. Yeah.

Mr. QUINN [continuing]. Milken is probably not going to get pardoned because all these people are out there saying it's a terrible idea. But I just wanted the record to be clear it was not a direct conversation.

Mr. BURTON. Sure. I understand. But a close advisor to the President indicated it was very fortuitous, very good for you that this was being kept under the radar screen.

Mr. QUINN. That's my understanding.

Mr. BURTON. Very interesting.

Mr. Waxman.

Mr. WAXMAN. Thank you.

Just so I can have some things clarified in my own mind, you left the White House when, Mr. Quinn?

Mr. QUINN. In February 1997.

Mr. WAXMAN. Then you went into private practice?

Mr. QUINN. Yes, sir.

Mr. WAXMAN. OK. So you weren't an advisor to the President at any time when you were dealing with this whole Rich thing? You were a private attorney?

Mr. QUINN. That's right.

Mr. WAXMAN. OK. Now, Mr. Holder, you were contacted about getting Mr. Quinn together with the people and prosecutors in New York. When was that?

Mr. HOLDER. That was in late 1999.

Mr. WAXMAN. So that was not about a pardon?

Mr. HOLDER. Right.

Mr. WAXMAN. That was to try to talk about disposing of this case?

Mr. HOLDER. Right.

Mr. WAXMAN. OK. And then that meeting for whatever reason didn't take place.

Mr. HOLDER. That's correct.

Mr. WAXMAN. OK. Now, Mr. Quinn told us that he thought, after trying to work this thing out, representing his client, that the only hope they had was a pardon. So he initiated a petition for pardon. That's a year later; isn't that right?

Mr. HOLDER. Approximately, yes.

Mr. WAXMAN. OK. And I think a lot of Members will get confused because they're really unrelated. I think the chairman thought maybe you didn't arrange a meeting with the people in New York because you didn't—one of you didn't—want them to be able to raise opposition to the pardon. Well, that couldn't have been on your mind at that point because there was no pardon pending.

Mr. HOLDER. No. In fact, I was trying to facilitate the meeting. I thought that there would be a purpose to having the meeting. So I was in favor of having the meeting occur.

Mr. WAXMAN. Now, all I know about Mr. Podesta's statement is what has been cited here today that someone heard that he said, good thing this was below the radar screen. Well, I recall at the end of last year the New York Times was reporting regularly about the pardon request for Michael Milken. And 1 day they said, he certainly is going to be pardoned. The next day it was in doubt. No one knew what was going to happen with that pardon until the end, and then he wasn't pardoned.

And here was a man who certainly showed contrition, did an enormous amount for charity, contributed to society, and showed rehabilitation. So a lot of people thought that there was a good case for him to be pardoned.

I would interpret, without knowing what was in Mr. Podesta's mind, that if you have something that is being mentioned that is potentially controversial in the press every day, that you're inviting a lot of opposition. Isn't that the way you would have interpreted it, Mr. Quinn?

Mr. QUINN. That's precisely how I interpret it.

Mr. WAXMAN. If you're trying to get something for your client, you don't want a lot of opposition to be drawn to your request. That's not saying you didn't want the President to have all the information, you just don't want a lot of people to start weighing in on it.

Mr. QUINN. That's correct. And I don't think it would be fair to read into Mr. Podesta's comments any purpose on his part to be helpful to this effort.

Mr. WAXMAN. You left the White House counsel's position in 1997. You talked to Mr. Holder in 1999 and then in the year 2000. That was within the 5-year period, although you have an interpretation where you don't feel you violated the ethics rules.

Let's say it hadn't been 5 years later, Mr. Holder. Would you have been any more influenced with Mr. Quinn coming to you had it been 5 years or 2 years or 3 years? You knew he was representing a private client.

Mr. HOLDER. No. I mean—no.

Mr. WAXMAN. These waiting periods, on the revolving door. I mean, you're an attorney. You were an attorney before you went to work at the White House. You were the White House counsel. Then you went back into private practice. I think—

Mr. QUINN. Right.

Mr. WAXMAN [continuing]. Anybody who dealt with you knew you were in private practice. They might like you because they know you. They might have thought well of you because you had worked at the White House, but those things would be there no matter what period of time we're talking about.

Mr. QUINN. That's correct. And with respect to the contacts with Mr. Holder, I should be clear to you that the 5-year rule doesn't apply to communications with officials outside the Executive Office of the President.

Mr. WAXMAN. OK. And then I guess the other thing that I thought was just peculiar, I don't have any explanation for it, but Mr. Holder said that Mr. Quinn has stated that he sent a note about the Rich case on January 10th, and you've never received that note. But the Justice Department got that note at the desk of the pardon attorney on January 18th. So it was mailed on the 10th. Mr. Quinn thought you were getting a note. You didn't have any idea of it. It lands on the pardon attorney's desk on the 18th, and there was very little time at that point to generate the information that you would have wanted the White House to have.

Mr. QUINN. Sir, it was messengered, not mailed.

Mr. WAXMAN. OK.

Mr. HOLDER. What happened is the executive secretary, the folks who handle correspondence within the Justice Department, got that document and referred it—seeing it was a pardon matter, or interpreting it that way, referred it to the pardoning attorney for response.

Mr. WAXMAN. So there was a disconnect in what the two of you thought was going to happen. You thought, Mr. Quinn, Mr. Holder was going to get it. Mr. Holder didn't get it because it went somewhere else. Is that a fair explanation?

Mr. QUINN. Right. And for my purposes, what I want the committee to understand is that I wanted Mr. Holder to get the letter. I wanted him to get it on the 10th. I sent it because I had been told that his views would be important, and so I wanted him to see the summary of the argument that I had made to the White House in the hope that he would be helpful to my effort. But I wanted that letter to arrive.

Mr. WAXMAN. Well, just in conclusion, as Members of Congress, we have to make decisions all the time. The President has to make decisions that are far weightier. In this case, he has the exclusive decision over a pardon. But if someone comes in to me and makes a case, they usually make their case as good as it possibly can be, and it's often quite convincing until I hear the other side, and then I have to weigh two competing arguments.

It appears from what we have, for whatever reason, and it's not a happy situation, that the President really didn't get all the information that he should have had in evaluating this request by Mr. Rich for a pardon. I don't think either of you disagree with that conclusion—is that safe to say?

Mr. HOLDER. I wouldn't disagree.

Mr. WAXMAN. If that's the case, then I think we can say there was a disconnect, a failure in the process. The President was not well served. And he made this decision out of ignorance to a great extent without getting all the information, which means he made a bad judgment. And we all wish he would have made a better judgment with all the facts.

But that, again, illustrates the point that I made in the very beginning of this hearing. If he made it on that basis, and it was a decision that we can now say, looking at all of the information, was

a wrong decision, it doesn't show any illegality. It doesn't show any corruption. It shows that the President was poorly served. This was a—no one doubts—a very smart man. I think if he had all the information, he would have been able to weigh it a little more carefully. He might have agreed with Mr. Quinn still on the indictment itself and whether the indictment was proper, but he might not have.

Mr. QUINN. I'm glad you added that, because I don't want to leave the impression that I have changed my view on this. I think he made the correct decision.

Mr. WAXMAN. Well, you know all the evidence now that everybody is bringing to us. And you're telling us that, in your view, not only because it's your client, it's your personal view as you look at all the evidence, you reach a different conclusion that he should be pardoned.

Mr. QUINN. Absolutely. But to that point, sir, the pardon only goes to the indictment. If Mr. Rich is guilty of any of these other things that have been addressed today by the committee, he's not free and clear of those charges. I mean, it's important, I think, to bear that in mind.

Mr. WAXMAN. That's a good point.

Mr. BURTON. We understand that.

Mr. WAXMAN. I don't think the public fully understood that.

Mr. BURTON. Mr. Platts, could I convince you to yield to me?

Mr. PLATTS. Thank you, Mr. Chairman. I appreciate Mr. Quinn and Mr. Holder making themselves available to the committee, but I yield my time back to you.

Mr. BURTON. Thank you, sir, very much.

First of all, I think it needs to be made very clear that the President was not as unaware of all these facts as we're being led to believe. He knew about Marc Rich. He knew Mr. Rich's wife, Denise Rich. He received correspondence and other things about Mr. Rich. He had access to all the security briefings. He knew of Mr. Rich's flight from the country. He knew he had given up his citizenship. He knew all of that. The President knew these things when he pardoned him, and he did not, according to what we've been told, he did not look into national security issues or CIA issues or FBI issues or investigations that may have taken place.

And you would think when a person who was an international figure, who was 1 of the 10—6 most wanted people in the world by the FBI, you would think that the President would at least check all of those things before he granted the pardon.

So, you know, I mean, to say the President was not well served may be correct, but to say that he wasn't aware of the gravity of the situation, I think, is in error. The President knew. He had to know that.

Now, let me just ask a couple of other questions here on another issue.

Mr. Quinn, you worked for Arnold and Porter.

Mr. QUINN. I did, sir.

Mr. BURTON. And you were getting a retainer of \$55,000 a month with \$330,000 up front—

Mr. QUINN. Correct.

Mr. BURTON [continuing]. As a retainer, right?

Mr. QUINN. Yes, sir.

Mr. BURTON. You left them, 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.

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.

Now, it is clear to me that, as we move forward in the future, I can bill him additional fees. It's clear to me that I'm going to have to spend some additional time on this. And as you've no doubt noticed, I've had to retain my own counsel, and I expect to be reimbursed for that. But I had no contingency fee arrangement with him. I had no success fee arrangement with him. He is not legally obligated to pay me anything.

Mr. BURTON. Do you have any kind of an 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. The only understanding I had was that I would be able to bill him additional—reasonable additional fees for additional services. I had no agreement that I'm going to get any lump sum of money down the road.

Mr. BURTON. You know, he's one of the wealthiest men, I guess, in the world. I mean, he's the No. 1 commodities trader in the world, as I understand it. And it just seems unusual that you would—that you would be representing him, getting him a pardon from major crimes, one of the six most wanted people in the world

by the FBI, you get this pardon for him, and you don't get anything for it, just because he's a good-looking guy, I guess.

Mr. QUINN. Congressman, I'm on the losing end of this discussion because—no matter which way I had done it, because if I had had the kind of commitment to receive some large lump sum down the road, I'm sure you'd be very critical of my having done that.

Mr. BURTON. Yes, probably. That's why I'm asking these questions.

Mr. QUINN. Right.

Mr. BURTON. But you're not getting any funds here or abroad or anyplace else—

Mr. QUINN. No, sir.

Mr. BURTON [continuing]. From Mr. Rich?

Mr. QUINN. None abroad. But, again, let me be clear—

Mr. BURTON. Yes.

Mr. QUINN [continuing]. I anticipate of being able to bill him additional fees for my services, and I anticipate receiving from him reimbursement for the legal expenses that I have to incur.

Mr. BURTON. And you're going to bill him on the regular or what's considered a reasonable lawyer's fee per hour.

Mr. QUINN. Yes, sir.

Mr. BURTON. But no lump sums, no money coming in from anyplace else?

Mr. QUINN. No, sir. I have no such commission.

Mr. BURTON. If I ever get in trouble, would you do that for me? I mean, I would really like you to do that for me for nothing. I mean, maybe I look half as good as Mr. Rich, I don't have his money, but I could sure use the help if I have legal problems if I could get you to do that for nothing. You're a heck of a guy.

Mr. QUINN. Well, I don't think it's right to say I'm doing it for nothing. I was finishing up at a matter for which I was paid.

Mr. BURTON. But the money is at the law firm over there. Are you still getting money for that? Are you still getting fees for that?

Mr. QUINN. No, but I did.

Mr. BURTON. I see. But when you left, you left—

Mr. QUINN. When I left, I left.

Mr. BURTON. Yeah.

Mr. QUINN. But, again, I didn't think that I needed to—there weren't that many additional hours involved. He had paid a generous fee at the time.

Mr. BURTON. My counsel said there was 60 to 100 hours that you put in. Is that correct?

Mr. QUINN. On—yeah, I think that was my estimate of how much additional time I have spent.

Mr. BURTON. Sixty to 100. May I ask what you charge an hour?

Mr. QUINN. Over a pretty long period of time.

Mr. BURTON. Yeah, but most attorneys around this town charge \$500 an hour or so. I mean, you probably charge more than that. But 100 hours, you know, at \$500 an hour is a pretty good chunk.

Mr. QUINN. Again, but I'm trying to be very precise here. It has always been clear to me that if I put in significant additional time on that matter, that I would be able to be compensated for it. But what I am telling you is that I had no specific arrangement with

him. I had no contingency fee. I had no success fee promise. I had no commitment from him to pay me a particular sum of money.

Mr. BURTON. Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

Mr. Holder, looking back on this case, is it clear in your mind now that Mr. Rich should not have been granted the pardon?

Mr. HOLDER. I think somebody asked me a question similar to that before. I wasn't exposed to everything. I can't know all that the President considered. The question that was put before was knowing all—

Mr. BARR. Well, in your opinion.

Mr. HOLDER. Knowing all that I know now, would I have made a recommendation against the pardon; and the answer to that was yes. Knowing everything that I know now, I would have recommended against it.

Mr. BARR. Was the pardon attorney ever made aware of this case before the pardon was granted?

Mr. HOLDER. They received on the 18th that letter from Mr. Quinn that was sent to me but got routed to them, the January 10th letter to me that enclosed the January 5th letter to the President from Mr. Quinn. So that would be the night before—the day before.

Mr. BARR. What did they do with that?

Mr. HOLDER. As I understand it, the pardon attorney prepared a draft of some sort, which I have not seen—draft of some sort indicating that Mr. Rich, for some reason, didn't fit the criteria for a person eligible for a pardon. But I've never seen the draft.

Mr. BARR. So it's your impression that they were opposed to the pardon?

Mr. HOLDER. As I understand—again, I've not seen the draft, but that is my understanding, that for technical reasons.

Mr. BARR. Mr. Chairman, have we subpoenaed that? Will we get that?

Mr. BURTON. Excuse me, I was reading something.

Mr. BARR. Apparently in response to the two letters that Mr. Quinn sent to Mr. Holder, but which Mr. Holder never got, they were mistakenly routed or routed to the pardon attorney.

Mr. BURTON. Uh-huh.

Mr. BARR. And Mr. Holder said it's his impression that they prepared a document in response to that, and the sense, it would seem to me, is that they had objections to the pardon. We don't know that because we haven't seen it. Can we get that document?

Mr. BURTON. Yes. We would like to request that. But if necessary, we will be glad to send a subpoena for it. Hopefully.

Mr. HOLDER. Again, I've heard about this document, and I'm sharing this with you. I don't know 100 percent that exists.

Mr. BURTON. If the gentleman would yield, that document would be at Justice right now; would it not?

Mr. HOLDER. I assume so. I have never seen it, but I assume it will be.

Mr. BURTON. We will instruct our staff—OK. We'll check into that, and, if necessary, we will have the staff contact Justice about that.

Mr. BARR. Did the Southern District of New York oppose the pardon?

Mr. HOLDER. You mean before the—they never weighed in on the pardon. They were never contacted.

Mr. BARR. OK. So they didn't even know that a pardon request or a petition had been submitted.

Mr. HOLDER. That's correct.

Mr. BARR. How about the FBI?

Mr. HOLDER. Did not weigh in.

Mr. BARR. NSA?

Mr. HOLDER. No.

Mr. BARR. CIA?

Mr. HOLDER. No.

Mr. BARR. State?

Mr. HOLDER. No. Again, there were no contacts between the Justice Department and these agencies.

Mr. BARR. I'm confused, Mr. Quinn. I thought you said you were really searching for—I think the word you used was a robust exchange of ideas and discussion about this case. Nothing about this seems to be robust.

Mr. QUINN. I used that, I believe, sir, in the context of saying that it was my understanding from the remarks Mr. Podesta made recently on a Nightline show that there had been such a discussion within the White House.

Mr. BARR. There certainly was nothing robust about any discussions anywhere in the Department of Justice.

Mr. QUINN. I think that's fair.

Mr. BARR. Was Mr. Clinton keenly interested in this pardon?

Mr. HOLDER. Mr.——

Mr. BARR. Did he take a special interest in it?

Mr. HOLDER. I'm sorry, Mr. Keen?

Mr. BARR. Mr. Quinn—Mr. Clinton, the former President.

Mr. HOLDER. I have never discussed the pardon with him.

Mr. BARR. I'm talking with Mr. Quinn.

Mr. HOLDER. Oh, I'm sorry.

Mr. BARR. Was the President robustly engaged in this?

Mr. QUINN. Well, again, when I spoke to him, I came away with the impression that he was familiar with the argument that was made in my filing. And I'm also of the impression from these comments that Mr. Podesta made and otherwise that there was a fair amount of discussion about this matter, at least in the White House.

Mr. BARR. You may be right about that.

Exhibit 63, please, this is an e-mail from Avner Azulay, who works for Marc Rich, to you, Mr. Quinn, on January 10. I believe item 2 indicates an e-mail that DR, Denise Rich, I presume, called from Aspen. Her friend B, as in Barr, but not Bob Barr, who was with her got a call today from POTUS, President of the United States, who said he was impressed by JQ's—I presume that's you—last letter, and that he wants to do it and is doing all possible to turn around the White House counsels. DR, Denise Rich, thinks he

sounded very positive, but that we have to keep praying on the activity and all this. There shall be no decision this weekend, and the other candidate, Milken, is not getting it.

One question I have for you, Mr. Quinn, is who is B?

[Exhibit 63 follows:]

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, January 10, 2001 11:20 AM
To: Jack Quinn
Subject: FW: update

REDACTED

-----Original Message-----

From: Avner Azulay [SMTP:azul@fich@redacted]
Sent: Wednesday, January 10, 2001 10:55 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 Milk is not getting it.

3.I shall meet her and her friend next week - she will provide more details.



Mr. QUINN. I believe it's a friend of Denise's, Beth Dozoretz.

Mr. BARR. Finance chair of the DNC?

Mr. QUINN. Former. Was. I think hasn't been for at least a year. That's my impression anyway.

Mr. BARR. Pardon?

Mr. QUINN. I don't believe she has been for the last year or so.

Mr. BARR. I think you'll find it's a lot more recent than that.

Mr. QUINN. OK. I don't know when. I know she's not at this point.

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.

Mr. QUINN [continuing]. That they grew up in the same town in Massachusetts up north.

Mr. BARR. Denise Rich is a major contributor to the DNC, isn't she?

Mr. QUINN. I now know that to be the case.

Mr. BARR. You knew then?

Mr. QUINN. No, I did not know the extent of her—

Mr. BARR. See, there you go. I know you may not know the extent, that's a weasel word that you used on TV also. You certainly knew that Denise Rich was a major contributor to the DNC.

Mr. QUINN. I assume she was a contributor.

Mr. BARR. You would be right.

Mr. Chairman.

Mr. BURTON. Yes.

The call from POTUS, the President, was not to Denise Rich, it was to the former chairman of the finance committee for the DNC. I wonder why he was calling her and talking about this part. I can understand him calling Denise Rich. Why did he call the former head of the DNC?

Mr. QUINN. But let me be clear, I don't know that he called her about this.

Mr. BURTON. Didn't it say in the memo? Maybe I misheard.

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.

Mr. BARR. The President is talking with the finance chair of the DNC about the Rich pardon and lamenting the fact that he's trying to have to turn around all of these recalcitrant White House counsels. Why would that be something that would be of interest to the finance chair of the DNC?

Mr. QUINN. Again——

Mr. BARR. Why would the President feel obligated to tell her about this?

Mr. QUINN. Again, my impression is that these two women were friends; that they were together at a time when the President called one of them.

Mr. BARR. If other people had been there, he would have discussed it with them, too?

Mr. BURTON. The gentleman's time is expired. My time is coming up. I'm going to yield it to you. I just have one comment, and then we will go to colleagues on that side, because we're going through the second round—finishing up with the second round.

The comments have been made time and again that the President was not well served, and he did not know all about this, and, yet, here he is talking to the former head of the DNC finance committee, talking about this, saying he's got to turn White House counsels around so everybody will be on board to pardon Mr. Rich.

This shows very clearly that the President was very engaged and had to know about all of these things. Now he chose not to look at the national security issues evidently, because as far as we know he didn't ask the CIA, the DIA, the FBI or the other intelligence agencies, NSA.

But he did know about this, he was engaged, so engaged that in a conversation with the former head of the DNC, when Ms. Rich was in attendance, that he went into it in some detail and said he was trying to turn White House counsels around.

You know, that shows, I think, very clearly that he was much more involved and aware of this than any of us have thought.

I will yield the balance of my time to you, Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

Exhibit 67 is another e-mail, Mr. Quinn. I think this one is from Bob Fink at the law firm of Arnold & Porter to you——

Mr. QUINN. Yes, sir.

Mr. BARR [continuing]. In which he states Mike Green called after speaking with Peter who spoke with Podesta. It seems that while the staff are not supportive, they are not in 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. Who is Peter? Is that Peter Kadzik?

[Exhibit 67 follows:]

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



PMR&W 00169

Mr. QUINN. Yes, sir.

Mr. BARR. Podesta's personal attorney. Is that who he is?

Mr. QUINN. That's my understanding, and he's a partner of Mr. Green's.

Mr. BARR. So he's now involved also, along with B. Podesta indicated that the White House staff were not supportive of the pardon requests.

If that's the case who other than the President at the White House was in favor of it? Was he the only one in support of it?

Mr. QUINN. I genuinely don't know how this broke down at the end of the day.

Mr. BARR. I think you're being too modest. I mean, you knew all of these people. You know all of these people. You were having a lot of conversations with them. Different names are coming up.

Mr. QUINN. Yes.

Mr. BARR. I'm sure you didn't go back to your client, and say, hey, I have no idea what is going on over there. I suspect you did. I'm just trying to get a feel. Was anybody at the White House supportive of this other than the President?

Mr. QUINN. I knew there was significant opposition, particularly in the White House Counsel's Office, and that was one reason why I made an effort to continue to sharpen the arguments and make them more compelling. I'm trying to be precise, and I have to tell you that, therefore, that come Friday when he makes this decision, I don't know who was in the room with him, and I don't know what advice he got from Beth Nolan or what he heard Beth say about her conversations with Mr. Holder.

Mr. BARR. Did you only have one conversation with Ms. Nolan, Mr. Holder about this?

Mr. HOLDER. No, I think I had two. I think I had one on the 19th and one sometime before that, but I'm not sure exactly when. I think I had a very brief conversation, both of them were very brief conversations, but I think I had one other one. I'm not sure exactly when.

Mr. BARR. Apparently, I don't want to put words in anybody's mouth, but apparently Ms. Nolan was, I don't know, was she in favor of this petition, Mr. Quinn? What was her position?

Mr. QUINN. Again, Congressman, I know that at some point she was not favorably disposed, but I do not know what her advice was at the time he made the decision.

Mr. BARR. Did she ever make her views known or her position made known to you, Mr. Holder?

Mr. HOLDER. No, she did not.

Mr. BARR. What did you all talk about?

Mr. HOLDER. We had very, very clipped conversations. As I indicated before, the conversations would start out with a process question of trying to get the Justice Department to be more efficient in the processing of pardons and then just kind of—

Mr. BARR. How can they be more efficient if the White House isn't telling you what is going on? In fairness to you all, didn't you say, hey, look if you want us all to be more efficient, why don't you tell us what is going on?

Mr. HOLDER. You have to understand, I don't know at that point that there are things that are not being presented to the Justice Department. I was talking about things that we had at the time.

Mr. BARR. You had to have known. How could you not know? You knew that the Southern District of New York, the people who prosecuted the case, were opposed it.

Mr. HOLDER. I was talking about other parties. There are—I thought you were referring to the other 40 or some at the Justice Department.

Mr. BARR. You said that in here. You said that law enforcement in New York was strongly opposed to it. You knew they were going to oppose it.

Mr. HOLDER. Yeah.

Mr. BARR. That's your testimony.

Mr. HOLDER. I'm not sure what the question is.

Mr. BARR. The question is, you knew that there was a lot of opposition to this. I don't want you to legitimately sit there and say you didn't know that.

Mr. HOLDER. That's right, and I tried to convey that to Ms. Nolan when I said that I was neutral, but that there were people in law enforcement were opposed to this.

Mr. BARR. That's conveying opposition.

Mr. BURTON. Would the gentleman yield?

Mr. BARR. I would hate to see how you would convey a case that you really were opposed do.

Mr. HOLDER. I think what I actually said was the Southern District would actually go nuts; that's what I think I said to her.

Mr. BURTON. Would the gentleman yield to me?

Mr. BARR. Certainly.

Mr. BURTON. Let me tell you, in your telephone calls you talked to Nolan seven times on the 19th the day before the pardon was granted. And you're saying that there was just a cursory conversation twice in those seven calls about Marc Rich, even though the President said he was trying to turn White House counsels around on this.

It seems to me Ms. Nolan, if she was opposed to it, would have been, you know, hollering to high heaven trying to convince the President not to do it, and he said he was trying to turn them around so they would all be on board, and you're saying you only talked to her twice very briefly.

Mr. HOLDER. Yes, but one conversation on the 19th, the other conversation I believe was sometime before that.

Mr. BURTON. But you only talked to her only one time out of those seven calls about Marc Rich on the 17th?

Mr. HOLDER. I think that's correct.

Mr. BURTON. You think that's correct or do you know?

Mr. HOLDER. I can't say now 100 percent, but I would be about 99 percent certain that we only had one conversation about Marc Rich.

Mr. BURTON. We will ask her that one question when we see her. The gentleman's time is expired.

Mr. Kanjorski.

Mr. KANJORSKI. Yes. Mr. Quinn, I'm not up on pardon law, but I think you've become an expert in the last couple of months.

Pardons obviously don't only apply to American citizens, they apply to foreign citizens; is that correct?

Mr. QUINN. Yes, sir.

Mr. KANJORSKI. By virtue of the fact that the President did issue a pardon, does that resolve what Mr. Rich's citizenship is by receiving and accepting that pardon from the President? Does that wave all of his contention that he hasn't been an American citizen for the last 18 years?

Mr. QUINN. No, sir. And, again, as I commented to Mr. Waxman earlier, the pardon only goes to the allegations within this indictment. If there are other matters that were not addressed by the indictment, whether it's trading with Libya or Cuba or anything like that, and if, and I'm emphasizing if, he were guilty of some crime, the pardon would not relieve him of responsibility for that.

Mr. KANJORSKI. Well, if it's reasonable to believe that he's one of the wealthiest men in the world, he's obviously a multi-billionaire, and his income must be extraordinary high, hundreds of millions of dollars a year, and if he were an American citizen for the last 18 months, I think one of the New York prosecutors suggested that there's an 18-year tax obligation.

Is there any assurances that were made to the President that he wouldn't upon the receipt of this pardon immediately reassert that no, I'm not a Swiss citizen or an Israeli citizen and therefore I have no tax obligation?

Mr. QUINN. No, sir, that did not come up. But again the pardon doesn't go to that. If it were determined that he violated a law, whether it were income tax law or trading with Cuba or—

Mr. KANJORSKI. I understand that. But the question is can he reassert that he owes no taxes because he's a foreign citizen and we've lost the possibility of collecting those 18 years of taxes?

Mr. QUINN. I have not discussed with him whether he would do that, but I suppose the answer is he could.

Mr. KANJORSKI. Would you help him if he wanted to do that?

Mr. QUINN. No, sir, I don't think I had be getting involved in that matter.

Mr. KANJORSKI. I appreciate that. Just to correct a couple of impressions. What I gathered, hearing your testimony earlier, that there isn't any question that the President was aware of the information in your petition, in your discussions with him, it was obvious that he had been briefed or had read your petition—

Mr. QUINN. Yes, sir.

Mr. KANJORSKI [continuing]. And knew the facts? That is not to say that he was aware of the other side of the case that could have been made but wasn't made or at least we have no testimony that it was made to the President; is that correct?

Mr. QUINN. That's correct.

Mr. KANJORSKI. So regardless of the fact that—of those being the facts, it's very possible that he was persuaded on just your petition, and that is what he was arguing with the White House counsel on, your petition alone, and without the benefit of the negative facts?

Mr. QUINN. I believe that's true, but if I may say so again, I have been under the impression, and Podesta said as much on the television, that there was significant debate about this. There were people who articulated reasons why this shouldn't happen.

Mr. KANJORSKI. But do you have knowledge—for instance, did the President know that this man was a fugitive, or was he getting the impression from your petition that he wasn't a fugitive?

Mr. QUINN. Congressman, I was not privy to those discussions, so I can't tell you what arguments were made inside the Counsel's Office of the White House. All I can tell you is that on more than one occasion, I urged the White House counsel to communicate with the Department of Justice and get his views.

Mr. KANJORSKI. I understand. But from all of the testimony of Mr. Holder and some of the other people, obviously they didn't take your advice and they didn't receive the information that would have indicated the negative side of the case.

So the question I have is, do you have any question as to whether or not the President knew he was a fugitive, or is it possible he accepted your interpretation of the argument and your petition and that he wasn't a fugitive?

Mr. QUINN. I don't know, Congressman, whether or not the issue came up over there. But going back to the premise you laid, it's not true that he didn't have advice from the Department of Justice.

Now, you may say it came too late or that it was too abbreviated or that it didn't involve everyone it should have involved—

Mr. KANJORSKI. Maybe I'm a little confused here. I thought I heard Mr. Holder say he really wasn't involved, and he had no real opinion. And he didn't know—was he dealing with somebody else at the Department of Justice other than Mr. Holder?

Mr. QUINN. No. But let me just point out that on Monday afterwards Mr. Holder told me that he had expressed a point of view, and he had described it accurately here today—or he described it the same way he did to me that Monday, neutral leaning toward.

Beth Nolan, when I said to her that I understood from Mr. Holder that had been his point of view, she said to me the pardon wouldn't have been granted without his input or without his expressing a point of view.

And, third, the former President said to me that it was his understanding at the time he granted it that he had advice from the Department of Justice.

Mr. KANJORSKI. So on the basis of that interpretation, what Mr. Holder was saying is that he is neutral but leaning in favor, if there's a foreign policy consideration was being interpreted by the staff at the White House and the President that, in fact, the Justice Department was on board, but as we've heard Mr. Holder's testimony, that was a false impression?

Mr. QUINN. Yeah, and—but, Congressman, all I can tell you is what Mr. Holder said to me, what Ms. Nolan said to me and what President Clinton said to me.

Now, in fact, what each of them said to me is consistent. Again, one may say I wish the President had additional input from the Department of Justice or input from Mr. Auerbach, but what I'm telling you is that President Clinton, White House Counsel Beth Nolan, and Mr. Holder all confirmed to me that he had made his point of view known.

Mr. KANJORSKI. I have no further questions, Mr. Chairman.

Mr. BURTON. Thank you.

Mr. Cummings.

Mr. CUMMINGS. Who had made their point of view known? I was just following up on what you just said.

Mr. QUINN. Right. On the Monday after the pardon was granted.

Mr. CUMMINGS. Just tell me who is. You just said—

Mr. QUINN. First, I want to be sure you have all three of these conversations. On the Monday following the pardon, Mr. Holder told me that he had said to the White House counsel he was neutral, leaning toward favorable on the pardon.

I had a subsequent conversation with the White House counsel, and I said to her that Mr. Holder had told me that. Her response to me, while not confirming his advice in so many words, was if Mr. Holder hadn't participated in the process or something to this effect, this pardon wouldn't have happened.

I had yet a further conversation with President Clinton in which the subject of my conversation with Mr. Holder came up, and I repeated what I understood him to have told the White House counsel, and he said to me something to the effect that was my understanding, too, or that's my recollection.

Mr. CUMMINGS. You know, I'm just sitting here and I've got to tell you it's very frustrating, because it seems as if we have a decision that was made by the President—and I don't care how I look at it. I can look at it upside down, right side up.

It sort of reminds me of my 6-year-old when she was 3, she would say, daddy, let's go play hide and go seek, and she would stand right in front of me and put her hand up to her face and say, daddy, you can't find me.

It just seems to me that there was enough information available. I mean, this is the United States of America. This is the most powerful government. We've got information flowing everywhere. We've got so much information we can't even keep up with it.

It seems to me that the President should have had the appropriate information to make this decision. Mr. Holder says he didn't—he never got a file. He says that it was a neutral—he said he was neutral, leaning toward, but that wasn't really based on too much information.

Then you've got Ms. Nolan, who now, correct me if I'm wrong, Mr. Quinn, says—I mean, does she have information? Did they have the file? Did she have all—

Mr. QUINN. Yes.

Mr. CUMMINGS. She had the information?

Mr. QUINN. Yes. She had what I filed, and she may have other materials too, but I don't know that.

Mr. CUMMINGS. So it just seems to me that the President—I don't care how I look at it, it's hard for me to believe that he was properly served. I always say that in order to make a proper decision, you've got to have proper information. And it just seems like a series of errors that happened in this case, and I still conclude that what the result was was very unfair.

It's clear that there is nothing too much we can do about this decision. The damage of the decision is far-reaching. I don't even think we even understand the damage.

In about an hour, I'm going to return to the inner city of Baltimore, and there will be a few people who can afford cable TV, who will have seen this hearing. And they're going to ask me about

\$330,000 retainers and \$55,000 a month. They're going to ask me about a guy who evaded taxes—I mean, allegedly, allegedly evaded taxes, when they can barely afford to go to H&R Block to even have theirs filled out.

They're going to talk about the fact that this is the Government of the United States and they're going to say, Mr. Cummings, how can that happen when the police are arresting us for simple things? I will tell you, some kind of way—and the reason why I say it's done so much damage is because if we are going to have justice, we must not only have justice, we must have the perception of justice, very important.

When American people lose their faith in this government, we've got a problem. I think it was Mr. Barr or somebody said a little bit earlier, we were talking about the elections down in Florida. I'm not trying to bring this up, but it's a point when people lose faith in the process of this government, we've got a problem.

And when President Bush, when we met with him the other day, he said he wanted to restore faith. And I hope somebody will give him some clips from this, because I hope that when it comes time for him to do his pardons that he will have the information that is appropriate so that he can make good decisions, because I just don't think that we realize how this affects people.

They tell me that there are people who—I've spoken a little earlier. The phones rang off the hook, Americans calling in when I spoke, saying he's right, and in some kind of way we have got to correct this system.

So I hope that—I hope we learn from this. I hope that—you know, I just hope in some kind of way people will realize that this is not the way that government is supposed to operate, because the little fellow who lives in Indiana in your district, Mr. Burton, and the little fellows and little ladies that live in my district, they don't even understand this. They don't even have a clue.

Thank you very much.

Mr. BURTON. Thank you, Mr. Cummings. I think you summed up the feelings of a lot of us very, very well.

We will now go to Mrs. Davis.

You're going to yield to Mr. Barr, and then as soon as Mr. Barr concludes his questioning, we will go to the counsel for his questions.

Mr. BARR. Thank you.

Mr. Quinn, going back to exhibit 63, it goes on, we first have the President calling B, Beth, who is the finance chair of the DNC. I just want to make sure we all understand the President was calling her and tells her he thinks basically that you're doing a bang-up job, but it's those persnickety White House counsels that are standing in the way, but to keep praying.

The last point that is made, and this is from Avner, who sent this e-mail. I shall meet her and her friend next week. She will provide more details.

What was the result of that meeting with the DNC finance chair?

Mr. QUINN. I don't know, sir. I don't know. I mean, there may be some other e-mail reporting something further.

Mr. BARR. If there were, wouldn't they be in the documents here?

Mr. QUINN. Yes, sir. And I just—

Mr. BARR. But they're not.

Mr. QUINN. Right. What I'm saying to you is I don't believe I heard anything further, any more details about this.

Mr. BARR. Did this have to do with further contributions? Do you know?

Mr. QUINN. The way I interpret this is that he had a phone conversation that he was going to see one or both of these people in the next week and would find out additional details about the phone conversation. That's what I understood it to mean. And to the best of my recollection, I never heard any further details about the phone conversation.

Mr. BARR. That might be something we want to check into also, Mr. Chairman.

Mr. BURTON. If the gentleman would yield real briefly.

Mr. BARR. Sure.

Mr. BURTON. At the top of this memo that Representative Barr is referring to right now, there's a big section that says redacted. Do you know what that was? I mean, because we would like to know what that is in there. This is a pretty relevant document.

Mr. QUINN. No, sir. That redaction, I think the legend down here indicates that it came from the Piper Marbury firm, and that redaction would have been done by them. I don't know the explanation of it.

Mr. BURTON. We will contact them and find out about that.

Mr. BARR. Thank you, Mr. Chairman.

Mr. QUINN, what is the HRC option?

Mr. QUINN. Are you referring to a particular document?

Mr. BARR. Do you know what that is?

Mr. QUINN. Is it in this document?

Mr. BARR. Yes. It's not in that particular one. It's in a number of documents. I'm asking if you know what the HRC option is.

Mr. QUINN. Yes. There was a discussion that went back and forth about whether or not an effort should be made either to solicit the support of Mrs. Clinton for the pardon application or at least inform her that it was pending, and there was a great deal of discussion about that.

There was also discussion from time to time about trying to enlist the support of others, such as Senator Schumer; you know, we would see reports about soliciting the support of King Juan Carlos of Spain. In the end, I'm confident that I never communicated with the First Lady about this, and I don't believe that anyone else did.

Mr. BURTON. Would the gentleman yield very briefly?

Mr. BARR. Exhibit 43 is—yes, Mr. Chairman.

Mr. BURTON. Let me just followup on that. The Senator indicated in a television interview that she was in a meeting where pardons were discussed. Were you in a meeting with her and the President when she may have discussed pardons?

Mr. QUINN. No, sir.

Mr. BURTON. She said she took no active role. I believe that's what she said. I don't want to quote her incorrectly, but she did indicate that she was in a meeting where pardons were discussed. And you're saying that you had no knowledge of that, were not in any of the meetings with her where that was discussed?

Mr. QUINN. That's correct.

Mr. BURTON. OK. Thank you.

Mr. BARR. Exhibit 43, which is another e-mail from Bob Fink to you and others, I think, and it talks about the HRC option. I guess you've cleared that up. That's Hillary Rodham Clinton option; is that what that is?

Mr. QUINN. Again, I'm sorry, I'm not trying to be difficult. I just don't see that phrase in here.

Mr. BARR. Exhibit 43, or you can look at 45 also. It says the HRC option. It appears in a number of e-mails. I'm sorry, 45.

[Exhibit 45 follows:]

Fink, Robert - NY

From: 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.

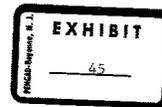
Frankly, I think we benefit from not having the existence of the petition known, and do not want to contact people who are unlikely to really make a difference but who could create press or other exposure. By this analysis, I would probably pass on having Michael contact Morganthau, but, in any event, 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



Mr. QUINN. I see it in 45.

Mr. BARR. It says—

Mr. QUINN. Again, these reflect the debate that I described earlier as to whether—

Mr. BARR. The robust one?

Mr. QUINN. No, sir. These reflect the debate that went on among lawyers working on this, about whether or not to reach out to Mrs. Clinton to seek her support for the party.

Mr. BARR. You all were considering all of the options?

Mr. QUINN. Precisely.

Mr. BARR. Including the political angle here trying to see what support you all could get from New York?

Mr. QUINN. That's right.

Mr. BARR. Reaching out to possibly Chuck Schumer. Did anybody ever stop and think about such things as national security, justice?

Mr. QUINN. It has been my testimony repeatedly here today that on more than one occasion I encouraged the White House counsel to seek the views of the Department of Justice.

Mr. BARR. You keep saying that. There's nothing on the record that backs you up on that, and you might have suggested to him—and I suspect you suggested to him—to call Mr. Holder—

Mr. QUINN. That's right.

Mr. BARR [continuing]. Because you had conversations with him and, apparently, something led you to believe that he would back you up.

Mr. QUINN. I wouldn't go that far, but I thought he was.

Mr. BARR. You certainly wouldn't encourage people to call him if you knew he was going to oppose it, I wouldn't think.

Mr. QUINN. Look, but I thought I should encourage them to call the Department of Justice, and more than that, I expected them to. I didn't think they would act on this pardon application without consulting with the Justice Department. I thought that would happen.

Mr. BARR. I believe you. I think what the President has done here is utterly unbelievable, and that's why some people might think that there's some other reason why he would do something so preposterous that it even surprised you. And it certainly surprises us.

Mr. QUINN. I think he did it on the basis of the legal arguments I put in front of him. Others may disagree with the legal arguments I put in front of him and may say that they wouldn't have decided it this way, but I have no basis to think that he was motivated by anything other than the legal arguments.

Mr. BARR. Why would he talk with the head of the DNC finance director; why wouldn't he have shared his legal theories with Mr. Holder?

Mr. QUINN. Look, on that conversation, again, I don't think that's a fair characterization of it. As I recall, hearing this, my impression was that he had a conversation with this person who happened to be with the ex-wife of Marc Rich at the time of the conversation.

Mr. BARR. But the President called this woman. It wasn't he called Denise Rich. He called this woman.

Mr. QUINN. But you're assuming that he called her about these pardons, and I don't understand that.

Mr. BARR. I'm not assuming it at all. All I know is, based on the e-mail, they talked about that. Now it may have been the purpose of his call; it may not. But they obviously talked about it.

Mr. QUINN. That's right. My impression is that she raised these questions in the course of a conversation with him.

Mr. BARR. So you are somewhat familiar with that conversation? Because that isn't what the e-mail says. You're adding to it.

Mr. QUINN. I'm just telling you the impression I came away from with it. I did not—in other words, when I read this e-mail, I did not have the impression that he was calling her to discuss these pardons, because I wouldn't have a reason to think he would do that that would be the purpose of placing that phone call.

Mr. BURTON. Let me take 5 minutes; and if you need time, I will be glad to yield to my colleague as well.

I want to read to you some e-mails. The first one is from—I don't know who it is, it's from Gershon Kekst, to Robert Fink. It says: Good point. Can Quinn tell us who is close enough to lean on Schumer? I'm 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 of the Loral Corporation in California that got all of those transfers to allow technology to go to China. Bernard Schwartz, the largest contributor to the DNC.

Did you talk to Bernard Schwartz about this?

Mr. QUINN. No, sir. In fact, I didn't followup on that e-mail.

Mr. BURTON. You didn't followup on that e-mail?

Mr. QUINN. In any way.

Mr. BURTON. But you did get that e-mail?

Mr. QUINN. I did get the e-mail, but I never reached out.

Mr. BURTON. Did you talk to Schumer?

Mr. QUINN. No, sir.

Mr. BURTON. You didn't talk to Schumer. Did you ask anybody to talk to Schumer for you?

Mr. QUINN. No.

Mr. BURTON. Did you ask anyone to talk to Schwartz for you?

Mr. QUINN. No.

Mr. BURTON. You didn't?

Mr. QUINN. No.

Mr. BURTON. This was just a dead issue then?

Mr. QUINN. It just wasn't something I was going to followup on.

Mr. BURTON. OK. Here's another one. Here's 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, Denise Rich, can play this role as well. What do you think? And what do you think of Pinky's suggestion. Who is Pinky?

Mr. QUINN. That's the other—that's Mr. Rich's partner, Pincus Green.

Mr. BURTON. Pincus Green, I see, OK.

Here's another one.

Mr. BARR. Excuse me, Mr. Chairman, can I ask what was Pinky's suggestion?

Mr. QUINN. I don't know what that refers to, and there was a lot of speculation and a lot of kicking around of ideas that were not part of the pardon application I made to the President.

Mr. BURTON. We understand that, Mr. Quinn, but I think this is one of the things that the American people would like to know about—

Mr. QUINN. Fair enough.

Mr. BURTON [continuing]. What goes on when you're trying to get a pardon where you're trying to use influence and money and everything else to get it done.

Mr. QUINN. As long as we're clear that was not followed through on. I never—

Mr. BURTON. These were people with whom you did business legally, weren't it, that were sending you these e-mails?

Mr. QUINN. Sure, but that doesn't mean it happened.

Mr. BURTON. I know you were talking about it. How do we know it didn't happen?

Mr. QUINN. Well—

Mr. BURTON. You're telling me it didn't happen.

Mr. QUINN. Yes, sir.

Mr. BURTON. They're suggesting that you do it?

Mr. QUINN. Right.

Mr. BURTON. But you didn't do it?

Mr. QUINN. That's right.

Mr. BURTON. But let's see what they said, OK?

Mr. QUINN. All right.

Mr. BURTON. I've been advised that HRC, Hillary Rodham Clinton, shall feel more at ease if she's joined by her elder Senator of New York who also represents the Jewish population. The private requests from DR shall not be sufficient. It seems that this shall be a prerequisite for her formal position, Hillary Rodham Clinton. All senators are meeting on January 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. Who is Abe?

Mr. QUINN. I think that's a reference to a man named Abe Foxman.

Mr. BURTON. Who is he?

Mr. QUINN. He is senior official of some American Jewish organization. I'm not sure which one.

Mr. BURTON. But I see in this other memo that we talked about, exhibit 45, a while ago, once again it says in this memo, thus I think we, but mostly you and Avner, should discuss the possibility of call from Denise and Abe maybe together; otherwise, I would have you to do what you are already doing and volunteer our help if there are any questions raised by the White House lawyers or by the SDNY, Southern District of New York, if it is contacted.

So Denise and Abe evidently were asked to work together to try to use their influence on this?

Mr. QUINN. But, Mr. Chairman, I do not believe that ever happened.

Mr. BURTON. All of these e-mails and all of these memos and all of this stuff suggesting people you can go to push the buttons to get the pardon for Mr. Rich and Mr. Green, none of that ever happened?

Mr. QUINN. I do not believe—

Mr. BURTON. No, no. You say you do not believe. You know, we've had the White House people—

Mr. QUINN. You have me under oath. I want to be careful—

Mr. BURTON. I understand. We've had you before—and I want to clarify one point. We've had a lot of people before the committee from the White House before, Mr. Ruff, God rest his soul, and others, and they always say I do not believe, I can't remember, I don't recall. All of those are very good things to do to make sure you don't step in a bear trap.

Mr. QUINN. Right.

Mr. BURTON. But you're not saying categorically that none of this happened.

Mr. QUINN. I'm saying that I believe it did not happen.

Mr. BURTON. You're not saying categorically it did not happen?

Mr. QUINN. Well, because, Mr. Chairman, I'm under oath, OK? I am telling you that it is my testimony that as far as I know this did not happen. I did not—

Mr. BURTON. As far as you know, it could not happen? You do not believe it could not happen?

Mr. QUINN. I did not participate in following up on any of this.

Mr. BURTON. You did not in any way participate?

Mr. QUINN. In following up on these suggestions, OK?

Mr. BURTON. On these suggestions?

Mr. QUINN. I do not believe that anyone approached Senator Schumer. I do not believe that anyone approached Senator Clinton. That's the best I can do, sir.

Mr. BURTON. But you do not believe. But it was suggested by your law partners to you and to others that these were avenues that should be pursued and that maybe if certain people got together that some would come along?

Mr. QUINN. Yes. There's no doubt those ideas were suggested, and I think that they died there. But that's—

Mr. BURTON. OK. I think that we will now go to the counsel for his questions, and then we will adjourn this.

I will tell you this, though, we will be looking at other documents and, if necessary, subpoenaing documents and other individuals; and if they take the fifth amendment or choose not to testify, we will get them immunity and we will force them to testify. Because there's so many questions being raised about possible influence—I don't want to put words in your mouth—possible influence, peddling and possible other things, that we just can't let this thing die.

And I understand that the new President wants to move ahead with his agenda, and I am for that. Tax cuts and all the things we're talking about, education reform and everything, I'm for that. And I wish him well, and we want to work with him to do that and move on from this.

But today additional questions have been raised that must be answered if we're going to get to the bottom of this, and so we will now yield to general counsel for his comments.

Mr. QUINN. May I take a 5-minute men's room break?

Mr. BURTON. You have to do something about your bladder.

Mr. QUINN. I keep drinking this water.

Mr. BURTON. All right. We will take a 5-minute break.

[Recess.]

Mr. BURTON. We will now resume. Mrs. Davis.

Mrs. JO ANN DAVIS OF VIRGINIA. Thank you, Mr. Chairman.

Referring to exhibit 65, an e-mail from Avner dated Friday, January 12th, to Jack Quinn. It says, following Marc Rich's meeting with the Prime Minister, the latter called the President of the United States this week, and the President of the United States said he is very much aware of the case, in quotes, that he is looking into it, and that he saw two fat books which were prepared by these people.

We've heard a lot of testimony here that the President didn't have all the information. What is the two fat books and who are these people?

[Exhibit 65 follows:]

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 5:16 PM
To: jquinn@ [REDACTED]; marc.rich@ [REDACTED]; robert.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 made no concrete promise.

Rabin has a telecon date with potus on Monday.
Regards-Avner



Mr. QUINN. I think the two volumes were the pardon applications, which was filed in two parts, and these people I think refers to me and the other lawyers who submitted the petition.

Mrs. JO ANN DAVIS OF VIRGINIA. So he was well aware of the pardon request and all of the information going on on the 12th. That's 8 days prior to his final day. So it wasn't like he just got the information on the 19th and had to give a quick decision.

Mr. QUINN. That's right. And, in fact, when I heard this, you know, I was encouraged that he was actually looking, because he clearly had the petition itself.

Mrs. JO ANN DAVIS OF VIRGINIA. Thank you, Mr. Chairman.

Mr. BURTON. We will now go to the counsel and try to wrap this up.

Mr. WILSON. I will try and go quickly. I've got a number of subjects to cover, so I will go quickly.

Mr. Quinn, the Chair asked you some questions about compensation. Mr. Quinn, the chairman asked you some questions about compensation earlier. 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.

Mr. WILSON. 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.

Mr. WILSON. 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.

Mr. WILSON. 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—

Mr. WILSON. 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.

Mr. WILSON. Fair enough.

Mr. Holder, could you please describe for us, just so we have this clear in the record, each of your contacts with the White House, anybody employed in the White House?

Mr. HOLDER. I think there would be two, the two conversations that I've described with Ms. Nolan.

Mr. WILSON. And those are the extent of your contacts on the Marc Rich matter, correct?

Mr. HOLDER. I believe that is right. Yes, I think so, the one on January 19th and one that happened sometime before that.

Mr. WILSON. And what was the duration of each contact as far as the Marc Rich matter was concerned?

Mr. HOLDER. I mean, it's hard to say, but I really think a couple of minutes, I mean, or perhaps even shorter than that. I mean, these are very clipped conversations, very abbreviated conversations.

Mr. WILSON. OK. Mr. Quinn, do you know whether or not former President Clinton has ever met Marc Rich?

Mr. QUINN. I have no reason to think he has. I don't believe he has.

Mr. WILSON. OK.

Mr. QUINN. But I don't know that firsthand. I don't believe he has.

Mr. WILSON. One thing we discussed earlier was the material that you provided to Mr. Holder. I'm directing this at Mr. Quinn. You sent him a cover letter and a two-page letter, and it was misdirected, and we covered that at some length earlier on. 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.

Mr. WILSON. 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.

Mr. WILSON. That's an interesting observation, because the pardon application you prepared is comprised of many tabs. The first tab is your legal reasoning as to why Mr. Rich merited a pardon. Had you prepared that in 1999?

Mr. QUINN. No, but I had prepared to Mr. Holder a summary of the flaws and the indictment in the case.

Mr. WILSON. 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.

Mr. WILSON. The concern that we feel, and you can help us answer the concern or disabuse us of our error, is that when you prepare—I worked in big law firms, and you prepare large binders of your material, and you're generally very proud of them. You work very late into the nights. You get everything just right. You make sure that every comma is appropriate and every period is there.

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 matter 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.

Mr. WILSON. 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.

Mr. WILSON. 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. And presumably the point of the pardon application is you've made it bigger and better and more thorough, and you've put all the letters in, and you've gotten everything just right.

And if you believed in your argument, it seems, and if you thought it would withstand the scrutiny of Southern District lawyers or Mr. Holder's staff or the pardon attorney, it'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.

Mr. WILSON. We've had these e-mails about secrecy and under the radar. Mr. Holder, do you think that—would you have liked to have had a copy of the pardon application?

Mr. HOLDER. Sure, and I thought that we would get one from the White House. I thought that's where—at a minimum, we would get it from them that—something having gone to them that they would refer that back to the Justice Department so that we could do the things we do when it comes to pardons.

Mr. WILSON. Just shift for a minute, Mr. Quinn. What happened when Otto Obermeier went to Switzerland in the early 1990's? Tell us about the negotiations with Mr. Rich.

Mr. QUINN. I wasn't on the case. I know that they had conversations, but I'm really not the person to tell you in detail about this.

Mr. WILSON. You told us about the intransigence of the Southern District of New York, how they weren't working with Mr. Rich.

Mr. HOLDER, you've been a U.S. attorney. How many—give us each time that you can remember when a U.S. attorney has flown

to a foreign country to negotiate with a fugitive. How many occasions are you aware of?

Mr. HOLDER. How many times did I do that?

Mr. WILSON. No, any in the history of the United States, for a broad question.

Mr. HOLDER. You just talked about Mr. Obermeier. Maybe that's what you're describing here. I'm not aware of any. I don't know of any.

Mr. WILSON. I'm not either. We've looked at this, and I'm not aware of any.

Mr. QUINN, you've explained at great length in your pardon application and here and television and other places about the intransigence of the Southern District of New York and how they won't—they weren't working with Mr. Rich. And they weren't trying—they weren't able to solve the problems that might have resolved this issue.

There was a U.S. attorney that flew to Switzerland and met with him, which is an extraordinary thing, and it sounds like you don't even know what happened.

Mr. QUINN. I know that meeting took place. I was not on the case at that time. My references to the intransigence of the Southern District was with respect to their unwillingness to sit down and meet with the tax professors and review the case and try to come to a resolution of it at any time in the last decade or so.

Mr. WILSON. But, surely, if Mr. Obermeier went over and was extraordinary reasonable, offered what reasonable lawyers would consider a prospect for a resolution to the matter, and Mr. Quinn or Mr. Rich behaved the way he was behaving when he was shipping steamer trunks out of the country, and by your own admission, your own letters, having his lawyers behave in relatively outrageous conduct, I mean, isn't there a time when the Southern District of New York might decide that things have gone along pretty far and, without any indicia of good faith, they can't negotiate any further? I'm just trying to figure out why you didn't find out what happened in that meeting, because it seems like you make representations without knowing facts.

Mr. QUINN. That's not the case. The meeting, contrary to what I think is your impression, was not, as far as I was concerned, an indication of any willingness on the part of the Southern District now to review developments in the law, including the change in DOJ policy about the use of RICO in tax cases or the McNally development in the Supreme Court.

Mr. WILSON. I thought you said you didn't know what happened in the meeting.

Mr. BURTON. Excuse me just a moment, if I might interrupt. Then what did he go over there for? I mean, if he wasn't over there to do some kind of negotiations with Mr. Rich, why do you think he flew over there? To go skiing or what?

Mr. QUINN. All I know is that it was an incomplete process, and it didn't reach a resolution of the matter.

Mr. BURTON. No, but the point is the Justice Department was trying to get this thing resolved; otherwise, why would the U.S. attorney fly all the way to Geneva or Switzerland?

Mr. QUINN. Mr. Obermeier did make that effort, but it didn't work. And in subsequent years, the Department refused to talk to Mr. Rich's attorneys about developments in the law, about the analysis of the tax professors, about the contrary position that the Department of Energy had reached.

Mr. WILSON. See, our problem here is you tell us that the process doesn't work because of the bad actions of prosecutors in the Southern District of New York, including your former partner, Mr. Litt, including Judge Gerald Lynch, including the two gentlemen that testified earlier today. You're telling us that these people engaged in—you haven't gone as far as saying bad faith—but they've acted badly. They have done things they shouldn't have done. They have overcharged. You have told us all these things. And yet you're unable to address whether they made an effort to recover. Perhaps when Mr. Obermeier went over, he said, we'll drop the RICO count. If you give us X, we'll do Y.

Mr. QUINN. But I'm also imparting knowledge to you that this impasse did have a good deal to do not just with the prosecutors, but with Mr. Rich and the lawyers who represented him initially. They were very much to blame for it as well. But, look, I was simply trying to get this thing to a resolution. I didn't come on to get him a pardon. I came on to try to persuade the Department of Justice, and later the Southern District of New York, to look at a case through a different set of glasses.

Mr. WILSON. And it sounds like you were unable to obtain a meeting, and you had to go to the next phase. That's—

Mr. QUINN. That's correct.

Mr. WILSON. One of the big factual issues, I don't want to go into this at great length, but the prosecutors this morning told us about how Mr. Rich set up duplicate bookkeeping. They set up fraudulent books to hide the transactions that were conducted back in the early 1980's. Tell us a little bit about the duplicate book arrangement and how that is OK in your eyes.

Mr. QUINN. Well, my understanding of these transactions is that, in fact, they were structured lawfully and that—

Mr. WILSON. No, I wanted to ask about the duplicate books, not the transactions so much, but the duplicate books. Have you ever seen the duplicate books?

Mr. QUINN. No, sir.

Mr. WILSON. Did you ever ask?

Mr. QUINN. No. But I—again, this is an allegation that has been made by the Southern District. I do not think that it undercuts the argument that these transactions were lawfully structured and that the—as the tax professors concluded—that there was, in fact, no further tax due and owing to the United States.

Mr. WILSON. But—

Mr. BURTON. If the gentleman will yield. Let me—they had a duplicate set of books. As I understand it, they had one set of books that was handled in a pretty formal way. And then they had a set of handwritten books where they put the money, and it was called the pot.

Mr. QUINN. I understood—

Mr. BURTON. And the handwritten books were the ones that showed very clearly that they were trying to hide money so they wouldn't have to pay taxes on them.

Mr. QUINN. Well—

Mr. BURTON. You haven't seen those books?

Mr. QUINN. No, sir. But what was going on here was that oil companies like ARCO and Rich—

Mr. WILSON. Let me—if I can interrupt.

Mr. BURTON. Sure.

Mr. WILSON. We don't want a recitation of your theory of the case. I'm just asking about the dummy books.

Mr. QUINN. I understand. I'm not trying to filibuster by reciting the case.

Mr. WILSON. You told us a moment ago there was an allegation about dummy books. But the prosecutors actually have the dummy books. They exist. I'm just asking you for the reason for the dummy books. I mean, when you have fraudulent transactions set out in meticulous detail, why do you do that? I mean, it's one thing if you say you don't understand the Department of Energy regulations. Your lawyers got it wrong. The law is bad. You had a bad day. All these things you can say. But when you go through a conspiracy with individuals to set up fraudulent bookkeeping techniques I am only asking you, why did they set up the dummy books?

Mr. QUINN. The bookkeeping they engaged in was, as I understand it, designed to facilitate the effort that they and ARCO were engaged in to find ways to sell domestic oil, the price of which was regulated, let's say, down to \$10 but that was worth \$30 on the world market. And what they were doing was setting up—was linking domestic and foreign transactions through a series of tiered trades, the result of which would be that for, to simplify it, two barrels of oil, they would end up getting a total of \$60. So they were trying to find ways around the price control regulations of the Carter years.

Mr. WILSON. Well, I appreciate the simplification, but where are the dummy books coming into the story? That's all I'm asking about. I know your story because I've read everything you've written. But I want to know about the dummy books.

Mr. QUINN. They well may have had records that kept track of these linked transactions.

Mr. WILSON. So you don't even know that they had these records?

Mr. QUINN. The prosecutors alleged that these were designed to facilitate a fraud. As I understand it from them, they were designed to keep track of money that was owed for linking one transaction to another. But let me repeat that the—even if that's evidence of their doing something in violation of those Energy Department regulations, it doesn't undermine the tax analysis of the professors.

Mr. WILSON. But apparently the tax professors didn't know about that. I mean, we've been through this already. The tax professors did an analysis based on the facts that were provided to them, stated very clearly that the lawyers for Mr. Rich have given us the facts, and did an analysis accordingly of the facts, apparently. But we won't be able to determine that.

Let me move to something else, the fugitivity issue. We now have—there are three sort of things going on with fugitivity. One, Mr. Quinn did not believe that Marc Rich was a fugitive. The counsel for former President Clinton is, in an e-mail, purported to have said—and this is an e-mail from Mr. Quinn to at least two people, with a courtesy copy to Marc Rich—she, that’s Beth Nolan, she responded that this is still a tough case, that the perception will nevertheless be that MR is some sense, and quotation marks are put around sense, a fugitive.

So Beth Nolan is not saying in this e-mail I think Marc Rich is a fugitive. She’s saying I think in some sense he’s a fugitive. You don’t think he’s a fugitive at all.

Mr. Holder, you were the No. 2 lawyer at the Department of Justice. Can you help us out here? What do you think? Was Marc Rich a fugitive?

Mr. HOLDER. Yeah, I think he’s a fugitive, and that is the reason why, as I’ve indicated in my testimony on a couple of occasions, I didn’t think the pardon request would be granted.

Mr. WILSON. And if you were grading a final exam right now, and Mr.—I don’t know if you heard the testimony earlier, but Mr. Quinn had presented to you his argument about fugitivity and how Marc Rich isn’t a fugitive, does it pass the laugh test?

Mr. HOLDER. I mean, I think it’s an interesting argument. It’s not one that I would agree with but—

Mr. WILSON. Well, I mean, what’s interesting about it?

Mr. HOLDER. It’s creative, perhaps. Let me say that.

Mr. WILSON. The Department of Justice had him on a list of the six most wanted international fugitives in the world. I’m not quite sure what’s interesting. It just seems deceptive.

Mr. HOLDER. Well, I don’t agree with his analysis. I would agree that he is—I would say that he is a fugitive.

Mr. WILSON. OK. Mr. Quinn, what’s the meaning of this, the quotation marks around the word sense for Ms. Nolan’s analysis of the fugitivity issue? Did she think Mr. Rich was a fugitive, or did she not think Mr. Rich was a fugitive?

Mr. QUINN. I think what she was saying is you may argue that, merely because he’s not breaking any law by failing to return, and that being the case, he’s not in some sense that you mean a fugitive. But the reality is going to be that, however you may argue around it, he’s going to be regarded as a fugitive.

I think—and if anything, you know, I would say to you that this at least shows that the White House was well aware that fugitivity was an issue. And it must have been discussed at some level there. Whether they asked Mr. Holder about it, I—

Mr. BURTON. If I might interrupt. This goes back to that phone call or e-mail to the—was it a phone call? I guess it was a phone call to Aspen, CO, where it was said that, you know, that Mr. Rich was being discussed by the President and his counsels at the White House, and that he was having a difficult time convincing them that there ought to be a pardon, and asked them to pray about it. Which is kind of interesting.

But the fact of the matter is, the President was engaged and was talking to his counsel, according to this memo and phone call, about the pardon. And I think that’s very important, because we’ve

heard time and again that he was not engaged and didn't have all the facts, but he was very definitely engaged all the way through this thing.

Mr. QUINN. I agree with you, Mr. Chairman. That's my impression as well.

Mr. BURTON. Even though he's considered a fugitive by Beth Nolan and others.

Mr. WILSON. I'll get back to that. But before I forget, the tax analysis that is so important to the petition you filed with the White House was prepared by Mr. Ginsburg and Mr. Wolfman. How much were they paid for their analysis?

Mr. QUINN. I don't know the answer to that because I wasn't involved in the case when they did it.

Mr. WILSON. Would you be able to find that out and submit that for the record, please?

Mr. QUINN. Yeah, I'm pretty sure I could.

Mr. WILSON. Thank you. Now, going back to the fugitivity, your argument was my favorite of all, because we started off with some examples before. And just try for the record—we're trying for the record to get a sense of this issue. If somebody hijacks an airplane, and they fly to Cuba with the intent of staying in Cuba, and they get there and they haven't yet been indicted, under your definition they are not fugitives, correct?

Mr. QUINN. Look, it would depend on whether the United States—as I was defining fugitive in terms of whether or not it was itself a violation of the law to fail to return to the United States. I mean, we can—

Mr. WILSON. If I could just interrupt you, the list of fugitives on the Department of Justice fugitive list, you know, they're on there for murder and armed robbery, and Mr. Rich's case, because he at the time was the largest tax cheat in American history. But, you know, I don't think any of them were charged with a crime of fugitivity; they were charged with their underlying crimes.

But I just want to ask you, you know, here you've got all the people watching. You're a Washington lawyer. You've got a guy. He gets on the airplane, he hijacks an airplane. He gets to Cuba. He gets indicted later for hijacking an airplane. And somebody comes up to you and says, is this man a fugitive? Would you say yes or no?

Mr. QUINN. I was using fugitive—

Mr. WILSON. Well—

Mr. QUINN. I want to tell you what I did here. I want to address the facts.

Mr. WILSON. But you're trying to convince the White House counsel and the President and other people about him being a fugitive.

Mr. QUINN. And they're as capable as you of rejecting my interpretation. I made an argument in that letter. You've seen it. You reject it. They may have rejected it. For all I know, they did.

Mr. WILSON. OK. Let me—because we're trying to create a record, I'll just ask again. The guy that hijacks the airplane and gets to Cuba, do you think he's a fugitive, or do you not think he's a fugitive?

Mr. QUINN. It would depend, under my interpretation of that word, whether or not it was—

Mr. WILSON. Which word? The word fugitive?

Mr. QUINN. Fugitivity, yes.

Mr. WILSON. No. Fugitive. We're using it as a noun.

Mr. QUINN. We can beat this as long as you want to. I'm going to repeat. I was using it in the sense of being—of it being a criminal conduct to refuse to return or submit oneself to the jurisdiction. I think that's clearly what I said in the letter. You may disagree with it. They may disagree with it.

Mr. WILSON. So, I mean, that does stand for the propositions that, in the future, if you commit a crime and you get out of the United States before you get indicted, you shouldn't be called a fugitive. You shouldn't be—have that word.

Mr. QUINN. That's how I was urging that they interpret the word.

Mr. WILSON. OK. And it sounds like the White House counsel signed off on that.

Mr. QUINN. I don't come to that—I don't think it's fair to come to that conclusion. You'd have to ask them.

Mr. WILSON. OK. The last thing I wanted to get to was the comment, the neutral but leaning toward comment from Mr. Holder. You had referred to a foreign policy benefit. And I won't sort of go back through exactly what you said there, but the question that we're left with as we sort of work through this is, is that all that matters?

And let me explain that. Should there be a balancing of other facts to determine whether the other facts are more important than the foreign policy objective? For example, if a mass murderer flew off somewhere, and wherever he went to, you know—the Sheinbein case is a good example. Somebody who murders somebody in the Washington area and flies to Israel, and we tried to extradite him. I mean, there's a foreign policy benefit if you just give a foreign government what they want. But aren't there other facts to be balanced?

Mr. HOLDER. Oh, yeah, absolutely. I didn't mean that was the only thing to be considered. And that's why I said leaning toward, that would be—that could be a factor that I would think people could consider and something that at least would make me move a little bit if there were a foreign policy benefit.

You know, I am opposed, for instance, to a pardon for Jonathan Pollard. I've been on record for that. And yet if—and this is, you know, something that had been discussed. If that had somehow, the granting of the pardon had somehow led to Middle East peace, something that the Israeli Government had requested, I mean that might be something taking into account a variety of things.

Mr. WILSON. That I understand, and that's fair enough. But if you're the person in the loop on this issue, you're talking to the White House counsel, and you explain I'm neutral but leaning toward, and you mention the foreign policy benefit, unless you give them the balancing facts, the countervailing facts, how are they going to figure it out for themselves?

I mean, unless you can come and say look, you know, if there's a foreign policy benefit, fine, but I would like to tell you the guy did this and this and this. And the prosecutors say this. And his

level of contrition is this. And if you don't give them the factors, who will?

Mr. HOLDER. But I didn't tell them, you know, if there is a foreign policy benefit that we reap from this, I think this pardon should be granted. I didn't say that. I did say neutral, which, as I said, is kind of a word, I don't if it's term of art necessarily—but certainly in the way that I used it with Beth Nolan, given the previous conversation that we had.

So I didn't mean to imply by that and I don't think a reading of that would support the notion that I meant to say if there's a foreign policy benefit, I support the pardon. I was simply trying to say that is something that kind of moves me in order to be something I think you ought to consider in making that determination.

Mr. WILSON. Why would you use the neutral—the term neutral if you were not in command of the facts?

Mr. HOLDER. But that's what I—I mean, when I told her—because what's my position? I'm either for the pardon, I'm against the pardon, or I'm in the middle. I used the term neutral as the middle, because what I told her in that earlier conversation was that I was neutral because I don't have a basis for a determination one way or another.

Mr. WILSON. But apparently you didn't. You then qualified that by saying, but leaning toward. And that's you. That's what you were doing, not what they would do if they thought there was a countervailing foreign policy benefit. It is—that's what the Deputy Attorney General, the No. 2 guy, the fellow whose office supervises the office of the pardon attorney. You're saying you're leaning toward something which does convey a very qualitative assessment of the situation. And the difficulty we face and the hard part over the next few weeks for us is to try and determine why, based on no facts, you would say leaning toward.

Mr. HOLDER. Well, as I said, simply to indicate that, given where I was before, that if there is a policy, foreign policy benefit, that might be something that could move you. Again, I think it's significant that I didn't say if it's a foreign policy benefit, do it. I'm just saying—or that I would recommend doing it. I'm just saying I would lean toward. It was something that I was trying to be careful with as I expressed it to her. Maybe I was inartful, but I was trying not to give her the impression that the mere existence of the foreign policy consideration would be sufficient for me to say this is something that ought to happen.

Mr. WILSON. But you didn't have a specific foreign policy benefit on the table at that time.

Mr. HOLDER. That's why I also said, if there is a foreign policy benefit that might be received.

Mr. WILSON. But, still, how can you put in the qualification leaning toward, if there is no benefit on the table? I mean, what would lead you to go that extra step to say something other than I don't know anything about this or I'm neutral or something that puts you in the middle? Why would you say anything unless there's some tangible benefit that you are thinking about? That's the hard part for us.

Mr. HOLDER. Yeah, I don't mean—we're talking past each other. I mean, if—when I say I'm neutral, but leaning toward, neutral

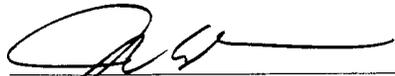
means I'm kind of where I was before, don't have the ability to make that determination. If there is a foreign policy benefit, then that kind of moves me. I think, you know, I—as I said, I tried to be careful in relaying that to her so that it would not be misinterpreted. Perhaps I didn't do as good a job with her or with you. It seems kind of clear to me, but I guess I haven't explained it as well as I might.

Mr. BURTON. Well, I want to thank the counsel and the staff on both sides for their hard work on this and all the Members for being so patient today. And I want to thank you both for your patience, especially you, Mr. Quinn, because you've been here, I think, since about 10 a.m. That's almost 9 hours. I think most of the Members of Congress, most of the members on the committee feel that this was the wrong thing to do and a miscarriage of justice. Nevertheless, it was done. We will try to find out more about this in the weeks to come.

But as for now, we want to thank you for being here. Thank you for your patience. And I think that's all we have. We'll stand adjourned.

[Whereupon, at 6:45 p.m., the committee was adjourned.]

[The prepared statement of Hon. Jo Ann Davis follows:]



Jo Ann Davis, Virginia's First District

Opening Remarks

***"The Controversial Pardon of International Fugitives
Marc Rich and Pincus Green "***

Committee on Government Reform

February 8, 2001

I would like to first take this opportunity to thank you, Mr. Chairman, for bringing this matter to the Committee on Government Reform. I am looking forward to serving you and the committee in this matter, and in future oversight efforts as we work to streamline government and make it more efficient and more effective.

As for the matter at hand, I am deeply committed to the constitutional powers granting the president authority to pardon. However, I am concerned with the seemingly reckless manner in which these recent pardons were issued. As already stated, serious questions have been raised about the motive, basis and timing of the Marc Rich pardon in particular.

The American public deserves an explanation as to why Mr. Rich, one of the Justice Department's six most wanted fugitives, received pardon consideration from our previous president. Congress has an obligation to find out if this pardon was appropriate to protect the integrity of the pardon powers.

America is waiting for answers in this matter and again I thank you, Mr. Chairman, for bringing this matter before us. I look forward to hearing from our guests today.

THE CONTROVERSIAL PARDON OF INTERNATIONAL FUGITIVE MARC RICH

THURSDAY, MARCH 1, 2001

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 12:10 p.m., in room 2154, Rayburn House Office Building, Hon. Dan Burton (chairman of the committee) presiding.

Present: Representatives Burton, Morella, Shays, Mica, Davis of Virginia, Souder, Scarborough, LaTourette, Barr, Ose, Davis of California, Platts, Weldon, Cannon, Putnam, Otter, Schrock, Waxman, Kanjorski, Sanders, Mink, Norton, Cummings, Kucinich, Davis of Illinois, Tierney, Clay and Jackson Lee.

Staff present: Kevin Binger, staff director; James C. Wilson, chief counsel; David A. Kass, deputy counsel and parliamentarian; Mark Corallo, director of communications; M. Scott Billingsley, John Callender, and James J. Schumann, counsels; S. Elizabeth Clay, Caroline Katzen, Nicole Petrosino, and Jen Klute, professional staff members; Jason Foster and Kimberly A. Reed, investigative counsels; Gil Macklin, senior investigator; Kristi Remington, senior counsel; Sarah Anderson and Scott Fagan, staff assistants; Robert A. Briggs, chief clerk; Robin Butler, office manager; Michael Canty and Toni Lightle, legislative assistants; Josie Duckett, deputy communications director; John Sare, deputy chief clerk; Danleigh Halfest, assistant to chief counsel; Corinne Zaccagnini, systems administrator; Phil Schiliro, minority staff director; Phil Barnett, minority chief counsel; Kristin Amerling, minority deputy chief counsel; Jon Bouker, Paul Weinberger, and Michael Yang, minority counsels; Christopher Lu, minority deputy chief investigative counsel; Michael Yeager, minority senior oversight counsel; Ellen Rayner, minority chief clerk; Earley Green, minority assistant clerk; and Andrew Su, minority research assistant.

Mr. BURTON. Good afternoon. A quorum being present, the Committee on Government Reform will come to order. I ask unanimous consent that all Members' and witnesses' written opening statements be included in the record, and without objection, so ordered.

I ask unanimous consent that all articles, exhibits and extraneous or tabular material referred to be included in the record, and without objection, so ordered.

I ask unanimous consent that a set of exhibits which was shared with the minority prior to the hearing be included in the record, and without objection, so ordered.

I also ask unanimous consent that questioning in the matter proceed under clause 2(j)(2) of House rule 11 and committee rule 14 in which the chairman and ranking minority member allocate time to the committee members as they deem appropriate for extended questioning, not to exceed 60 minutes, equally divided between the majority and minority, and without objection, so ordered.

I also ask unanimous consent that questioning in the matter under consideration proceed under clause 2(j)(2) of House rule 11 and committee rule 14 in which the chairman and ranking minority member allocate time to committee counsel as they deem appropriate for extended questioning, not to exceed 60 minutes, divided equally between the majority and minority, and without objection, so ordered.

Good morning. Today we're holding our second hearing regarding the President's last-minute pardons of Marc Rich and Pincus Green. Since our last meeting, there have been a number of new developments, but before I talk about that, let's go back and look at what we learned in our first hearing.

On February 8th, the first thing we learned was that the normal review process at the Justice Department was completely bypassed. Jack Quinn testified that he delivered the pardon application to the White House on December 11th, but it was never delivered to the Justice Department for review. We released an e-mail that showed that Mr. Rich's lawyers were doing their dead level best to keep the pardon application secret, to keep it from getting shot down.

We heard from Deputy Attorney General Holder, Eric Holder. Mr. Holder was told by Mr. Quinn in November that Marc Rich's pardon application would be submitted directly to the White House. Mr. Holder didn't tell the pardon attorney. He didn't tell the prosecutors in New York, who were responsible for the case and who worked on it.

On January 19th, Mr. Holder was called by the White House about the pardon. At this point it was clear that this pardon of an international fugitive was under serious consideration. Again, he didn't contact the pardon attorney, and he didn't contact the prosecutors in New York. In that January 19th phone call, White House Counsel Beth Nolan asked Mr. Holder what he thought about pardoning Mr. Rich. He told her he was neutral, leaning toward, but he admitted that he never reviewed the case. He never talked to prosecutors about it. The only information he had was former White House Counsel Jack Quinn. Now, how could he be neutral, leaning toward when the only information he had seen about the case came from Marc Rich's lawyer?

We released an e-mail that showed that President Clinton called Beth Dozoretz about the pardon. Beth Dozoretz is a former finance chairman of the Democrat National Committee. She also pledged to raise \$1 million for the Clinton library, and she's a close friend of Denise Rich, Marc Rich's ex-wife. Neither one has cooperated with this committee so far. According to that e-mail, the President wanted to approve the pardon, and he was doing all he could to turn around the White House counsels.

Why was the President on such a different wavelength from his staff? Why would the President call a fundraiser about a pardon,

but he wouldn't ask his own Justice Department for an opinion? Now there's new developments.

That was 3 weeks ago. A lot's happened since then. I said all along that I don't want to drag this investigation out, and I mean that. At the same time, new information is coming out so fast, it's almost impossible to keep up with it. I want to just mention a few important developments.

First, we have learned that Denise Rich gave \$450,000 to the Clinton library. That's on top of the \$1.2 million that she gave to the Democrat campaigns. We need to learn more about that.

Second, we learned that Beth Dozoretz pledged to raise \$1 million for the Clinton library.

Third, we learned that the President's brother-in-law Hugh Rodham got more than \$430,000 for helping two people get pardons. He received a \$200,000 contingency fee from Glenn Braswell, who was convicted of fraud. At the time of the pardon, Mr. Braswell was still under investigation by the Justice Department for tax evasion. He got another \$200,000 to help Carlos Vignali get a pardon. Carlos Vignali was convicted of shipping 800 pounds of cocaine from Los Angeles to Minneapolis. That's more than \$5 million worth of cocaine, and they were going to turn it into crack.

Fourth, we learned that the former First Lady's campaign treasury received \$4,000 to help two people who are trying to get pardons.

And fifth, we learned that the President's brother Roger Clinton asked for pardons for a number of people. We need to find out if any money was promised to Roger Clinton, and we need to find out exactly what he did on behalf of these people.

We've learned more important detail in just the last 2 days. Today the New York Times reported that the First Lady's older brother Tony Rodham helped get a pardon for someone who was paying him as consultant. The Justice Department opposed his pardon, but it was approved anyway.

We received a new document that shows that prosecutors, the prosecutors in the Marc Rich case, offered to drop the RICO charge against Mr. Rich if he would return to the United States to face trial. I believe that was in 1999. Now Mr. Quinn has been telling us that this RICO sledgehammer was what forced Mr. Rich to flee the country. Well, evidently that wasn't the whole story, and it wasn't quite accurate because they were going to drop the RICO charge to get him back to stand trial on the other charges, and there were 50 of them.

We learned that Carlos Vignali, the cocaine dealer who paid Hugh Rodham, lied on his pardon application. He lied about his prior offenses, and yet he still got a pardon, much to the chagrin of the U.S. Justice Department and, I believe, the pardon officials.

We were surprised to learn this week that Eric Holder wouldn't sign the Justice Department's memo opposing Carlos Vignali's pardon. Apparently he didn't want to sign any more pardon denials. He was the Deputy Attorney General, and he didn't want to sign a memo opposing a pardon of a major drug dealer. Why?

We've learned John Podesta's personal lawyer Peter Kadzik was lobbying Mr. Podesta on behalf of Marc Rich. That's one of the reasons we called Mr. Kadzik here today.

Finally, on Tuesday the pardon attorney from the Justice Department told us that the night the pardon of Marc Rich was granted, his office sent information to the White House stating that Marc Rich was involved in illegal arms trading. That was the night the pardon was granted. Now, it's not clear now that this information was accurate, but nobody at the White House even called back to ask about it. As far as they knew, they were granting a pardon for an arms dealer.

The appearances that have been created here are obvious. If you have friends in high places, you can get around the law. It makes it look like we have one system of justice for the rich and powerful and another system of justice for all the rest of us.

Were laws broken? We don't know. We don't have all the facts yet. We want to be responsible. We don't want to rush to judgment or make accusations until we have all the facts, but we have an obligation to try to find out what happened and lay the facts before the American people.

We want to move expeditiously. In some areas we're making progress. We asked the President not to claim executive privilege so his aides could testify, and he's done that. That was a positive step.

We had a problem with the Clinton library. They didn't want to comply with our subpoena for information on their donors. If you read the editorial pages across the country, I think there's widespread agreement that they shouldn't try to keep that secret. We made a great deal of progress on this issue in the last 2 days, and we're very close to resolving it. The lawyers for the library have committed to bringing us more information tomorrow. I had scheduled the library's president, Skip Rutherford, to testify on the first panel today. We've made enough progress that I've excused him. I appreciate the fact that the lawyers for the library have worked with us to resolve this.

We asked Mr. Quinn to provide us with written answers to some questions prior to the hearing, and he's done that, and we appreciate it. Last night we received answers to the questions we submitted to Mr. Rodham, and that was helpful. And I ask unanimous consent to place this letter in the record at the conclusion of my remarks, and without objection, so ordered.

On the other hand, we still have some problems. We wrote to Roger Clinton. We asked him to provide us with some basic information about who he tried to help get pardons. We asked him how much money he received, if any. He has not responded. We wrote to the lawyer for Glenn Braswell. His name is Kendall Coffey. We asked him for some very basic information, like a copy of the material he submitted to the White House. He hasn't responded.

The most serious obstacle we have faced is this: We have two key witnesses who are taking the fifth amendment against self-incrimination. Denise Rich exercised her fifth amendment rights 3 weeks ago. We don't know, if she's done anything wrong. We don't anticipate that she has, but we sure wish she would answer our questions. We want to get to the bottom of this. Now we are told this Beth Dozoretz will also take the fifth. These are two people who are involved in raising money for the President and lobbying the

President for pardons, and we apparently can't talk to either one of them.

Now, Mrs. Dozoretz is here with us today. She was called as a witness to this hearing. We have received word through her lawyer that she plans to exercise her fifth amendment rights; however, this is a personal privilege that must be exercised by the individual and not through counsel, and that's why we've asked Ms. Dozoretz to be here, and we hope she'll reconsider.

On our second panel we have several former senior White House officials. We have the President's former chief of staff, John Podesta. We have the former White House Counsel Beth Nolan. We have the former Deputy White House Counsel Bruce Lindsey, and we also have Jack Quinn, who represented Mr. Rich as well as having in the past worked at the White House for the President. And he, of course, has lobbied for Mr. Rich's pardon.

The purpose of the second panel is to determine what kind of process they went through at the White House. We know that Justice Department was not consulted in any meaningful way, so who was consulted? What information did they use to evaluate the Marc Rich pardon? Who advised the President? And that's what we want to find out from that panel today.

On the third panel we have three attorneys who represented Marc Rich. We have Robert Fink, we have Lewis "Scooter" Libby, and we have Peter Kadzik.

I want to thank all of our witnesses for being here today. I know that Members on both sides here don't want to spend the rest of their lives investigating Bill Clinton, and I'm certainly one of them, but I want people to recognize that we're facing some significant obstacles in getting information for the Congress and the American people who deserve to know the facts. We're willing to be responsible, and we're willing to move forward as rapidly as possible. I want to work with Members on both sides to get this done.

Mr. Waxman asked us to call Scooter libby to testify today. I personally didn't think that was necessary. There's no evidence that Mr. Libby was involved in the pardon process at all. But it was important to Mr. Waxman, so I agreed. And I believe if we work together, we can get this work done very quickly, and we can move on to other important things that need to be done for the country.

That concludes my opening statement, and I now yield to Mr. Waxman for his statement.

[The prepared statement of Hon. Dan Burton follows:]

**Opening Statement
Chairman Dan Burton
Committee on Government Reform
“The Controversial Pardon of International Fugitive Marc Rich -- Day Two”
March 1, 2001**

Good morning. Today, we are holding our second hearing regarding the President's last minute pardons of Marc Rich and Pincus Green. Since our last hearing, there have been a number of new developments. But before I talk about that, let's go back and look at what we learned in our first hearing.

The February 8 Hearing:

The first thing that we learned was that the normal review process at the Justice Department was completely bypassed.

Jack Quinn testified that he delivered the pardon application to the White House on December 11. But it was never delivered to the Justice Department for review.

We released an e-mail that showed that Mr. Rich's lawyers were doing their dead-level best to keep the pardon application secret to keep it from getting shot down.

We heard from Deputy Attorney General Eric Holder. Mr. Holder was told by Mr. Quinn in November that Marc Rich's pardon application would be submitted directly to the White House. Mr. Holder didn't tell the pardon attorney. He didn't tell the prosecutors in New York who were responsible for the case.

On January 19, Mr. Holder was called by the White House about the pardon. At this point, it was clear that this pardon -- of an international fugitive -- was under serious consideration. Again, he didn't contact the pardon attorney, and he didn't contact the prosecutors.

In that January 19 phone call, White House Counsel Beth Nolan asked Mr. Holder what he thought about pardoning Marc Rich. He told her he was "neutral, leaning towards." But he admitted that he never reviewed the case. He never talked to the prosecutors about it. The only information he had was from Jack Quinn.

How could he be "neutral, leaning towards" when the only information he'd seen about the case came from Mr. Rich's lawyer?

We released an e-mail that showed that President Clinton called Beth Dozoretz about the pardon. Beth Dozoretz is a former Finance Chairman of the Democratic National Committee. She also pledged to raise one million dollars for the Clinton Library. She's a close friend of Denise Rich -- Marc Rich's ex-wife. Neither one has cooperated with this Committee so far. According to that e-mail, the President wanted to approve the pardon, and he was doing all he could to turn around the White House counsels.

Why was the President on such a different wavelength than his staff?

Why would the President call a fundraiser about a pardon, but he wouldn't ask his own Justice Department for an opinion?

New Developments:

That was three weeks ago. A lot's happened since then. I've said all along that I don't want to drag out this investigation -- and I mean that. At the same time, new information is coming out so fast it's almost impossible to keep up with it. I want to just mention a few important developments.

First, we've learned that Denise Rich gave \$450,000 to the Clinton Library. That's on top of the 1.2 million dollars she gave to Democrat campaigns. We need to learn more about that.

Second, we learned that Beth Dozoretz pledged to raise \$1 million for the Clinton Library.

Third, we learned that the President's brother-in-law, Hugh Rodham, got more than \$430,000 for helping two people get pardons. He got a \$200,000 contingency fee from Glenn Braswell, who was convicted of fraud. At the time of the pardon, Mr. Braswell was still under investigation by the Justice Department for tax evasion. He got another \$200,000 to help Carlos Vignali get a pardon. Carlos Vignali was convicted of helping ship 800 pounds of cocaine from Los Angeles to Minneapolis. That's more than \$5 million worth of cocaine.

Fourth, we learned that the former First Lady's campaign treasurer received \$4,000 to help two people trying to get pardons.

Fifth, we learned that the President's brother, Roger Clinton, asked for pardons for a number of people. We need to find out if any money was promised to Roger Clinton, and we need to find out exactly what he did on behalf of these people.

We've learned more important details just in the last two days:

Today, the New York Times reported that the First Lady's other brother, Tony Rodham, helped get a pardon for someone who was paying him as a consultant. The Justice Department opposed this pardon, but it was approved anyway.

We've received a new document that shows that the prosecutors offered to drop the RICO charge against Mr. Rich if he would return to the United States to face trial. Mr. Quinn has been telling us that this "RICO sledgehammer" was what forced Mr. Rich to flee the country. Now it looks like that's not quite accurate.

We learned that Carlos Vignali, the cocaine dealer who paid Hugh Rodham, lied on his pardon application. He lied about his prior offenses, and he still got a pardon.

We were very surprised to learn this week that Eric Holder wouldn't sign the Justice Department's memo opposing Carlos Vignali's pardon. Apparently he didn't want to sign any more pardon denials. He was the Deputy Attorney General, and he didn't want to sign a memo opposing a pardon of a major drug dealer. Why?

We've learned that John Podesta's personal lawyer, Peter Kadzik, was lobbying Mr. Podesta on behalf of Marc Rich. That's one of the reasons we called Mr. Kadzik here today.

Finally, on Tuesday, the Pardon Attorney from the Justice Department told us that the night the pardon of Marc Rich was granted, his office sent information to the White House stating that Marc Rich was involved in illegal arms trading. It's not clear now that this information was accurate, but nobody at the White House even called back to ask about it! As far as they knew, they were granting a pardon to an arms dealer.

The appearances that have been created here are obvious. If you have friends in high places, you can get around the law. It makes it look like we have one system of justice for the rich and powerful, and one system of justice for everyone else.

Getting the Facts:

Were laws broken? We don't know. We don't have all the facts yet. We want to be responsible. We don't want to rush to judgement or make accusations until we have the facts. But we have an obligation to try to find out what happened and lay out the facts for the American people.

We want to move expeditiously. In some areas, we're making progress.

We asked the President not to claim executive privilege so his aides could testify. He's done that. That was a positive step.

We had a problem with the Clinton Library. They didn't want to comply with our subpoena for information on their donors. If you read the editorial pages across the country, I think there's widespread agreement that they shouldn't try to keep that secret. We've made a great deal of progress on this issue in the last two days. We're very close to resolving it. The lawyers for the library have committed to bringing us more information tomorrow. I had scheduled the Library's President, Skip Rutherford, to testify on the first panel today. We've made enough progress that I've excused him. I appreciate the fact that the lawyers for the library have worked with us to resolve this.

We asked Mr. Quinn to provide us with written answers to some questions prior to the hearing. He's done that, and we appreciate it.

Last night, we received answers to the questions we submitted to Mr. Rodham. That was helpful. I ask unanimous consent to place this letter in the record at the conclusion of my remarks.

On the other hand, we still have some problems.

We wrote to Roger Clinton. We asked him to provide us with some basic information about who he tried to help get pardons. We asked him how much money he received, if any. He hasn't responded.

We wrote to the lawyer for Glenn Braswell. His name is Kendall Coffey. We asked him for some very basic information, like a copy of the material he submitted to the White House. He hasn't responded.

The most serious obstacle we've faced is this -- we have two key witnesses who are taking the Fifth. Denise Rich exercised her Fifth Amendment rights three weeks ago. We don't know if she's done anything wrong. We just want her to answer our questions to help us get to the bottom of this. Now we're told that Beth Dozoretz will take the Fifth. These are two people who were involved in raising money for the President, and lobbying the President for pardons -- and we apparently can't talk to either of them.

Beth Dozoretz is here today. She was called as a witness to this hearing. We've received word through her lawyer that she plans to exercise her Fifth Amendment rights. However, this is a personal privilege that must be exercised by the individual, not through counsel. That's why Ms. Dozoretz is here, and we hope that she'll reconsider.

On our second panel, we have several former senior White House officials. We have the President's former Chief of Staff -- John Podesta. We have the former White House Counsel -- Beth Nolan. We have the former Deputy White House Counsel -- Bruce Lindsey. We also have Jack Quinn, who represented Mr. Rich and lobbied for his pardon.

The purpose of the second panel is to determine what kind of process they went through at the White House. We know the Justice Department wasn't consulted in any meaningful way. Who was consulted? What information did they use to evaluate the Marc Rich pardon? Who advised the President? That's what we're trying to get at today.

On the third panel, we have three attorneys who've represented Marc Rich. We have Robert Fink. We have Lewis "Scooter" Libby, and we have Peter Kadzik.

I want to thank all of our witnesses for being here today.

I know that Members on both sides here don't want to spend the rest of their lives investigating Bill Clinton. I'm one of them. But I want people to recognize that we're facing some significant obstacles in getting information, and I think the American people deserve to know the facts. We're going to be responsible -- and we're going to move forward.

I want to work with Members on both sides to get this done. Mr. Waxman asked us to call Scooter Libby to testify today. I didn't think this was necessary. There's no evidence that Mr. Libby was involved in the pardon at all. But it was important to Mr. Waxman, so I agreed. If we work together, I hope we can get this done quickly and move on.

That concludes my opening statement. I now yield to Mr. Waxman for his statement.

289



diGENOVA & TOENSING
ATTORNEYS-AT-LAW

February 27, 2001

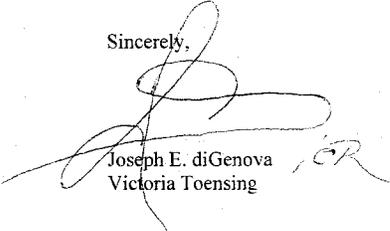
**VIA FACSIMILE (202/225-3974) AND
VIA MESSENGER**

Honorable Dan Burton
Chairman
Congress of the United States
House of Representatives
Committee on Government Reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Mr. Chairman:

On behalf of our client, Jack Quinn, we transmit with this letter his answers to the nine questions tendered in your letter of February 15, 2001.

Sincerely,



Joseph E. diGenova
Victoria Toensing

Enclosure

cc: Honorable Henry A. Waxman, Ranking Minority Member

1. Please describe all contacts you have had with former President Bill Clinton about the pardon of Marc Rich and Pincus Green, both before and after January 20, 2001. In your response, please describe the date, time, manner, and substance of each such contact.

On the evening of January 19, 2001, I spoke to President Clinton by telephone. In general, we discussed the merits of the case I had made in the written pardon application filed on December 11, 2000, particularly whether the case against Messrs. Rich and Green could have been treated as a civil rather than criminal matter and whether Messrs. Rich and Green might still be exposed to civil penalties. I agreed to fax a letter on behalf of the two men waiving procedural defenses to any civil penalties that might be assessed without conceding that such penalties would be appropriate or required by law. We undoubtedly discussed other aspects of the pardon petition and the case for granting it, but the statements above constitute my best present recollection of the conversation.

On January 24, 2001, President Clinton and I spoke by phone regarding the press coverage of the Rich pardon. In that conversation, President Clinton stated that he thought that I should be more aggressive about getting the merits of the legal arguments made in support of the pardon out to the news media. He suggested that I offer an op-ed piece to the media. In addition, in this conversation, I told President Clinton that I had heard from Deputy Attorney General Holder that he had advised the White House Counsel that he was "neutral, leaning to favorable" in the Rich pardon. President Clinton confirmed that this was his understanding as well.

Although these are the only two conversations I had with President Clinton about the pardons, I had unsuccessfully attempted several times to contact him prior to our conversation on the 19th. Additionally, I indicated to him once in person that I hoped to have a conversation with him, although I did not indicate that it would be about Marc Rich or a pardon.

2. Did you represent Pincus Green in the pardon application process?

No. Mr. Green was represented by Robert Fink, an attorney with Piper Marbury Rudnick and Wolfe LLP. The pardon petition, which I submitted along with Ms. Behan and Mr. Fink, was on behalf of Marc Rich and Pincus Green.

3. Given your belief that Marc Rich was not a citizen of the United States, did you register under the Foreign Agents Registration Act? If so, please provide a copy of your registration to the Committee.

No, I did not register under the Foreign Agents Registration Act because I was not required to do so. The pertinent portion of the Act provides as follows:

Section 613. The requirements of section 612 (a) of this title shall not apply to the following agents of foreign principals:

(g) Any person qualified to practice law, insofar as he engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law or any agency of the Government of the United States: Provided, That for the purposes of this subsection legal representation does not include attempts to influence or persuade agency personnel or officials other than in the course of judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.

4. Who prepared the page titled "Letters Expressing Support for the Pardon of Marc Rich," which is Attachment 1 to [the February 15, 2001] letter?

To the best of my knowledge, this page was prepared by Kathleen Behan, an attorney with Arnold & Porter, and Avner Azulay, the head of The Rich Foundation.

5. Who prepared the page titled "List of Letters of Support for Marc Rich and Foundation," which is Attachment 2 to [the February 15, 2001] letter?

To the best of my knowledge, this page was prepared by Kathleen Behan, an attorney with Arnold & Porter, and Avner Azulay, the head of The Rich Foundation.

6. Did you have any dealings with the Marc Rich case while you served in the Clinton Administration?

No.

7. Were you ever contacted by Mr. Rich or any attorney representing Mr. Rich while you served in the Clinton Administration?

No.

8. Are you aware of any efforts by Denise Rich or Beth Dozoretz to secure Presidential pardons for any individuals other than Marc Rich or Pincus Green?

I have no personal knowledge. I am aware of the February 8, 2001 hearing Exhibit 63 regarding a third-hand report of Beth Dozoretz's conversation with President Clinton in which the Milken pardon was reportedly discussed.

9. Did you represent any other individuals seeking a pardon from President Clinton? If so, please list each client you represented seeking a pardon from President Clinton.

No.

ReedSmith LLP

Nancy Luque • 202.414.9408 • nluque@reedsmith.com

February 28, 2001

Via Facsimile 202-225-3974
 Dan Burton, Chairman
 Congress of the United States
 House of Representatives
 Committee on Government Reform
 2157 Rayburn House Office Building
 Washington, D.C. 20515-6143

Re: Pardon Investigation

Dear Mr. Chairman:

This will respond to your February 21, 2001 letter inquiry to my client, Hugh Rodham. He appreciates the opportunity to respond in this manner. You have asked the following questions:

1. From 1992 to present, have you or your firm represented any individual seeking any grant of federal Executive Clemency? If so, list all such individuals.

Mr. Rodham's firm represented Mr. Carlos Vignali and Mr. A. Glenn Braswell in connection with their petitions for executive clemency.

2. Have you or your firm received any payment for representing any individual seeking a grant of federal Executive Clemency or for advocating a grant of federal Executive Clemency? If so, please list all such payments and the individual making such payment.

Mr. Vignali's father made one payment for \$4,280 and a second payment for \$200,000, on his son's behalf.

Mr. Braswell made one payment for \$30,000 and wire transferred \$200,000, minus wire fees, to Mr. Rodham's law firm.

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*Reed Smith refers to Reed Smith LLP and related entities.

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 February 28, 2001 4:30 PM

Dan Burton, Chairman
Committee on Government Reform
February 28, 2001
Page 2

3. **Have you or any individual in your firm had contact with President Clinton, First Lady Hillary Clinton or any individual in the White House, the purpose of which was to advocate a pardon or commutation? If so, please list all such contacts, naming the individuals with whom you spoke and describe the substance of such communication.**

See response to question 4 below.

4. **Please describe your role in the pardon or commutation requests of Carlos Vignali or Almon Glenn Braswell.**

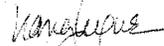
Mr. Rodham had no contact with either President Clinton or Senator Clinton regarding either of these matters.

With respect to Mr. Vignali, Mr. Rodham recalls three contacts with Bruce Lindsay of the White House Counsel's office. He submitted and discussed the merits of Mr. Vignali's petition, he subsequently submitted and discussed letters of recommendation, and he made a final follow-up inquiry.

With respect to Mr. Braswell, Mr. Rodham recalls at least two contacts with Meredith Cabe of the White House Counsel's office. He forwarded a letter to her written to President Clinton by Kendall Coffee on Mr. Braswell's behalf, and he made a follow-up inquiry.

Finally, with respect to the Committee's request for records, I called the Committee's Chief Counsel, as is suggested in the letter request, to seek additional time to comply. Because these records may be subject to attorney-client privilege, the additional time will assure a more careful review.

Sincerely,



Nancy Luque

cc: Honorable Henry Waxman (via fax)
Ranking Minority Member

Mr. WAXMAN. Thank you very much, Mr. Chairman.

Three weeks ago at the committee's first hearing on the Marc Rich pardon, I criticized President Clinton's actions. I said the Rich pardon was bad precedent, an end run around the judicial process, and appeared to set a double standard for the wealthy and powerful. Almost immediately the phones lit up in my office. Oddly many of the calls came from anti-Clinton viewers accusing me of being an apologist for the President. But I also received many calls from Democrats demanding that I explain why I wasn't supporting President Clinton's actions. That's where I want to start today.

I want particularly to direct my comments to Democrats around the country who are puzzled why congressional Democrats aren't defending President Clinton. Well, if a Republican President had presided over a pardon process that resembled the chaotic mess that seemingly characterized the final days of the Clinton administration, I would be outraged and would criticize it. Issuing pardons is one of the most profound powers given to the President. At a minimum, the decisionmaking process must be careful and above reproach. It's clear that President Clinton's efforts weren't.

President Clinton had two equally important responsibilities in deciding whether to grant pardons. First, the President could not grant a pardon in exchange for any personal benefit. A quid pro quo obviously would break the law, and although the President's pardon power is absolute, it is not above the law. To this point, I have seen no evidence that the President broke any law. I've seen a lot of evidence of bad judgment, but not illegality.

But given the extraordinary circumstances of the Rich pardon, it's important that the U.S. Attorney's Office in New York fully, quickly and impartially investigate this issue. The U.S. attorney is doing that, and its investigation should resolve any question of illegality for the American people.

President Clinton's second fundamental obligation is just as important as the first. He must protect the American people's trust by exercising sound judgment. This isn't a legal standard, it is a subjective measure, and President Clinton failed to meet it. The combination of revelations ranging from the Marc Rich and New Square pardons to the role Hugh Rodham played in the pardon process are disturbing, and they raise serious questions about the President's judgment. And if anyone should have been sensitive to this, it was the President. He has been subject to a constant barrage of attacks and scrutiny, some unquestionably justified, but most reckless and unfair. He knows that whatever he does will be questioned, even if he didn't actually do it.

During the battle over impeachment, I repeatedly noted a distinction between private conduct and official activities. The President's relationship with a White House intern was a personal failing and a betrayal of his family. Everything that sprang from that scandal, including his false testimony under oath, came from that personal failure.

In this case, however, Mr. Clinton's failure to exercise sound judgment affected one of the most important duties of the Presidency. Bad judgment is obviously not impeachable, but the failures in the pardon process should embarrass every Democrat and every American. It's a shameful lapse of judgment that must be acknowl-

edged because to ignore it would betray a basic principle of justice that Democrats believe in.

I know that many Democrats fear that criticizing President Clinton's actions will somehow negate all the accomplishments of his administration. I disagree. President Clinton's discipline and masterful handling of our economy and his leadership on the score of international and domestic issues, health and environmental concerns will not be forgotten. Democrats and I hope even some Republicans should be proud of the progress we made and the immense talents President Clinton brought to the White House. Those truths remain despite the President's other failings. But when he makes a serious mistake, as I think he did in this case, Democrats must be willing to say so.

I hope that helps explain to my Democratic callers why I've been so critical of the President's conduct, but I also want to address the anti-Clinton callers who attack me for being an apologist for the President and the First Lady. At the same time that I believe that President Clinton made grave errors, I also believe there's clearly a double standard that's applied to him. Pointing out that there's a double standard isn't an attempt to excuse what's happened, it's just the facts.

One major reason we're holding this hearing is to investigate whether President Clinton pardoned Marc Rich in exchange for contributions. Republicans are saying that an investigation is essential because of the suspicious circumstances that Marc Rich's former wife gave hundreds of thousands of dollars to the DNC and the Clinton library. Well, compare this pardon to that which President Bush gave in 1989 to Armand Hammer, the former head of Occidental Petroleum who pled guilty to making illegal campaign contributions. According to news reports, Mr. Hammer gave over \$100,000 to the Republican Party and over \$100,000 to the Bush-Quayle Inaugural Committee shortly before he received his pardon. The appearance of a quid pro quo is just as strong in the Hammer case as in the Rich case, if not stronger, since Mr. Hammer himself gave the contribution, but there was never an investigation of former President Bush.

The committee has now opened a new front by investigating the involvement of the First Lady's brother in two of the last-minute pardons. Here again, there's a parallel with the Bush administration. According to news reports, former President Bush's son Jeb Bush successfully lobbied his father's White House in 1990 for the release of an anti-Castro terrorist named Orlando Bosch. But we aren't investigating former President Bush or his son, just former President Clinton and his brother-in-law.

If we are genuinely concerned about the undue influence of relatives on policymakers, there are a lot of examples that we could investigate in Congress. Representative Tom DeLay is the Majority Whip. After his brother Randy became a lobbyist for Cemex, which is a Mexican cement company, Mr. DeLay asked the Commerce Department for special treatment for that company. Senator Ted Stevens' brother Ben lobbies for organizations that have been reported to have received millions of dollars in earmarked appropriations. And Scott Hatch, Senator Hatch's son, represents entities like the

American Tort Reform Association, even though they have extensive interests in Senator Hatch's own committee.

Now, I'm not impugning the actions of any of those individuals, and I don't question the integrity of their actions, but I don't believe that this committee should engage in selective indignation.

The committee's pursuit of the Clinton library is another example of this double standard. In 1997, during the committee's campaign finance investigation, I asked that we subpoena records from the Bush and Reagan libraries about potential fundraising abuses involving those administrations, but I was turned down. It seems we can pursue President Clinton's library, but not President Bush's or President Reagan's. And if anybody doesn't understand why I was turned down, let them know that the power to issue subpoenas is invested in one person on this committee and only one person, and that's the chairman.

I also wanted to investigate the Jesse Helms Foundation. Senator Helms' foundation had reportedly received large contributions from foreign governments at the same time that the Senator was chairman of the Foreign Relations Committee. But again, there was no inquiry.

As I say this, I have no doubt that my phone is ringing off the hook in my office, with people criticizing me for having the temerity to point out these inconsistencies. But we need to keep perspective. American taxpayers have already spent over \$140 million investigating President Clinton. I realize ridiculing President Clinton makes great entertainment for some, but these obsessions with President Clinton are not healthy. President Clinton is not going to be impeached again, and he's no longer the President. At times the feeding frenzy involving President Clinton is unfair. He is denounced as an individual bent on thwarting or stonewalling the committee's investigation, but, in fact, in this case he has taken the extraordinary step of waiving executive privilege, the President's constitutional prerogative, to allow his top advisers to testify.

And at other times the frenzy displaces any sense of priorities. It's amazing that the news that President Clinton's brother Roger asked for pardons became lead story in the country, even displacing the FBI scandal. After all, Roger Clinton was unsuccessful, and there's no evidence to date that he received any payments for his efforts.

Well, Mr. Chairman, I want to comment for the record on your insistence that Beth Dozoretz be required to assert the fifth amendment during today's hearings. Mrs. Dozoretz has already informed the committee that given the U.S. attorney's investigation in New York, she will not be able to participate in today's hearing. There is congressional precedent for requiring a witness to assert the fifth amendment, but I don't think it's constructive to call Mrs. Dozoretz before the committee if the goal is to punish her for asserting her constitutional right and to create a media spectacle.

I also want to note my disappointment in the committee's treatment of Peter Kadzik. Mr. Kadzik was informed a few days ago that he might be invited to today's hearing. The hearing conflicted with appointments he already had scheduled in California for today, and he informed the committee he could not participate, but he's willing to cooperate in any way possible with us. Well, when

Mr. Kadzik stepped off the plane in California, he was greeted by a Federal marshal, who served him with a subpoena requiring his presence here today. So Mr. Kadzik had to cancel his meetings and immediately board another flight back to Washington. That all would have been necessary if Mr. Kadzik were an essential witness for today's hearing, but he's not. In fact, earlier this week your staff told him that he wouldn't have to testify if I would agree that we should excuse Scooter Libby from today's hearing. Since Mr. Libby was Marc Rich's lawyer for more than 10 years and helped develop the argument that was ultimately presented to the President as a justification for his pardon, we felt he should testify, and I regret he's been placed on the agenda for today so far down that we won't hear from him for at least 4 hours, and probably not until nightfall.

Mr. Chairman, given the developments of the last few weeks, I think it's appropriate for us to have this hearing. Clearly, there is a widespread interest in obtaining the views of the day's witnesses and I'm pleased they're going to be able to testify to us freely, not restrained under the executive privilege where the President could refuse to let them testify.

But I think we need to think twice before continuing with additional investigation. There is a criminal investigation going on in New York that can answer whether illegal conduct is involved. We know that bad judgment was involved. We can have many investigations to show there was bad judgment. But the issue before us is going to be, when all is said and done, was there anything illegal. We could spend months investigating the details of all of President Clinton's pardons. But I seriously question whether it makes sense for us to conduct another redundant investigation. I look forward to listening to today's witnesses and learning what we can about this whole matter and I thank you for yielding me this time.

Mr. BURTON. Thank you, Mr. Waxman.

Do other Members have opening statements they'd like to make?

Mr. Barr.

Mr. BARR. Just one thing. While as usual I find nothing enlightening in the ranking member's discussion of things that are utterly irrelevant to this investigation, we have sort of come to learn to expect that. I did learn something. If you listen carefully enough to the gentleman, you can usually pick up a new euphemism. Witnesses used to simply assert their fifth amendment rights or their rights to not incriminate themselves. Now we know that really what they were doing was they were simply not able to participate in today's hearings. That's a delightful euphemism.

I think that, Mr. Chairman, you put your finger on the heart of the matter here. There have been very serious questions raised about these pardons. They go to the heart of whether or not we are a Nation of laws or of men, and there is nothing at all improper about requiring a witness to come in here, and if they refuse to answer questions, if they have something to hide, then all they have to do is say so. And it's not a matter of not being able to participate in a hearing, it is simply exercising one's right not to disclose information.

We are not here to waste anybody's time. If any of the witnesses decide that they don't want to disclose information, all they have

to do is say so. But this is something that the American people have a right to know, and members of this committee as Representatives of the people of this country have a right to know that. So I thank you for holding the hearings, and as always I thank you for your indulgence. Even though there was nothing enlightening in the last 20 minutes, we did learn a new euphemism for asserting fifth amendment rights.

Thank you, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Barr.

Any further opening statements, any comments?

The gentlelady from Washington is so recognized.

Ms. NORTON. Mr. Chairman, I would like to indicate that I believe these hearings have served a salutary purpose. I believe they're basically two functions. One is transparency. We live in a democratic Republic, and people have a right to know about any official matter. And the other is to send a message to future Presidents that while the power of the pardon is absolute, as I believe it should remain, that Congress does have the power itself to look into the appropriateness of pardons.

As we welcome today's witnesses, I think we ought to also say that the President deserves credit for having waived executive privilege and for having released the names of donors. I think that tends to show that he is trying to show he had nothing to hide.

At the same time, I want to say that however much we have hearings on this matter, I believe that the old rule that lawyers learn, that appearances control, means that the only person who can get to whether there has been a corrupt motive is the U.S. attorney. There is—in my view, lawyers and public officials are essentially held to one rule: A thing is what it appears to be. The only person who can get beneath that at this point is the U.S. attorney, and I think we have to content ourselves with that.

Mr. Chairman, I would like to submit for the record a matter that I think is necessary to correct the record. I have read in the press and even heard from some Members of Congress that while if the pardoned this billionaire fugitive, I must say at odds with all he has stood for, this man who stood for the poor and those most in need, that he left in jail offenders languishing who were first-time offenders and who are poorer people. Mr. Chairman, that is not true.

I would like to submit for the record the list from the Families Against Mandatory Minimums. This organization submitted 12 names to the President of first-time offenders, poor people, moderate-income people, anonymous people. All 12 had commutations and were free from prison, and beyond those 12, 5 more that were not on their list, but were members of their organization were also freed. The public may know about Kemba Smith, the young mother and college student who was caught up in her boyfriend's conspiracy to sell drugs when she herself had committed no overt act of crime, but I don't think that the public knows or the press, which has made great stock of how these poor people have been left with nothing done for them. Shame on them. I do think it only right for us to know that the President did pardon some such people.

Congress has had no such mercy, despite the fact that Justice Rehnquist, the Federal judiciary, Barry McCaffrey and the Catholic

bishops have called for a change in the laws requiring mandatory minimums.

Please let nothing I have said contradict my view that Marc Rich should not have been pardoned, that pardons should not be granted to the privileged, that the President made a terrible judgment in making these pardons, that he will never set the record straight because appearances control such matters, and I am afraid tragically that the appearances will always control this matter unless the U.S. attorney tells us otherwise.

Thank you very much, Mr. Chairman.

Mr. BURTON. I thank the gentlelady for her comments.

Mr. Souder.

Mr. SOUDER. Thank you, Mr. Chairman. And I want to thank Mr. Waxman for his statement. I don't agree with the latter part of his statement, but I appreciate his acknowledgment in the forward part of his statement. I also believe that he has attempted to, while defend the position, that charges must be proven before they can be made, which at times has made him seem like a defender of the administration, as a fair-minded man.

I had no decision in my public career that was more agonizing or painful than the impeachment vote, and I have paid a terrible price in my district from hatred of longtime friends who did not like it that I only voted for one count on impeachment. And that was very difficult because I, too, have been trying to sort out how you separate public and private behavior, and how you can establish a truth in this system, and how we set precedence.

But sitting on this committee under Chairman Clinger and Chairman Burton has been one of the most exasperating experiences in my life. We had a minimum of 125 people take the fifth amendment or flee the country. If you want to know what's undermining the American people's confidence in our governmental systems, it is that everybody seems to be protecting everybody else, and that money and power seem to influence the ability to make decisions even for pardons, which our Founding Fathers meant for those who were hurting, those who didn't get a fair trial.

And it seems like whether it was in the Travel Office, whether it was in the files, whether it was in—and I said “seems like” because we haven't been able to get to the truth because there's been community blocking. The Chinese funding, the casino fund, every time we start to pursue something, it's like a whole bunch of people put up a wall, and that's partly why so many Members on our side have been so frustrated, and hopefully with this investigation we can move in advance toward truth in other things that have been, in my opinion, at the very least justice-obstructed. We don't know what for sure was obstructed, but through this wall of fleeing the country and taking the fifth, we have not been able to get to the truth. And I really hope—and I understand there's a court case going on, but I really hope that today's witnesses will at some time come forward and speak fully to us as well because American people have a right to know what has happened in this whole entire process, because public hearings such as this and things that our chairman are conducting are part of the way, in the absence of a clear norm standard in our country, we determine our norms of what's acceptable behavior and not.

When Judge Thomas went through his hearing, we, as a community, as a Nation, learned more about how sexual harassment can be handled. Whether the charges were true or not, we went through a process. Through Watergate we went through a process through these—of how we determine what is allowable behavior in the public arena, and I think this served a purpose. And I hope today's witnesses and future witnesses will come forth and speak rather than take the fifth.

I yield back.

Mr. BURTON. Thank you, Mr. Souder.

Further discussion?

Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman. I will attempt to be brief so we can get on with the panels, but I did want to followup on the ranking member's observation that this hearing will talk about whether or not there's illegality. I think there are other things this committee is looking at, and should be looking at. For instance, one of our colleagues from Massachusetts, Congressman Frank, has introduced a constitutional amendment to indicate that perhaps pardons are not appropriate by lame duck Presidents between the time of the election and when they leave office, and I think the facts developed at the last hearing and this hearing can illuminate us on that.

I think this committee can certainly take a look at the revolving door policy of when someone works for the administration or Congress can come back and lobby. I think that's an appropriate discussion. My personal opinion is that Mr. Quinn sort of took the revolving door off the hinges as he spun around and went back into the White House to gain this particular pardon. It's also while the history lesson with President Bush and his relatives was interesting, I think what's intriguing with Mr. Rodham, the former First Lady's brother, is when Mr. Quinn was before the committee, he indicated he didn't violate the revolving door policy because he was subject to the judicial exception; that is, he was able to represent Mr. Rich in a criminal matter. Well, Mr. Rodham has taken a contingency fee in a pardon matter, which is against the ethics code of the Bar Association of the State of Florida, and his argument is it's not a criminal matter. So I think perhaps we can legislatively get to the bottom of that as well.

And relative to the gentlelady from the District of Columbia, I think some of the press reports I have seen relative to who got in and who got out have to do with Mr. Vignali in California, where it was not only Carlos Vignali, a white drug dealer, 800 pounds turning into crack cocaine in Minnesota for distribution on the streets of Minnesota, but he had 30 co-defendants, many of whom had never been in trouble before, and they all are still in prison with mandatory minimums. In particular there was a fellow from Minnesota who received a longer prison sentence than Mr. Vignali.

So I think all of those are issues before the committee. And the last comment I want to make, I was watching this Geraldo Rivera, and he was calling the Chairman Dandy Dan Burton; that he was going to bring Ms. Dozoretz in and subject her to Mafia-style treatment before the U.S. Congress. All I want to say is if she chooses to take the fifth amendment today, it is a personal privilege, as you

pointed out. It can't be sent by letter. It can't be sent by her lawyer. She has to invoke it, and if she feels there's evidence she would give that would implicate her in conspiracy, bribery or conduit contributions, then it is her best interest to take the fifth amendment. That is her right. But to suggest somehow or otherwise that she is receiving ill treatment or is a media spectacle or anything else I think does a disservice to the chairman and to the committee.

And thank you, and I yield back my time.

Mr. BURTON. The gentleman is recognized.

Mr. SANDERS. I'll be very brief. And let me just pick up on a point that my friend Mr. LaTourette just made a moment ago. I think what he was suggesting is that one of the benefits of this hearing, it educates us about things. And he touched on other manifestations of what we can learn from hearings like this, but I wonder if he would add to this some other areas that this committee might want to study.

I have been concerned that the American people pay by far the highest prices in the world for prescription drugs, and the millions of elderly people cannot afford prescription drugs. I wonder if he would join me in calling on this committee to study the role of the millions of dollars that the pharmaceutical industry contributes to the Republican Party and to the Democratic Party and why we end up paying the highest prices in the world for prescription drugs.

This country is the only country in the industrialized world that does not have a national health care system guaranteeing health care to all people. I wonder if he will join me and ask Mr. Burton to conduct a hearing about the role that insurance company moneys play in influencing the political process so that millions of Americans don't have health care.

Today on the floor of the House there's a bankruptcy bill. My understanding is that the credit card companies and those people who will benefit from this bill have contributed millions of dollars to the Republican Party. There is a tax bill that President Bush has offered that will provide 43 percent of the benefits to the richest 1 percent. I wonder if we will take a hard look at the role of the hundreds of millions of dollars that have come in to the political process from the wealthiest people in this country and see maybe there might be a correlation that the legislation that came out benefits overwhelmingly the wealthiest people in this country.

So I would agree with what Mr. Waxman said earlier. I think it is important that we have this hearing, that we learn about what Mr. Clinton did and his terrible lapse in judgment, but if we are going to talk about money in politics, let's talk about money in politics, the influence that money had on Mr. Clinton, the influence that money has on the Republican Party and the Democratic Party, and then open up that issue so the American people once again can have faith in the political process in this country.

Mr. LATOURETTE. Would the gentleman yield?

Mr. SANDERS. I will yield.

Mr. LATOURETTE. I'd be delighted to join you in all of those activities. I think the distinction that I would draw is that if any of those activities have a quid pro quo, they're all wrong, and the ones—and I'd be happy to work with you.

Mr. SANDERS. Mr. Burton, I hope that you will work with us on those as well.

Mr. BURTON. I would be happy to look into that with you, Mr. Sanders.

Mr. SANDERS. OK.

Mr. BURTON. Are there any further opening statements? If not, Ms. Dozoretz, would you rise and raise your right hand, please.

[Witness sworn.]

**STATEMENT OF BETH DOZORETZ, FORMER FINANCE CHAIR,
DEMOCRATIC NATIONAL COMMITTEE**

Mr. BURTON. Ms. Dozoretz, do you have any kind of opening statement?

Ms. DOZORETZ. No, I don't.

Mr. BURTON. Then we will start with 30 minutes on each side. I will yield first to Mr. Shays.

Mr. SHAYS. Thank you, Mr. Chairman. Mr. Chairman, first let me thank you and Ranking Member Waxman for two very thoughtful statements. I appreciate it very much.

Good morning Ms. Dozoretz.

Ms. DOZORETZ. Morning.

Mr. SHAYS. Welcome to this hearing on Presidential pardons. Thank you very much for being here. This committee has almost been overwhelmed by what appears to be a number of inexcusable pardons granted by President Clinton in the 11th hour over his Presidency. Many on this committee question why a number of pardons were granted, and we question the process by which they were granted. On the surface it seems someone was more likely to get a controversial pardon if they gave to the President's party or to its candidates, gave to the new Presidential library, hired Washington White House or Washington insiders or used the services of family members of the former President and his wife.

We question why some of the pardons were granted and the process by which they were granted; the fact that 40 weren't vetted with the Justice Department; the fact that some were not properly documented; and the fact that they were granted to a major drug dealer who was caught shipping 800 pounds of cocaine to four individuals who defrauded \$30 million from government education programs designed to help those most in need, to an individual who practiced medical fraud and is still under additional investigations.

But of all the pardons, the hardest one for us to understand and justify is the pardon of Marc Rich, an individual who allegedly made \$100 in illegal profits, attempted to hide \$48 million in profits, fled the country and became a 17-year fugitive from justice, renounced U.S. citizenship, and traded with Iran while our hostages were there, Iraq around the time we had hostilities in the Gulf, Libya, Korea and the apartheid South African Government.

Ms. Dozoretz, we are an investigative committee that tries to root out waste, fraud and abuse in government, and Lord knows it appears we seem to have seen all three in this pardon process. I hope these hearings, besides helping to root out fraud, lead to an improvement in the pardon process; not change the Constitution, but the process; help improve the revolving door requirements and public disclosure of money raised by sitting Presidents and their li-

braries. Your testimony is invaluable to us and would help us conclude our investigation much more quickly.

So with all this in mind, I would like to show you exhibit 63 and to ask for your response, and what I'd like to do is just read parts of it. Do you have a copy of it?

No. 2 says, "DR called from Aspen," and we understand from Jack Quinn that is Denise Rich. "Her friend B," we understand from Jack Quinn is you, Beth Dozoretz, "who is with her got a call today from POTUS," who we understand to be the President, "who said he was impressed by JQ," Jack Quinn's, "last letter and that he wants to do it and is doing all possible to turn around the White House counsels. DR, Denise Rich, thinks he sounded very positive, but, that we have to keep praying. There shall be no decision this weekend. And the other candidate Milk," we understand to be Michael Milken, "is not getting it."

Then No. 3, "I shall meet her and her friends next week. She will provide more details."

[Exhibit 63 follows:]

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, January 10, 2001 11:20 AM
To: Jack Quinn
Subject: FW: update

REDACTED

-----Original Message-----

From: Avner Azulay [SMTP:azul@fich@redacted]
Sent: Wednesday, January 10, 2001 10:55 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 Milk is not getting it.

3.I shall meet her and her friend next week - she will provide more details.



Mr. SHAYS. Now, what I would like to ask is the following: exhibit 63 is an e-mail which indicates that on January 10, 2001, President Clinton called you in Aspen, CO, where you were staying with Denise Rich. The e-mail indicates that the President discussed the Marc Rich pardon with you before he spoke with the Justice Department. My question is at any time while you were discussing the Marc Rich pardon with President Clinton, did either you or the President mention Denise Rich's contributions to the Clinton library or the Democrat National Committee?

Ms. DOZORETZ. Upon the advice of my counsel, I respectfully decline to answer that question based on the protection afforded me under the U.S. Constitution.

Mr. SHAYS. Let me ask you, will that be your response to all our questions, or are there are specific subjects or persons you will not discuss and others you are willing to discuss with us?

Ms. DOZORETZ. Sir, that will be my response to all questions.

Mr. SHAYS. Thank you, Ms. Dozoretz. I know it hasn't been easy coming here today, and we appreciate your informing the committee personally of your decision to assert your rights under the fifth amendment even though your lawyer had done so earlier. In doing so, you show respect for our responsibility and our process.

Mr. Chairman, I yield back.

Mr. BURTON. Gentleman yields back.

Just 1 second.

Mr. LaTourette, no questions.

Mr. Waxman.

Let me just say that since Ms. Dozoretz has exercised her fifth amendment rights and has said she wants to continue to do so, we have no further questions. We'll be happy to excuse her. If you have questions, go ahead.

Mr. WAXMAN. Mr. Chairman, I understand that Denise Rich, who also took the fifth amendment but wasn't required to come here today to assert it, has indicated she is going to cooperate with the U.S. Attorney's Office in New York, which is, of course, the official investigation, as to whether any criminal actions took place. I don't think I could get an answer from Ms. Dozoretz because I think, as I understand the rule, if she answers any questions, then she's waived her right not to testify. But I presume and expect and hope that she is also going to cooperate with the U.S. Attorney's Office.

As I understand the matter, witnesses who are being called to testify and cooperate with law enforcement may well feel that they ought to take the fifth amendment here, but cooperate there. I again regret that she was brought here to assert what the chairman knew she would assert, her constitutional right not to testify, and while people say it's not for media spectacle purposes, I wish that the TV audience could see all the people here with cameras anxious to take her photo as she asserted her rights, which we expected she would do. I have no questions.

Mr. BURTON. Mr. Waxman, I'll retain my time. Let me just say why do you assume that she wouldn't take her fifth amendment rights before the U.S. attorney?

Mr. WAXMAN. I can't answer whether she will or she won't. I could ask her the question, but I presume that would be—

Mr. BURTON. I understand, but the comments you made indicated—

Mr. WAXMAN. The reason I made that statement is if Denise Rich is going to cooperate and is cooperating with the U.S. attorney, and she has taken the fifth amendment with regard to this committee, I presume and expect—and we'll get a response, I expect, from Ms. Dozoretz and her attorney, if not on the record right now, shortly, and publicly—that they will be cooperating with the official law enforcement investigation.

Mr. BURTON. Well, Mr. Waxman, perhaps you know something we don't, and I appreciate you sharing your expectations with us, but let me just say this about Ms. Rich. I have heard she's a very fine lady, and we certainly didn't want to cause her any undue heartburn as well. Ms. Rich—we sent a letter as we have always done to the U.S. Attorney's Office and the Justice Department to find out if they object to our granting Ms. Rich or possibly Ms. Dozoretz immunity for testifying, and the U.S. attorney indicated that they were opening a criminal investigation, and I believe they have impaneled a grand jury. Whenever the U.S. attorney or the Attorney General indicates to this committee that they would request that we not grant immunity because it might interfere with their investigation, and might cause a person who might possibly be convicted of a felony and our granting immunity would impede that process, then we don't grant immunity, and we always write that letter.

Now, we received a response back from the U.S. attorney for the Southern District of New York, who said that they were opening a criminal investigation and asked us not to grant immunity, and since Ms. Rich planned to take the fifth amendment and we decided not to try to grant her immunity at the request of the U.S. attorney for the Southern District of New York, we decided not to call her. Those are the facts, and that has not been the case with Ms. Dozoretz, and that's why she was asked to be here today.

Mr. LATOURETTE. Mr. Chairman, if you will yield to me for a minute.

Mr. BURTON. I'll yield.

Mr. LATOURETTE. I think Mr. Waxman's earlier observation is correct. At least my limited understanding of the law is that if Ms. Dozoretz answers any question, she can't pick and choose which questions she answers. So I think he's right about that, but I think also she can't pick and choose, nor can Ms. Rich pick and choose, which forum she chooses to speak in, and once she violates or says that she's no longer invoking the amendment, should that be in the Southern District of New York or some other forum, she no longer retains that right. And I would ask perhaps that if she breaks this code of silence and determines that she wants to give testimony and not invoke the fifth amendment in another forum, that perhaps the committee send to her through her lawyers written questions when she no longer has the privilege available so that we may have the benefit of those answers she's giving to others to help us in our probe.

Mr. BURTON. Thank you, Mr. LaTourette.

One second.

Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

We are getting off on a tangent here that I'm not quite sure is accurate. Any individual has the right with regard to any question put to them to assert an articulable basis for not testifying if it incriminates them, and I'm not quite sure that we're all operating within the bounds of a clear understanding of the law when we say simply because a person may choose to assert the right with regard to question A, that that means they have to assert it to all or none.

Ms. Dozoretz, I think we can at least get one issue off the table here. This has nothing to do with the hearing today, but is it your intention to cooperate with any investigation being conducted by the U.S. Attorney's Office for the Southern District of New York?

Ms. DOZORETZ. I'll rely on the advice of my counsel, sir.

Mr. BARR. In other words, your counsel has instructed you not to cooperate with any probe by the U.S. attorney for the Southern District of New York?

Ms. DOZORETZ. I will rely on the advice of my counsel, sir.

Mr. BARR. And does that advice include telling you not to cooperate with the U.S. attorney for the Southern District of New York?

Ms. DOZORETZ. I will rely on the advice of my counsel, Mr. Barr.

Mr. BARR. Which is to assert your fifth amendment rights even as to that question?

Ms. DOZORETZ. It's privileged, sir.

Mr. BARR. What is privileged?

Ms. DOZORETZ. The advice of my counsel.

Mr. BARR. OK. Well, you keep citing it, so obviously it's not really privileged because you keep citing it.

Apparently the witness, Mr. Chairman, will not even state to the American people or to this panel that it is her intention to cooperate with the Department of Justice. I think that's very unfortunate. That's unfortunate advice, but apparently that's where we are.

Mr. BURTON. We're prepared, Mr. Waxman, to release Mr. Dozoretz. Do you have any further comments?

Mr. WAXMAN. Yes, Mr. Chairman, I have a further comment. I don't want the chairman or anyone else to think I'm being critical of how you handled the situation with Ms. Rich in not asking her to come in and give her immunity and force her to testify because there is an ongoing law enforcement investigation. I must also say that I take a harsh view of people not willing to cooperate with committees of the Congress, and if I had my way, I wish Mrs. Dozoretz would testify, because I think people ought to testify before committees of the Congress. But I do understand that she is under the guidance of her lawyers, sorting through a legal thicket, where on the one hand you have the committee of the House investigating, committee of the Senate investigating, and the U.S. Attorney's Office investigating.

It has been reported that Denise Rich, who also said she would take the fifth amendment before Congress, is at the present time talking to the U.S. attorney. Now, I can't say from my own knowledge whether Ms. Dozoretz is doing the same, but I can say from my own knowledge, knowing her, that she is a responsible person, and that she has been very philanthropic.

She has been a concerned citizen. And as such I would expect to hear that she is also going to be cooperating with the U.S. Attor-

neys Office. I just wanted to make that statement and have my views very clearly on the record.

Mr. BURTON. If there's no further discussion or questions, Ms. Dozoretz and your counsel, thank you very much for being here. We'll excuse you at this time.

The next panel that we will welcome to the witness table will consist of Jack Quinn, Beth Nolan, Bruce Lindsey, and John Podesta. Can we have the staff assist the people and the media to move out in the corridor? Would you, as soon as you can, please shut that door so we can proceed with our business? Would everybody please take seats so we can have the proper order?

Mr. Quinn, Ms. Nolan, Mr. Lindsey, Mr. Podesta, would you please rise to be sworn?

[Witnesses sworn.]

STATEMENTS OF JACK QUINN, COUNSEL TO MARC RICH, FORMER COUNSEL TO PRESIDENT CLINTON; BETH NOLAN, FORMER COUNSEL TO THE PRESIDENT; BRUCE LINDSEY, FORMER ASSISTANT TO THE PRESIDENT AND DEPUTY COUNSEL TO THE PRESIDENT; AND JOHN PODESTA, FORMER WHITE HOUSE CHIEF OF STAFF

Mr. BURTON. I think you may have opening statements. I think we'll just go right down the table. Mr. Quinn, do you have an opening statement.

Mr. QUINN. No, sir, Mr. Chairman. As you know, Mr. Chairman, I was here almost 9 hours a few weeks ago.

Mr. BURTON. Would you repeat what you said? I did not hear it.

Mr. QUINN. As you know, I testified before this committee for almost 9 hours a few weeks ago, and I subsequently testified before a Senate committee. I've submitted to this committee for inclusion in the record of its hearings my Senate testimony. And I'll stand on that and be prepared to answer any questions you may have today.

[The information referred to follows:]

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
WASHINGTON, DC

TESTIMONY OF JACK QUINN
February 14, 2001

Chairman Specter, Senator Leahy, distinguished Members of the Committee, thank you for this opportunity to provide information about the pardon of Marc Rich.

I am well aware that most if not all of you already have expressed your disapproval of this pardon. Nonetheless, I welcome the opportunity to sit before you and answer your questions about the case I made and the process I followed in making it.

I am here today as a lawyer who believes in the merits of the case I made. I do not expect today to turn back the tidal wave of opposition to the Rich pardon, but before today's hearing is adjourned, I hope that all of you will know that I acted as a lawyer who pursued my client's interests vigorously and ethically and that this pardon was based on the case I made. I joined the Marc Rich legal team in the spring of 1999 while I was an attorney at Arnold & Porter. The Rich defense team over the years included attorneys of unusual skill and unquestionable integrity, from law firms of stellar reputation, including Len Garment, who served as President Nixon's White House Counsel; Larry Urgenson, who held a senior position in the Reagan Justice Department; Lewis "Scooter" Libby, who now serves as Vice President Cheney's Chief of Staff, and other distinguished attorneys (App. A).

My principal mission, upon being retained, was to help bring resolution to the outstanding indictment against Mr. Rich at the Justice Department. During an intensive period of review that lasted for several months, I learned that the indictment grew out of a patchwork of energy regulations enacted in the Carter Administration that were later repealed on President Reagan's first day in office. Those regulations attempted to limit the price of oil but, as in any complicated regulatory regime, there were many exceptions. The Carter regulations caused price discrepancies that, in turn, created a powerful incentive for major U.S. oil companies to try to avoid the regulatory regime. One way to do so involved "linking" price controlled domestic oil transactions with non-price controlled foreign transactions in dealings with international oil resellers. Specifically, U.S. oil producers structured transactions that provided additional profits on foreign transactions to compensate them for their inability to maximize profits on regulated domestic transactions. This resulted in complex linked transactions between the major oil companies and resellers around the world. These transactions are central to Mr. Rich's indictment in which he, a colleague, and two associated companies were charged with a variety of crimes. And, for reasons I will explain, it is critical that you keep in mind the linked nature of these transactions, because the failure to see the linkage is what leads to the mistaken view of the tax and energy consequences of the transactions that the indictment represents. The indictment that had stood against Mr. Rich for almost twenty years was unique for two very important reasons:

First and foremost, prosecutors used the Racketeer Influenced and Corrupt Organizations Act (RICO) when they indicted Mr. Rich – one of the first times they had done so in a case not involving organized crime. In 1983, prosecutors used the RICO sledgehammer – a weapon originally designed to combat mob bosses like John Gotti – to attack Mr. Rich for what his lawyers believed amounted to no more than a regulatory dispute about price controls and taxes.

In 1989, the Justice Department changed their guidelines for the use of RICO statutes – essentially prohibiting its use in tax cases like this one. As you will no doubt recall there had been widespread condemnation of RICO abuse by New York prosecutors. Writing in his New York Times column in 1989, William Safire referred to the then-unrestricted use of RICO as a “legal monstrosity” adding that “politically ambitious prosecutors in New York, Chicago and elsewhere” had “been making themselves famous by misapplying RICO to targets who have nothing to do with organized crime” using “nuclear artillery” when only “elephant guns would do.”

In the same vein, the Wall Street Journal has long recognized that the US Attorney’s office in New York misused RICO and that the Marc Rich case was a prominent example of that abuse. In 1989, Yale-trained lawyer and weekly columnist Gordon Crovitz wrote: “It is worth taking a second look at Mr. Giuliani’s first big RICO case. This was the much-celebrated 1984 case against Marc Rich, the wealthy oil trader. A close reading of the allegations shows that these also effectively reduce to tax charges. The core of the case is that Mr. Rich wrongly attributed domestic income to a foreign subsidiary. Again, this sounds like a standard civil tax case, not RICO.”

Months later, the same paper’s editorial board said: “[The Department of Justice] should launch a complete review of all US Attorney RICO cases – from Mr. Giuliani’s first RICO-expanding case against Marc Rich in 1984 through current allegations against Chicago pit traders and Michael Milken.”

In fact, just days ago two Wall Street Journal reporters recognized that: “The indictment against Mr. Rich that was invalidated by Bill Clinton’s pardon was based in part on aggressive prosecution tactics later reined in by the Supreme Court and the Justice Department.”

Unfortunately, by the time the Department of Justice had finally reined in their tactics, the Southern District prosecutors had misused RICO and its asset forfeiture provisions to coerce Mr. Rich’s companies into a \$200 million guilty plea just to survive, and Mr. Rich had been labeled a racketeer and fugitive for not returning from his headquarters in Switzerland to be subjected to what he believed would be an unfair and prejudicial racketeering trial. Indeed, once his companies had been forced to plead guilty by the misuse of the RICO statute, Mr. Rich believed that he stood virtually defenseless as an individual to similar criminal charges.

The misuse of RICO was not the only unique aspect of this case. The second unique factor was that although prosecutors were still trying to subject Mr. Rich to criminal penalties, the major US oil companies that had structured the very transactions at issue in the indictment had themselves been pursued only civilly. In fact, when the United States Department of Energy (DOE) independently examined transactions involving one of Mr. Rich’s major trading partners, ARCO, it concluded that ARCO had improperly failed to account for the linked transactions and thereby had violated the excess pricing/profits regulations; yet, DOE pursued ARCO only on a civil basis for violations of the regulations. The Southern District of New York never indicted any of the U.S. oil companies that structured these types of transactions.

I want to emphasize: the same Department of Energy recognized that the Marc Rich companies had correctly taken into account the linked nature of the transactions on their books. But, despite DOE’s recognition that Mr. Rich’s companies had properly linked the transactions for accounting purposes, while ARCO had not, the prosecutors attacked these same transactions in their indictment against Mr. Rich. They took the position, directly contrary to the DOE regulators, that the domestic and foreign transactions should not be considered linked for U.S. tax and energy purposes. This inconsistent treatment by DOE and the Southern District goes to the heart of the U.S. government’s case against Mr. Rich. DOE used the administrative process to collect hundreds of millions of dollars in civil penalties from ARCO, while the

Southern District criminalized the conduct of Mr. Rich based on an exactly contradictory analysis of the same facts.

This was not just my conclusion and that of the reputable attorneys I joined on Rich's defense team. Two of the most preeminent tax authorities in the nation, Professors Bernard Wolfman of Harvard Law School and Martin Ginsburg of Georgetown University Law Center, had analyzed the transactions at issue and concluded that the Marc Rich subsidiary "correctly reported its income from those transactions and that a court, if called upon to decide the issue, would agree." Contrary to statements that have been made about the Ginsburg/Wolfman analysis, both lawyers were fully aware of the prosecutors' evidence against Mr. Rich, including the allegedly "sham" transactions and the record-keeping from the "pots."

Put simply, the indictment against Mr. Rich was flawed – not just in my view, but also in the views later expressed by two departments of the United States Government. The case was built on a perception of the transactions later directly contradicted by the Department of Energy, and it was inappropriately ratcheted up into a RICO case in a manner the Department of Justice later acknowledged was inappropriate. The U.S. Government itself has undermined the Rich indictment, not just me or other lawyers for Mr. Rich. Knowing all of this, I found it difficult to believe that Mr. Rich's lawyers had been unsuccessful for more than a decade in trying to convince the Southern District of New York to re-examine the charges against him. So, in October 1999, I turned to a man with whom I had worked in the past and for whom I have immense respect – then Deputy Attorney General Eric Holder.

I first met with Mr. Holder about the Rich case in late October 1999. The purpose of the meeting was to provide Mr. Holder with an overview of the flaws in the outstanding indictment against Mr. Rich. This conversation and other contacts with Mr. Holder are reflected in the documents I have provided to the Committee (App. B). According to my notes of a November 8, 1999 telephone conversation with Mr. Holder several weeks after our meeting, he told me that he and some senior DOJ officials thought that the refusal of the Southern District to meet with Mr. Rich's attorneys was ill considered and in fact "ridiculous." Subsequently, he told me that some officials at DOJ came to believe that on this matter, "the equities were on our side," at least with respect to our request for a meeting.

At Mr. Holder's suggestion, I wrote to Mary Jo White, the US Attorney for the Southern District of New York, on December 1, 1999, asking that her office re-examine the charges against Mr. Rich so that we might bring the matter to some resolution. But like the long list of distinguished lawyers before me, I, too, was denied even a meeting.

I have searched in vain for a written Justice Department policy that directs U.S. Attorneys never to discuss case merits with attorneys for alleged fugitives or other absent persons. No such policy exists. Indeed, there are many instances in which Justice Department prosecutors have engaged in discussions about case merits with indicted defendants residing abroad. Regardless of this absence of a firm government policy, even main Justice was unwilling to talk to us about the merits of the case, because Mr. Holder believed he must defer to the Southern District and not overrule his subordinates. This left us at an intractable impasse.

Now, as a general rule, I agree that pardons should not be granted to alleged fugitives but there must be exceptions for unique circumstances. Mr. Rich is not the first person who has been pardoned despite his alleged fugitivity. Presidents Wilson and Carter pardoned all of the draft evaders of their eras. Mr. Holder himself advocated a pardon granted to a fugitive who had received prejudicial treatment because of his race. I viewed my case, though dissimilar, as another reasonable exception because I thought our legal arguments were compelling and because the government's now admitted misuse of RICO had created the very situation – my client's absence – that the government cited in refusing to discuss the merits of the case.

Accordingly, we decided in October 2000 to seek a presidential pardon. I believed that the President, as the chief law enforcement officer for the nation, essentially serves as our country's top prosecutor. I believed a pardon petition would provide the president with the opportunity -- if we could convince him of the merits -- to reduce this case to its proper proportions: a civil regulatory dispute.

I personally notified Mr. Holder in his office on November 21, 2000, that I would be sending a pardon application directly to the White House. I told him then that I hoped to encourage the White House to seek his views. He said I should do so. At no time did I attempt to circumvent the Justice Department or prevent its views from being taken into account. In fact, I hoped that consultation with Mr. Holder by the White House would help me make my case for Mr. Rich, because I believed Mr. Holder was familiar with the charges and with our arguments as to their flaws. Most importantly, I knew that he realized we were at an impasse because the U.S. Attorney's Office would not discuss the matter or consider our arguments.

On December 11, 2000, I delivered a two-inch thick pardon application to the White House -- more than five weeks before the pardon was granted on January 20, 2001. While the application was under consideration, I wrote Mr. Holder on January 10, 2001 and asked him to weigh in at the White House with his views. I sent that letter to him hoping for his support, having been informed that his views would be important. I had that letter sent by messenger to the DOJ, though I now understand there were problems with its arrival and that it was routed to and received by the pardon attorney on January 18.

Still later, I called Mr. Holder the night of January 19, 2001, and told him that Mr. Rich's pardon was receiving serious consideration at the White House, and that I understood he would be contacted before a decision would be made at the White House. It is now my understanding from Mr. Holder, from then-White House Counsel Beth Nolan and from former President Clinton, that Mr. Holder was indeed consulted and that he expressed a view. I was told that his view was important to President Clinton's ultimate decision.

I want to emphasize that the process I followed in filing the pardon petition was one of transparency at both the Department of Justice and the White House. It was not the first pardon granted this way and it most certainly involved the Justice Department. In filing the pardon petition, I included the views of the prosecutors -- in the form of the responses I and other counsel had received from the Southern District for a meeting and, most particularly, in the form of the original indictment of Mr. Rich. Furthermore, the process this pardon followed gave the president the opportunity to weigh his decision carefully. For over five weeks the White House had time to consider the views of the White House attorneys, the Justice Department and anyone else with whom it chose to discuss the matter to make a judgment on the merits.

The pardon petition was filed directly with the White House because I knew from personal experience as a former White House Counsel that it was not an uncommon practice. As the Washington Post has reported, "previous Administrations in their closing days" have considered pardons directly at the White House that have not gone "through the customary Justice Department screening process." In fact, the Los Angeles Times reported last week that 46 other pardon petitions were submitted directly to the White House in a similar fashion.

Lastly, let me address the involvement of Denise Rich and Beth Dozoretz. Yes, both were involved. But I never believed their views would be the dispositive consideration for the President. I based my efforts on the legal case, as well as the support of the Government of Israel, not on the false presumption that any relationship with President Clinton would result in a favorable outcome.

Denise Rich is the ex-wife of my client, and she wanted President Clinton to grant her ex-husband and the

father of her children this pardon. I encouraged her and her daughters to write letters to President Clinton. As in any pardon application, it was appropriate that the President hear from family members. I also encouraged Ms. Rich to follow up when she had the opportunity to see President Clinton at a White House holiday party -- simply by making sure he had seen her letter. I know that she urged the President to consider this case carefully on that and perhaps another occasion. But I never suggested that she talk to the president about anything extraneous to the pardon itself. Indeed, I did not know at the time that she had made contributions in the past to the Clinton Library, nor did I know at the time the extent of her past fundraising for the Democratic Party.

As for the involvement of Beth Dozoretz, Beth has been a good friend of mine for several years. She is also a close friend of Denise Rich, and she is a good friend of President Clinton. I knew that she talked to the President with some frequency.

I expected that Ms. Dozoretz would inquire about the status of our application. And I believed she might provide me with a sense of our progress or lack thereof. As a lawyer, I wanted information from as many sources as I could get about where my petition stood in the White House, so I could refocus my efforts and my arguments to achieve the desired result for my client. I talked to Ms. Dozoretz over the Thanksgiving weekend and told her I would be filing a pardon petition on behalf of Marc Rich, the ex-husband of her close friend, Denise Rich. I encouraged her to help me be sure that the President himself was aware that we had filed the petition. She did just that and later reported back to me that President Clinton had said I should make my case to Bruce Lindsey and others in the White House Counsel's office.

On another occasion, Ms. Dozoretz talked to the President again. I wanted to hear from Ms. Dozoretz any information she might glean from the President as to where my petition stood with him. What I understand her to have reported is that the President was impressed with my arguments but was doing due diligence with lawyers in the White House so that he understood all the arguments -- for and against the pardon.

Let me be clear on this point: the notion that the President was going to be convinced to grant this pardon because of support for it from Beth Dozoretz or Denise Rich, rather than because of the case we made and the support of leaders like Ehud Barak, the Prime Minister of Israel, is, in my view, untrue. Yes, I was eager to hear any reports about what the President was thinking. Yes, Ms. Dozoretz had been a political supporter of the President. But she was no longer the Finance Director for the DNC. She had left that job in October 1999. At this time, she was a friend of the President. And let me be clear about this as well: I never asked Ms. Dozoretz to talk to the President about this in a fundraising capacity; on the contrary, I emphasized to Ms. Dozoretz that this case could and must be made on the merits. She did not have to be convinced of that.

As far as I am concerned, the most conclusive evidence that the President granted this pardon on the merits was the twenty-minute telephone conversation I had with him on the night of Friday, January 19th. In that conversation, I could tell that President Clinton had obviously read and studied the pardon petition. He grasped the essence of my argument about this case being a case that should have been handled civilly, not criminally, and discussed whether the passage of time would permit statute of limitation defenses. I told him that I would waive those defenses. President Clinton then requested a letter to that effect within an hour.

These comments reflect the state of mind of a President who was searching for a decision based on fairness and equity and his understanding of a regulatory system long ago repealed by the United States. You may disagree with him and me. You may believe he made a big mistake. But I tell you that nothing -- nothing -- in my conversations with him remotely suggested to me that he was thinking about his friendships, his politics, or his Library. In this case as in others, when the press dissects a policy decision made by any

elected official in Washington, it more times than not may find that people were involved or were nearby who at one time or another have raised money for political campaigns. That's why I don't disagree with Senator John McCain, who said about this matter: "The President may have had the purest of motives, but the appearance is bad." The appearance is bad, as it often is in Washington when money has been raised by those who are close to elected officials. But I believe that President Clinton based his decision on his judgment of the merits, and I see no evidence to the contrary.

As we sit here today and discuss the pardon process and any changes that might be made to improve on it, it is useful to remember that the Constitution grants the pardon authority only to the President. The Justice Department has a Pardon Attorney, who reports to the Deputy Attorney General, and one of the major functions of the Deputy Attorney General is to serve as the departmental liaison with the White House staff and the Executive Office of the President, including specifically with respect to pardons. I informed the Deputy Attorney General of my petition. I encouraged the White House Counsel to seek his views. I did this over a period of two months, having briefed him about the case for more than a year before that.

The only man to serve both as president and Chief Justice of the Supreme Court, William Howard Taft, wrote that the reason the U.S. Constitution vests an absolute pardon power in the President is that it is "essential" that some authority "other than the courts" have the power to ameliorate or avoid the outcome of particular cases. The pardon power has never been limited to being granted only after a person has stood trial. As a 1995 Justice Department memorandum attests: "Throughout this nation's history, Presidents have asserted the power to issue pardons prior to conviction." Effects of a Presidential Pardon, 1995 WL 861618 (June 19, 1995). The Iran Contra pardons by President Bush are just one recent example.

In short, as then-Chief Justice Taft wrote for the Supreme Court in 1925: "Executive clemency exists to afford relief from undue harshness or evident mistakes in the operation or enforcement of the criminal law. The administration of justice by the courts is not necessarily always wise or certainly considerate of circumstances which may properly mitigate guilt." [Ex parte Grossman, 267 U.S. 87, 120-21 (1925)]

President Clinton properly gave serious consideration to Mr. Rich's pardon application. He demanded that Mr. Rich's lawyers waive all procedural defenses related to the transactions in question so that Mr. Rich would be potentially subject to civil penalties, such as those faced by others who were involved in similar transactions. In short, I believe our nation's top prosecutor handled this case in a way that it should have been handled years ago. * * *

In conclusion, Mr. Chairman, while you may disagree with President Clinton's decision, I believe the facts establish that I represented my client's interests fairly, vigorously and ethically. And I carried out this representation keeping both the Department of Justice and the White House informed.

Thank you for this opportunity to testify.

Mr. BURTON. We appreciate your coming back and being with us. Ms. Nolan, do you have an opening statement.

Ms. NOLAN. Mr. Chairman, I do not have an opening statement; but I am prepared to answer your questions.

Mr. BURTON. Thank you, Ms. Nolan. Mr. Lindsey.

Mr. LINDSEY. Mr. Chairman, I do not have an opening statement; but I'm prepared to answer any questions.

Mr. BURTON. Thank you, Mr. Podesta.

Mr. PODESTA. Yes, I'd like to make an opening statement.

Mr. BURTON. Would you turn the mic on sir.

Mr. PODESTA. Is it on?

Mr. BURTON. Yes, sir. You're recognized.

Mr. PODESTA. Mr. Chairman, members of the committee, my name is John Podesta. From November 1998 until January 2001, I served as President Clinton's chief of staff. Between January 1993 through June 1995 and between January 1997 through November 1998, I held other positions in the Clinton White House. Between June 1995 and January 1997, I was the visiting professor of law at Georgetown University Law Center, and I have recently returned to the Law Center as a visiting professor.

As the committee requested in its letter inviting me here today, I will briefly outline my recollections of my discussions concerning the Marc Rich-Pincus Green pardon matter. This matter arose during, as you know, an exceedingly busy period at the White House as President Clinton's term was drawing to a close. Because I was involved in a great many issues unrelated to pardons during this time and I do not have access to records, my ability to reconstruct these discussions has been limited, but I am prepared to share with the committee what I do recall.

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.

A few days later, Mr. Kadzik sent me a summary of the cases which I forwarded to counsel's office. Shortly after the first of the year, Mr. Kadzik again called and then asked, in light of the pardons that Mr. Clinton had issued around Christmas, whether any more pardons were likely to be considered. I told him that yes the President 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.

I thought a pardon in the Rich/Green case was unlikely but still knew very little about it. That call from Mr. Kadzik prompted me to ask Ms. Nolan about the merits in the case. I believe she or Miss Cabe or both told me that Rich and Green were fugitives in a major

tax fraud case and that whatever the merits of the underlying case, it was the unanimous view of the counsel's office that the appropriate remedy was not a Presidential pardon.

I learned then or subsequently that Mr. Lindsey was of the same view. I strongly concurred in that judgment. A few days later, Mr. Kadzik asked me if he could see me for a few minutes. I agreed and we had a brief meeting in my office. He again raised the Rich/Green pardon case. 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.

Mr. Kadzik made one more call to me, and I believe we spoke on either January 15 or 16. 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 pardon. I told him I was strongly opposed to the pardons and that I did not believe they would be granted.

On January 15 or 16, I spoke with former Congressman John Brademas, president emeritus of New York University. Mr. Brademas, who is a friend of King Juan Carlos of Spain, called to tell me that he had received a message from the King. The message concerned the Rich pardon case. Mr. Brademas told me that he understood Israel's Foreign Minister, Shlomo Ben Ami, had visited the King to brief him on the Middle East peace process and had raised the Rich case. Mr. Ben Ami evidently had asked the King to call President Clinton to support the Rich pardon application. And Mr. Brademas, in turn, had been asked if he could make known the King's interest to the White House.

Mr. Brademas did not advocate a pardon. He simply asked me whether the pardon was likely or even possible. I told him 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.

Late on January 16, I believe, the staff met with President Clinton on some other pardon matters, and the 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.

On Friday afternoon January 19th, the President talked to Prime Minister Barak in a farewell call. While the bulk of that 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.

That evening, the President had a final meeting with White House counsel to discuss pardon matters. While I was there for part of that meeting, I had to leave for a scheduled television interview and was not present during the discussion of the Rich/Green cases. I was informed of the President's decision to pardon Mr. Rich and Mr. Green by Ms. Nolan on Saturday morning, January 20.

Members of committee, on February 18, former President Clinton stated in the New York Times his reasons for granting the Rich and Green pardons. One can disagree with his reasoning as many have. One can say he did not adequately consult with the Justice officials before issuing the pardons as the President himself acknowledged in his statement, but I believe that President Clinton considered the legal merits of the arguments for the pardon as he understood them and he rendered his judgment wise or unwise on the merits of the case. Thank you.

[The prepared statement of Mr. Podesta follows:]

Statement of John Podesta
Committee on Government Reform
March 1, 2001

Mr. Chairman, Members of the Committee:

My name is John Podesta. From November, 1998 until January 2001, I served as President Clinton's Chief of Staff. Between January, 1993, through June, 1995, and between January, 1997, through November, 1998, I held other positions in the Clinton White House. Between June, 1995, and January, 1997, I was a visiting Professor of Law at Georgetown University Law Center. I have recently returned to the Law Center as a Visiting Professor.

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Mr. Kadzik asked who would be reviewing pardon matters at the White House. I recall that I told him that the White House Counsel's Office was reviewing all pardon applications. A few days later Mr. Kadzik sent me a summary of the cases, which I believe I forwarded to the Counsel's Office.

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At that point, I believed that the pardons would not be granted in light of uniform staff recommendation to the contrary and that little more needed to be done on the matter.

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I was informed of the President's decision to pardon Mr. Rich and Mr. Green by Ms. Nolan on Saturday morning, January 20.

Members of the Committee, on February 18, former President Clinton stated in the New York Times his reasons for granting the Rich and Green pardons. One can disagree with his reasoning, as many have. One can say that he did not adequately consult with the Justice Department officials before issuing the pardons, as the President himself acknowledged in his statement. But I believe that President Clinton considered the legal merits of the argument for the pardons as he understood them, and rendered his judgment, wise or unwise, on those merits.

Mr. BURTON. If there are no further opening statements, we will now go to the 30 minutes on each side; and I believe we're going to yield to Mr. LaTourette on this.

Mr. LATOURETTE. Thank you Mr. Chairman. Welcome to all. Mr. Podesta, I think your opening statement gets to the first set of questions I had. Is it your recollection that on January 16th of this year was the first time that you personally discussed the Pincus Green/Marc Rich pardon with the President of the United States?

Mr. PODESTA. My recollection is it is the first time it came up with the President in my—

Mr. LATOURETTE. In your presence. How about you, Mr. Lindsey.

Mr. LINDSEY. I certainly don't remember—it came up in two maybe, three meetings that we had with the President some time around the middle of January it would seem that approximately the first meeting had occurred.

Mr. LATOURETTE. From the last meeting, we know that the pardon application was filed with the White House on December 11. You don't remember any discussions in the month of December.

Mr. LINDSEY. With the President? No, sir, I don't.

Mr. LATOURETTE. Ms. Nolan how about you.

Ms. NOLAN. No, I don't.

Mr. LATOURETTE. Were you present at this January 16 meeting that Mr. Podesta was talking about.

Ms. NOLAN. I believe I was. I don't have access to my calendars either. There were several meetings that week.

Mr. LATOURETTE. Mr. Lindsey, at the last hearing and I want to, if you have the book of exhibits in front of you at the last hearing, exhibit No. 15 in our program is a letter that we talked to Mr. Quinn about at our previous hearing. It's a letter dated December 19, 2000; and it indicates that perhaps while on a trip to Ireland there was a concern raised and it looks like it was raised by you about whether or not Mark Rich and Pincus Green were fugitives from justice. First of all, do you recall having such a conversation with Mr. Quinn in Ireland?

[Exhibit 15 follows:]

Quinn Gillespie
P.C. ASSOCIATES LLP

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

1133 Connecticut Avenue NW • Fifth Floor • Washington, DC 20036 • www.quinn-gillespie.com



Mr. LINDSEY. Yes, I do.

Mr. LATOURETTE. Did you express to him your concern or the White House's concern or somebody's that these fellows were fugitives from justice and they were on the FBI most wanted list?

Mr. LINDSEY. I don't know if I was aware that they were on the FBI most wanted list, but 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.

Mr. BURTON. Will both of you put your mics a little closer? I don't think all the members can—

Mr. CUMMINGS. We cannot hear the questions either, Mr. Chairman.

Mr. BURTON. Mr. LaTourette, would you hold the mic close to you.

Mr. LATOURETTE. I'll lean in as close as I can. I apologize. This letter of December 19, did you receive it from Mr. Quinn.

Mr. LINDSEY. Yes, sir, I did.

Mr. LATOURETTE. It addressed the issue of fugitivity did it not?

Mr. LINDSEY. In a technical sense, yes, sir.

Mr. LATOURETTE. Basically in that letter, Mr. Quinn is advising you that these fellows really aren't fugitives because they left the country before the indictment was issued.

Mr. LINDSEY. That's correct.

Mr. LATOURETTE. Do you agree with that definition of fugitivity?

Mr. LINDSEY. Probably from a legal point of view, yes. From a practice point of view, it made no difference to me whether they left before indictment or after indictment.

Mr. LATOURETTE. Did you ever discuss with the President of the United States, either in the meeting on January 16 or any other meeting, the concerns about pardoning people who had been 17 year fugitives from justice?

Mr. LINDSEY. Yes, sir.

Mr. LATOURETTE. What was the President's reaction I guess to that?

Mr. LINDSEY. I believe he believed the fugitives status was a factor to be considered but not the beginning and the end of the conversation. For me it was both the beginning and the end of the conversation.

Mr. BURTON. Will the gentleman yield briefly?

Mr. LATOURETTE. Sure.

Mr. BURTON. Did anybody in the meeting ask the President if he knew that the study that the President based part of his judgment on was paid for by Mr. Rich and his attorneys?

Mr. LINDSEY. I don't think anybody asked him that. I assume since it was prepared at their request that they had paid to have it prepared. But frankly, I don't question either of the two professors. I do not believe either of them would say something different than what they believed just because they were being paid. I don't know them personally, but I accepted their analysis at face value.

Mr. BURTON. Did the President know that Mr. Rich paid for that study?

Mr. LINDSEY. Again it was never discussed.

Mr. BURTON. Thank you.

Mr. LATOURETTE. Ms. Nolan, to you. At our last hearing, we had a discussion with Mr. Quinn; and he indicates that you, at one point, raised a question about whether the Executive order talking about the revolving door policy, that is a member of the administration can't come back within 5 years and lobby the administration, whether or not his involvement in the Rich pardon created a difficulty with that Executive order. Do you remember that conversation?

Ms. NOLAN. I do remember raising the issue. I think when I first spoke with Mr. Quinn about the pardon, one of the things that concerned me was he eligible to represent someone.

Mr. LATOURETTE. And again according to his testimony, he indicated that he allayed those concerns based upon the judicial exception contained therein in the policy that he wrote; is that right?

Ms. NOLAN. He told me that he had obtained a legal opinion that it was permissible for him to represent someone in a pardon application. I, nevertheless, asked one of my associate counsels to look at the question independently and got the answer back that it did meet the exception.

Mr. LATOURETTE. And the exception we're talking about is the judicial exception that if there has been a criminal process commenced, it was your feeling that he could come back in a period of less than 5 years.

Ms. NOLAN. That is correct.

Mr. LATOURETTE. The reason I asked that question is I heard Mr. Quinn say that at the last hearing I think you've also seen in the news the indication that Hugh Rodham, who is the former First Lady's brother, accepted a \$200,000 contingency fee to represent another individual in a pardon application. According to the code of ethics for lawyers in the State of Florida, it is improper to take a contingency fee in a criminal matter. One, are you aware of that fact? Or are you aware of ethics codes similar to that?

Ms. NOLAN. I am not aware of the Florida rules, but I'm certainly aware of ethics codes similar to that.

Mr. LATOURETTE. It's really not appropriate to take a contingency fee in a criminal case to get a desired result. That's the purpose behind the rule I suppose. My observation is in that case at least the First Lady's brother seems to be indicating that was OK because it's not a criminal matter; but in this particular case, Mr. Quinn's representation is also OK because it is a criminal matter. And we seem to be at, perhaps, cross purposes.

Going to the meeting of the 16th with the President of the United States. At that meeting, did he ask you to get more information other than the information that was included in Mr. Quinn's submission on behalf of Marc Rich and Pincus Green? Did he ask you to call the Justice Department?

Ms. NOLAN. I had already spoken with Mr. Holder. 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.

Mr. LATOURETTE. When you say he—

Ms. NOLAN. The President.

Mr. LATOURETTE. President Clinton heard your opposition that you had the feeling at that meeting that it really didn't matter what you said. He was inclined to grant this pardon based upon reasons that he saw in the application and perhaps calls from world leaders.

Ms. NOLAN. No I don't mean that at all. 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—he said we'll come back to this. I did not have the sense at that meeting or until the 19th that he really was inclined to grant the pardon.

Mr. LATOURETTE. Does that comport with your understanding, Mr. Lindsey, and yours, Mr. Podesta, that you left that meeting thinking, yeah, he's sympathetic; but this isn't going to happen?

Mr. LINDSEY. I clearly left the meeting understanding that no decision had been made. I don't know if I knew what was in his mind.

Mr. LATOURETTE. Mr. Podesta.

Mr. PODESTA. No. I thought he accepted our judgment and I didn't think this was a particularly active matter.

Mr. LATOURETTE. Thank you. Mr. Chairman I yield back to you for further distribution.

Mr. BURTON. Mr. Barr. Excuse me, Mr. Shays.

Mr. SHAYS. Good afternoon, gentlemen. The former deputy White House—and lady, I'm sorry Ms. Nolan.

Ms. NOLAN. Thank you.

Mr. SHAYS. Former Deputy White House Counsel Cheryl Mills left the White House in October 1999. It's reported to us by the pardon attorney that when he called the White House late in January, that Ms. Mills answered the phone and responded to his questions in the White House regarding the pardon.

And so my first question: Was former Deputy White House Counsel Cheryl Mills assisting the White House or counsel's office at any time during the final weeks of the Clinton administration?

And we'll start with you, Ms. Nolan.

Ms. NOLAN. Ms. Mills, since she had left the White House, continued to be somebody that we called on for advice. She had been there for 7 years. She had a great deal of experience, and people throughout the office called her the president. She had been a very close advisor of the President and the President continued to depend on her.

I'm not familiar with the particular phone call you're talking about. She was present several days at the end because there were events at the White House to which she had been invited. She's a friend of mine and a former member of counsel's office, and she would come by the counsel's office. She was present the afternoon and evening of the 19th. She had been invited to an event at the White House the evening of the 19th. And she did participate in discussions with my office and the President about the Marc Rich pardon and some other pardons.

Mr. BURTON. Excuse me. Could we pull all the mic's a little closer, I know all the members think it's because there are so many people in the room. We can't hear as well as we would like.

Mr. SHAYS. Mr. Lindsey, what would you like to add.

Mr. LINDSEY. I don't know if there is anything needed to be added, sir.

Mr. SHAYS. Do you have any additional information that you can share with us.

Mr. LINDSEY. No. I'm unfamiliar with what Mr. Adams is referring to. Ms. Mills was at the White House on the afternoon and evening of the 19th and did participate in some discussions. But beyond that, I have no clue as to what Roger Adams is referring to.

Mr. SHAYS. Mr. Podesta, was former Deputy White House Counsel Cheryl Mills assisting the White House or counsel's office during any time during the final weeks of the Clinton administration, and did you know about it?

Mr. PODESTA. Let me take it from the back and then the front end. I didn't know that she was assisting the counsel's office in the final weeks of the administration, if she was. I did know that she was present on the 19th during a discussion of some other pardon matters; but as I said, I did not participate in the Rich pardon matter discussion. And so I was aware that she was there on the 19th.

Mr. SHAYS. So your testimony is that you did not authorize her to be there?

Mr. PODESTA. Did not authorize her to be there? I was aware that she was there in the discussion; and I knew that with respect to the other pardon matters that we were discussing that most, all of which involved cases that had been prosecuted by the independent counsels, that the President was interested in knowing her views on those cases.

Mr. SHAYS. Are our statistics, in fact, correct. She was not an employee of the White House? She had left the White House.

Mr. PODESTA. She had certainly left the White House.

Mr. SHAYS. So, Ms. Nolan, I wanted to know who authorized her to be in the White House handling pardon activities.

Ms. NOLAN. I'm not sure I would describe her as being in the White House handling pardon activities. She did participate in advising the President. The President had continued to depend on her. She was the person he asked to be counsel to the President, and she would have been counsel to the President had she accepted. He continued to depend on her for advice.

Mr. BURTON. Would the gentleman yield.

Mr. SHAYS. Yes.

Mr. BURTON. When the pardon attorney called the White House, he said Ms. Mills answered the phone and started giving him answers regarding the pardons. She was not an employee of the White House. And we were wondering by what authority she was entitled to answer questions to the pardon attorney about some of the pardons.

Ms. NOLAN. Mr. Chairman, I am just not familiar with that phone call. As I mentioned, she not only is a long-time employee of the White House who is very familiar with the office, she is also a friend of mine; and when she was in Washington, she would sometimes come sit in my office. She might have picked up the phone. I don't know. She wasn't working on pardon matters for a week, for the last several weeks. But she was familiar with par-

dons and she was present the last day and she participated in discussion.

Mr. BURTON. Well there may be some misunderstanding, but when we talked to the pardon attorney it was our impression I think pretty clearly that she was discussing pardons with him on the phone with a great deal of authority and giving him answers. Anyhow I yield back to the gentleman.

Mr. SHAYS. Thank you. Ms. Nolan, I am having a little difficulty with this. We knew it really bordered on very questionable lines that Mr. Quinn, who was a former White House employee, was back in the White House lobbying. And we can have our disagreements on whether it was a criminal matter or not. There was a dialog between the two in which he said you acquiesced.

I have a problem with that, but I have a question how someone who is in the private sector under private employment is back working in the White House. And I would like to know who invited her to be in the White House, who authorized her to be involved in the Marc Rich issue, and then I want to ask you isn't it true that she works for a trustee of the Clinton library? First let me ask you this, isn't it true she is a trustee of the Clinton library?

Ms. NOLAN. I believe I heard that a couple of weeks ago, yes.

Mr. SHAYS. So the answer is yes.

Ms. NOLAN. I believe that is correct. I have only heard it—

Mr. SHAYS. I want to know why this trustee of the Clinton library was back in the White House discussing Marc Rich's pardon.

Ms. NOLAN. Mr. Shays, I don't know that I'm going to be able to give you an answer that satisfies you any more than the one I have given you. She was a long-time trusted advisor of the President. She continued to be someone that we looked too for advice.

Mr. SHAYS. So is your point that the President authorized her to be there or you authorized to be there?

Ms. NOLAN. I don't know that I can give you an answer about who authorized it.

Mr. SHAYS. Who invited her to come?

Ms. NOLAN. She was invited when she was in Washington to come by.

Mr. SHAYS. By who?

Ms. NOLAN. Certainly by me but by many people in the White House. She had many friends.

Mr. SHAYS. Why would you invite her to come and work on the Rich pardon in your office?

Ms. NOLAN. I did not invite her specifically to do that. She was present. I don't know whether the President had discussed pardons with her already. He talked with her frequently.

Mr. BURTON. Would the gentleman yield? Was she in any of the meetings when they discussed any of the pardons?

Ms. NOLAN. She was in the meeting on the evening of January 19.

Mr. BURTON. That was when they discussed the Rich pardon?

Ms. NOLAN. Yes.

Mr. BURTON. Did she take a position on the Rich pardon?

Ms. NOLAN. I don't remember her having a position on yes or no. I thought that she was pushing everyone in the room to think hard about the issues.

Mr. BURTON. There's a significance to this. If she's on the library board, we want to find out if she participated in the decision-making process on the Rich pardons. She was in the room with you, and you don't recall. Do any of you recall what Ms. Mills position was and what she said regarding the Rich pardon?

Mr. PODESTA. If you want me to start, I have already said I wasn't in the discussion. She was in the discussion. She wasn't present in the room when we discussed several matters involving prosecutions by the independent counsels. The President wanted her views about those things. She was quite familiar with those cases.

Mr. BURTON. But you don't recall on the Rich pardons.

Mr. PODESTA. The President did want to know what she thought about individual's cases that had been prosecuted by independent counsels; and I think probably amongst all of those in the room, she may have been the most maybe, with deference to Mr. Lindsey, she may have been the most familiar with those independent counsel cases. And that's why he was seeking her advice about them, but I was not present during the discussion of the Rich pardon.

Mr. BURTON. We're not talking about other cases before the independent counsel but Mr. Rich.

Mr. PODESTA. That was in some extended response to Mr. Shays' question.

Mr. LINDSEY. In order to understand the context, it is important to understand that the purpose of the meeting with the President on the 19th was to discuss the independent counsel issues. That was why we were meeting with him. We had deferred those issues until the end. In that meeting, the President indicated that he had received a call that day from Prime Minister Barak and reraised the Rich issue. But until that time, as Mr. Podesta and Ms. Nolan indicated, at least they were under the clear impression that the Rich issue was dead.

Mr. BURTON. Let me ask this. Did, I mean, she was in there when they discussed the Rich pardon issue. Do any of you recall what her position was?

Mr. LINDSEY. Yes, sir. I don't believe she took a position on the merits of it. She asked whether or not we were discussing several of the assertions that Mr. Quinn made with respect to whether or not these people had been singled out, and she asked several questions as: Do we know whether they were singled out? Do we know whether there were other cases similar to this? But beyond asking these questions I don't believe she took a position.

Mr. BURTON. Were there any other things discussed, any financial things like the library or anything like that?

Mr. LINDSEY. No, sir. There were no discussions in that meeting or in any meeting that I attended with the President in which contributions or the library was discussed in which DNC contributions were discussed, where contributions to Mrs. Clinton's campaign were discussed.

Mr. BURTON. Or the library?

Mr. LINDSEY. Or the library. Not in that meeting; not in any meeting.

Mr. BURTON. And Ms. Mills, at that time, was she on the library board?

Mr. LINDSEY. She was a trustee of the board, yes, sir.

Mr. BURTON. And nothing was mentioned in relation to that.

Mr. LINDSEY. Nothing was mentioned in relation to the library period.

Mr. BURTON. Thank you. Mr. Shays.

Mr. SHAYS. Thank you. I would like to refer to exhibit 152. While that's coming up, I want to be very clear. Mr. Podesta, did you ask Ms. Mills to come to the White House in any way to discuss the Rich issues or any other pardon issues?

[Exhibit 152 follows:]

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Friday, January 05, 2001 6:05 PM
To: 'Mike Green'; 'Avner Azulay'
Subject: FW: Final POTUS

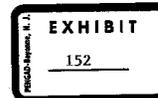
Here is the letter Jack just sent to the White House. As you may notice, his secretary said that Jack sent copies to Beth Nolan, Bruce Lindsey and Cheryl Mills. April said they have clearance to deliver it to the WH, so it will get there this evening, presumably before POTUS leaves for Camp David. To Avner (with whom I am not 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@██████████]
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 (v. 1.5.00).doc

PMR&W 00153



Mr. PODESTA. Did I ask her to come to the White House? No, I did not.

Mr. SHAYS. Ms. Nolan, did you?

Mr. PODESTA. Can we look at the exhibit before we answer the questions?

Mr. SHAYS. No, this question is not related to the exhibit directly. I just want to cover up the past territory. I'm unclear. Did you have—in any way, request that Ms. Mills be there? Did you authorize her to be there?

Ms. NOLAN. I certainly knew she was coming to town, and I expected that she would come to my office and see me, yes.

Mr. SHAYS. Did you make an assumption that the President had asked her to be there? Yes?

Ms. NOLAN. I don't know that I made that assumption. No.

Mr. SHAYS. What are we to assume? This person comes and starts talking about the Rich pardons, sits in on your meetings; and she's not even an employee.

Ms. NOLAN. I've explained the context in which that wasn't so surprising. I know you don't accept it, but I don't know, I don't know what else to say.

Mr. SHAYS. I'm still unclear on who asked her to be there. Let me just make reference to the exhibit, it says, here is a letter Jack sent to the White House. As you may notice it's from Robert Fink sent to Mike Green, and it says, here is the letter that Jack 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 had clearance to deliver it to the White House so it will get there this evening presumably before POTUS leaves for Camp David to Avner, whom I will not be speaking to this afternoon and evening. If you call me at home tomorrow, I can give you an update.

And I just want to know, Mr. Quinn, did you send it to her at the White House?

Mr. QUINN. I think not, sir.

Mr. SHAYS. OK. Why did you send Ms. Mills a copy? Was it your understanding that she was doing some kind of work with the counsel's office in January 2001?

Mr. QUINN. I sent it to her, Mr. Shays, because knowing, as Ms. Nolan has testified, that she's 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.

Mr. SHAYS. What's very much surprising is that you were no longer an employee, but you were back in touch with the White House and in the White House. You have Ms. Mills, who was no longer an employee, worked for the library, back in the White House, and sitting in on meetings in which no one knows who

asked her to be there other than she was a sharp person and knew a lot about these issues and even answers the phone and has a dialog with the pardon attorney. Ms. Nolan, why would she have a dialog with the pardon's attorney?

Mr. QUINN. I can't answer that question, sir. But like Ms. Nolan, I learned of her role in the library only after reading of it in the newspapers after this pardon was granted.

Mr. SHAYS. But the facts still exist.

Mr. QUINN. It may have, but I wanted you to know I wasn't aware of it.

Mr. SHAYS. Ms. Nolan, who qualified her to answer phones and have dialog with the pardon attorney.

Ms. NOLAN. Mr. Shays I'm not familiar with the call so I can't give you any information about it.

Mr. SHAYS. On what basis would you allow someone in your office answering phone calls from a pardon attorney? In other words, it was more than seeking advice she was in the office working; isn't that true.

Ms. NOLAN. Mr. Shays, I'm not familiar with the call.

Mr. SHAYS. I will conclude by asking, was she in the office working? Or did she just happen to stop by, and she was only there for a few minutes or so? Tell me again how long she was there; how often she was there; and to the best of your knowledge, why she would have participated in conversation with the pardon attorney in the last night in office.

Ms. NOLAN. I'm sorry, that was a somewhat compound question.

Mr. SHAYS. Go for it.

Ms. NOLAN. OK. Ms. Mills left the White House in the fall of 1999. She continued to be a trusted advisor of the President and someone that many people in the White House called for advice, people in the counsel's office, people in other offices. But more than anything she continued to be somebody that I and others in the counsel's office looked to for advice and the President did.

In the last several weeks of the an administration, she was present in Washington and the White House for several events that many of them having to do with staff parties and end of the administration events. She often would come before events or after events and sit in my office.

She, on a couple of those occasions, stayed over at my home for a night. She was welcome in my office. And she did, I know on occasion if she heard somebody was on the phone she knew, she might pick it up. I don't recall her ever picking up and doing a business conversation other than, I think, she did have conversations on the night of the 19th regarding the Marc Rich pardon.

Mr. BURTON. If the gentleman—

Mr. SHAYS. One last point. The bottom line is, Mr. Quinn, you thought she had the ability and influence to persuade the President; and you sent her a letter advocating that Marc Rich be pardoned. Isn't it true you sent her that letter?

Mr. QUINN. I did send that letter to her. My primary motivation in discussing this matter with Mrs. Mills was, as I said, to have other sources of information about how people might be reacting. But again as several of us here have said, I knew that she was terrifically well regarded by the people here on this panel, myself in-

cluded and by the President. And I certainly didn't rule out the possibility at that point they would seek her judgment on this and other matters.

Mr. SHAYS. Would you tell me her view on the pardons.

Mr. QUINN. I don't actually know.

Mr. SHAYS. You don't know if she was sympathetic or not to your request that Marc Rich be pardoned.

Mr. QUINN. The one meaningful conversation that I think I can point to was one in which she didn't express a point of view but said to me that her view was in order for anyone to find the argument compelling it would be important, we would have to demonstrate that the prosecution had been unfair. But she never said to me—

Mr. SHAYS. Did she think the prosecutor had been unfair.

Mr. QUINN. I'm trying to answer your question, Congressman. She did not adopt that point of view; she did not ever tell me that she agreed with me. She did not tell me that she would do what she could to help secure the pardon. She, you know, I think she was—

Mr. SHAYS. I get your point.

Mr. QUINN [continuing]. Open minded.

Mr. CUMMINGS. Mr. Shays, may I ask a question?

Mr. BURTON. We'll get to you. Let me ask, you wrote the letter around January 5th or 6th to Mrs. Mills.

Mr. QUINN. Yes, sir.

Mr. BURTON. When did she first become involved in the discussions of the Mark Rich pardon? Does anybody remember that?

Mr. LINDSEY. Mr. Chairman, let me try. Ms. Mills was invited, on the afternoon of January 19, to come to a reception in the White House.

Mr. BURTON. I know but—

Mr. LINDSEY. Hold on, I will get to your question.

Mr. BURTON. Before—

Mr. LINDSEY. I don't know—I'm sorry your question was before that.

Mr. BURTON. Yes, the question was the letter was sent on the 5th or 6th by Mr. Quinn to Ms. Mills. When did she first start talking to anyone at the White House to anyone including the President about the Marc Rich pardon? I know she was there on the 19th, and I know she participated in the meeting. When was the first time, to any of your knowledge, that she started talking about this?

Mr. LINDSEY. The first time I had a conversation with Marc Rich with Ms. Mills was on the 19th.

Ms. NOLAN. I had one conversation earlier. I don't remember the exact date, but they were doing staff farewell video for President Clinton; and I had invited Mr. Quinn and Lloyd Cutler and Judge Mikva and Mr. Nussbaum and Cheryl Mills to come back and be part of our video. And she said something to me, I think in Mr. Quinn's presence, that she had told him to stop pestering me about the Marc Rich pardon.

Mr. LINDSEY. But if I can go back to Mr. Shays' question which is the context for which the meeting on the 19th.

Mr. BURTON. I'll let you answer that question, Mr. Lindsey, in just a moment; but I'm running out of time. And I want to yield on the minority. At the meeting on the 19th, was anything of a classified nature discussed, national security, or classified nature in relation to any of the pardons or things that was confidential.

Ms. NOLAN. I don't think there was any classified or national security information.

Mr. LINDSEY. No, sir.

Mr. BURTON. OK.

Mr. BURTON. No grand jury information was discussed?

Ms. NOLAN. I don't think other than that there had been indictments was discussed; but no, we didn't have any, you know, grand jury information or succeeding material.

Mr. BURTON. Go ahead, Mr. Lindsey, we'll let you conclude.

Mr. LINDSEY. Ms. Mills had been invited to the White House on the 19th for a reception for Kelly Craighead, an employee of Mrs. Clinton. She had also been invited by the President to fly back to New York on the 20th. She was also scheduled to have dinner with Ms. Nolan and I on the evening of the 19th.

We were in Ms. Nolan's office, waiting to go discuss with the President the independent counsel issues. As several people have indicated, there was no indication at that point that Marc Rich would be discussed. We got a call to come to the oval office to discuss the independent counsel matters.

I invited Ms. Mills to join that conversation because Ms. Mills had been in the White House at the time of the Espy investigation, at the time of the Cisneros investigation, and at the time of the Whitewater investigation. The purpose of the meeting that night was on the independent counsel pardon.

The President did, in the meeting, raise the conversation he had earlier in the day about Marc Rich and began revisiting it. In those conversations, Ms. Mills asked a question or two but took no position. But there was no way for Ms. Mills to know, when she went down to the meeting, that the Marc Rich pardon was going to come up since that was not the purpose of the meeting and therefore—and the purpose of the meeting was to discuss the independent counsel pardons.

Mr. BURTON. Mr. Waxman, you're recognized for 30 minutes.

Mr. WAXMAN. Thank you very much, Mr. Chairman. The President has come in for a lot of criticism on these pardon decisions. And I think, as those who have heard my opening statement, much of that criticism is justified; but I don't believe all of the criticism he's received is justified because some people have said he's trying to stonewall and cover up this investigation. Yet all of you are here testifying because he's waived the executive privilege. Ms. Nolan, let me ask you this question so we have it on the record. As I understand it, the President could be prohibiting any of you from speaking today to Congress or to anyone else if he exercises rights under the executive privilege; isn't that correct.

Ms. NOLAN. The President certainly—President Clinton certainly has a strong voice in whether executive privilege can be asserted even after he's left office. He did not do that.

Mr. WAXMAN. Well I commend him for allowing all of you to come before us today, and it's a major step to waive a fundamental

constitutional prerogative. His action will be helpful to the committee and to the public. But the reason we're here today is not because President Clinton exercised poor judgment. It's because there's a juicier scandal, a suspicion that something illegal has taken place. So let me be blunt and get to some of these bottom-line questions.

Mr. Podesta, you served as the White House chief of staff. Did you receive anything in the pardon process that remotely resembled quid pro quo?

Mr. PODESTA. No.

Mr. WAXMAN. Mr. Lindsey.

Mr. LINDSEY. No, sir.

Mr. WAXMAN. Ms. Nolan.

Ms. NOLAN. I'm sorry, Mr. Waxman, I didn't get the last part.

Mr. WAXMAN. Did you see anything that resembled quid pro quo?

Ms. NOLAN. No, sir.

Mr. WAXMAN. Mr. Podesta, did you see anything until the pardons process that constituted wrongdoing of any kind?

Mr. PODESTA. No. In the context that you're talking about, wrongdoing is different than making a bad judgment. And I think that there was no wrongdoing; and I think that, in response to your previous question, nothing of that nature. As Mr. Lindsey has indicated, we never discussed any matters having to do with any of the things that have been alleged by his critics. So no, there was no wrong doing in that.

Mr. WAXMAN. The President has an absolute right to——

Mr. PODESTA. He has an absolute right to make a pardon. And in that context, he can make a decision based right or wrong on the merits; but as I said in my opening statement, I believe that the President made that decision in the Rich case, which I disagreed with, he made it on the merits.

Mr. WAXMAN. Let me get it on the record. Mr. Lindsey, did you see anything in the pardon process that constituted wrongdoing, meaning legal wrongdoing, not bad judgment?

Mr. LINDSEY. No, sir. To reinforce what Mr. Podesta said, we had many discussions about many of these pardons. The discussion was on the merits. It was the pro's and con's. It was the issues before us. In my judgment, the fact that they were fugitive was the beginning and the end of the discussion. For the President, that was a factor but not the beginning and the end. I believe he made all of his decisions on the merits whether you agree or disagree with his judgment.

Mr. WAXMAN. Ms. Nolan, you said you didn't see any quid pro quo. Did you see any wrongdoing by the President in exercising this authority?

Ms. NOLAN. No I did not, Mr. Waxman.

Mr. WAXMAN. Mr. Chairman, we're called to a vote.

Mr. BURTON. There's 12 minutes and 45 seconds on the clock. If you would like to proceed now and come back, that would be fine, or we can proceed for another 5 or 10 minutes.

Mr. WAXMAN. Let me proceed. I will not complete my 10 minutes, but let me proceed as far as we can.

Mr. BURTON. Sure.

Mr. WAXMAN. So none of you observed anything that would have violated the law; isn't that correct? That's from all of you; and that was also the testimony of Eric Holder and Jack Quinn, who testified before us last time. If anyone was in a position to detect the existence of a quid pro quo for a wrongdoing, it would have been one of you three; isn't that correct?

Mr. PODESTA. I think that's fair.

Ms. NOLAN. I think that's right.

Mr. WAXMAN. OK. Let's go to the Mark Rich pardon, and I'm going to ask about this pardon. Ms. Nolan, Mr. Rich's application was received at the White House in December 2000; is that correct.

Ms. NOLAN. I don't really remember. I remember a discussion about it in December. I don't remember seeing it until somewhere around Christmas either late December or early January.

Mr. WAXMAN. Did you get a chance to form an opinion as to whether this pardon should be granted?

Ms. NOLAN. I formed an opinion rather quickly that the pardon should not be granted.

Mr. WAXMAN. Did you convey your view to the President?

Ms. NOLAN. I think I know I had a discussion with John Podesta. I'm not sure when it first came up with the President, but I would have conveyed it the first time that it did. I don't remember talking about it right away.

Mr. WAXMAN. Mr. Podesta did you form an opinion on whether Marc Rich should receive a pardon?

Mr. PODESTA. Yes.

Mr. WAXMAN. What was your view?

Mr. PODESTA. I have thought he should not receive a pardon, that if there was any problem with his indictment that the proper remedy was come back and handle it through judicial channels.

Mr. WAXMAN. Mr. Lindsey, you already testified that you thought the pardons should not have been granted because Mr. Mark Rich was a fugitive; is that right?

Mr. LINDSEY. Maybe technically not a fugitive, but he had been—but he was out of the country and had been for 17 years.

Mr. WAXMAN. Did the President know about your views?

Mr. LINDSEY. In the process he did. Again we had scheduled meetings with the President in which we discussed—the first time the Rich pardon came up in one of those, and Mr. Podesta believes it was on the 16th. I wouldn't argue with that. I don't know it was a fact; but whenever it came up, yes, he knew my views.

Mr. PODESTA. Just to be clear on that. I think that was the first time when I was present. But I was out of the country for a couple of days the previous week, and I don't know whether there was meetings held or not.

Mr. LINDSEY. I can't tell you which date or when we first discussed it. We had a series of meetings in late December or early January on pardon matters. Whenever the Rich pardon came up, I think each of us expressed our views.

Mr. WAXMAN. You're the three top advisors of the President. Each of you have come to this conclusion, that the pardons shouldn't have been granted; and you communicated that to the President, so he knew it presumably. Ms. Nolan, why do you think the President granted that pardon?

Ms. NOLAN. The President was the President, sir. And I even had that discussion with him on the 19th because we were in some heated discussion about one of the pardons, and I said "look, my job is to tell you what I think about this and to tell you what my best judgment about it is, but I know who's President and who's not." And he got to exercise the pardon power.

Mr. WAXMAN. Mr. Podesta, do you have a view?

Mr. PODESTA. I think he laid that out in his op-ed piece. I'm sure there were a variety of factors. I think that the fact that this happened at the end on the 19th—I think the fact that he heard from Prime Minister Barak, Shimon Peres, and others didn't mean that this was a significant U.S. Israeli issue; but those were men he respected, and they were asking him to look at it. And I think he felt obliged, having heard from a number of people he respected asking him to take it under serious consideration that he did that.

And I think that based on that, he looked at it, he bought the argument. They're arguments that obviously the three of us didn't buy, but he bought them. But again the process could have been done better. He could have heard more from the Justice Department as I think he's acknowledged. But he made the decision, I believe, on the merits of the case as he understood it and based on all these factors.

Mr. WAXMAN. Well, during this process of deliberations when the President was making his decision, were you aware or did you become aware of the fact that Denise Rich had made significant contribution to the Clinton library?

Mr. PODESTA. No. I was not aware.

Mr. WAXMAN. Mr. Lindsey, were you aware of that?

Mr. LINDSEY. I may have been aware that she was a supporter. I don't know if I had any sense as to whether she had actually given any money or what; but yes, I think I was probably aware that she had indicated that she would be supportive of the library.

Mr. WAXMAN. Ms. Nolan.

Ms. NOLAN. I was not aware.

Mr. WAXMAN. Or that she had given to any of these campaigns? Were you aware of her financial involvement in the office?

Ms. NOLAN. No. I think I understood that she was somebody who was generally a supporter, but I wasn't aware of any specific contribution.

Mr. WAXMAN. Do any of you have any evidence to suggest that the Rich pardon was part of a quid pro quo for the purpose of contributions for campaigns, the library, to Mrs. Clinton's efforts, or to the Democratic National Committee?

Mr. LINDSEY. No, sir.

Mr. PODESTA. No.

Ms. NOLAN. No, sir. Mr. Waxman, if I can say too when I said that the President did it because he was the President, I don't mean to suggest in any way that I think he did it just because he could. I agree with Mr. Podesta that the President believed there were valid reasons to do it; that to grant that pardon that I disagreed with and his staff did, but he was entitled, ultimately, to make the judgment about it.

Mr. WAXMAN. Thank you. Mr. Lindsey, I'm particularly interested in your role regarding the Rich pardon. As I understand it,

you were a consultant to the Clinton library. In this role you certainly had an interest in the success of the library; isn't that correct?

Mr. LINDSEY. Yes. I wasn't a consultant at the time. I was still with the government; since then, I am now a consultant to the Clinton library.

Mr. WAXMAN. And I presume that you had an interest in making sure the library received adequate funding.

Mr. LINDSEY. Yes, sir. I've been involved with the library since the initial discussions of 5, 6 years ago.

Mr. WAXMAN. Is it fair that among those affiliated with the library, you were the closest advisor with the most regular contact with him at the White House at that time?

Mr. LINDSEY. I would hate to argue who was the President's closest advisor, but probably with the most regular contact, yes.

Mr. WAXMAN. Did the subject of Ms. Rich's contribution to the library, did it come up in your discussions with the President about the Rich pardon?

Mr. LINDSEY. Never.

Mr. WAXMAN. The major theory of wrongdoing that we are investigating is, did President Clinton issue the Rich pardon in order to get funds for the library. Even the suggestion of Cheryl Mills seemed to give us a hint that because she was on the board of the library, maybe she was trying to influence the President's decision.

It's hard to see how this pardon was done to benefit the library. If you had that concern about the library in mind, why would you advocate to the President not to grant the pardon?

Mr. LINDSEY. That is correct. And also if you would look, there were other people who were probably more significantly involved in the library who were advocating on behalf of other pardons. Michael Milken, Leonard Peltier that we did not grant. So if you were to accept that as a premise, there were better cases, if you will, for that. But it didn't happen in those cases, and it didn't happen in this case.

Mr. BURTON. We have a vote on the floor, and the gentleman from California has 18 minutes on the clock so we will resume questioning as soon as we come back from the vote. We'll stand in recess.

[Recess.]

Mr. BURTON. Would everyone take their seats please. Mr. Waxman, you have 18 minutes and 6 seconds. You're recognized for the balance of our time.

Mr. WAXMAN. Thank you very much, Mr. Chairman. The issue of Ms. Mills' attendance at the January 19 meeting has been raised by several members. I want to ask you all the same question so I can understand why she was at the White House. Ms. Nolan, how long did Ms. Mills serve on the White House counsel.

Ms. NOLAN. She was in the White House Counsel's Office from the first day of the administration in January 1993.

Mr. WAXMAN. And she had expertise and institutional memory that would be valuable to the lawyers in the counsel's office.

Ms. NOLAN. Absolutely.

Mr. WAXMAN. After she left the White House, was she contacted on various occasions for her expertise and institutional memory?

Ms. NOLAN. Yes.

Mr. WAXMAN. What types of issues would she be consulted about?

Ms. NOLAN. She was consulted about a range of matters that she had knowledge about or expertise. She had served as the alternate designated agency ethics official in the White House so there were a number of rules and standards of conduct that she had experience in providing advice on.

Mr. WAXMAN. Ever on pardons?

Ms. NOLAN. She had, in fact, worked on pardons, yes, sir.

Mr. WAXMAN. Did she visit the White House after she left the staff and was sometimes consulted when she came back to the White House?

Ms. NOLAN. Yes.

Mr. WAXMAN. Yes to both?

Ms. NOLAN. Yes and yes.

Mr. WAXMAN. She had come back.

Ms. NOLAN. She visited and she consulted and when she wasn't present—most of the time she was not present in the White House, the vast majority of the time; but when she did stop by and visit, we might talk to her about issues. And it wasn't uncommon for us to talk about such issues with other former White House officials as well.

Mr. WAXMAN. Was she paid by the White House after she left the staff?

Ms. NOLAN. No.

Mr. WAXMAN. Did she maintain an office or desk at the White House after she left?

Ms. NOLAN. No.

Mr. WAXMAN. When she visited, did she need to be cleared in?

Ms. NOLAN. Yes.

Mr. WAXMAN. I have to say, from my own knowledge, my own experience, I have had former staffers of mine come in and talk to me about matters that are on my mind because I trust their judgment and particularly if it relates to a matter that they were involved in when they worked for me. So I don't find it all that significant. Mr. Quinn, you were trying to influence her because you knew she had some ability to communicate and maybe even have an impact on those who were going to make the decision on this pardon; is that right?

Mr. QUINN. Again Mr. Waxman—I'm sorry. I thought it was conceivable that she could be helpful. I didn't anticipate that she would be a decisionmaker. I didn't anticipate that she would be one of the people who, along with the other folks here on this panel, would necessarily be asked for recommendations; but I thought it was conceivable. And more importantly, again I thought that based on the longstanding relationship I had with her that I could get a feel for where I stood and perhaps be in a position to better tailor my arguments, know what the substantive concerns were, and address them at an appropriate point.

Mr. WAXMAN. I understand your point. Let me ask the three of you. At the White House, did Cheryl Mills advocate the pardon for Marc Rich? Ms. Nolan, do you know if Ms. Mills urged that he be pardoned?

Ms. NOLAN. No she did not urge that he be pardoned. She urged that we look seriously at the issues.

Mr. WAXMAN. Mr. Lindsey.

Mr. LINDSEY. Yes. I'm not aware that she advocated for the pardon.

Mr. PODESTA. I'm certainly not aware of it, but again I wasn't in the meeting.

Mr. WAXMAN. So the three of you would be the natural people that would know if she was advancing Mr. Rich's pardon to the President and urging him to grant that pardon? So it's your testimony, the three of you, you don't know whether she did; and the question is do you believe that she talked to the President in favor of this pardon. Do you know whether she did or did not?

Ms. NOLAN. I know she spoke with the President in that meeting. I don't believe that she urged that he grant the pardon.

Mr. WAXMAN. Let me try to find out what the mood of the White House was like at this time. Mr. Podesta, could you walk us through the final weeks of the Clinton administration? In addition to pardons, what else was going on?

Mr. PODESTA. Well I think as you know, Mr. Waxman, there were a number of issues before the President at the end of the administration; and we were trying to work diligently up and through toward the end to make sure that the policies that he had been pursuing were implemented properly.

We were working on issues of protecting the privacy of medical records. Providing a patients bill of rights for Medicaid patients. We were dealing with the California energy crisis. We issued a new rule on air conditioning standards. I mean we had, I recall that during—on Wednesday of that week, for example, we did a major event with Secretary Babbitt where we designated a number of new monuments; and so we were, the bulk of at least my time and the President's time were taken up with those issues finishing up the agenda, working diligently to get that done. We appointed—made a recedd appointment of a fine trial attorney in Virginia to the fourth circuit to integrate the fourth circuit court for the first time. We were putting forward Federal judges. We had just innumerable matters to try to deal with to get done before the ends of the term.

Mr. WAXMAN. So you were winding down the administration waiting for the new team to take over. You were pretty busy. You had the Middle East, you mentioned, and then the other things that were going on—

Mr. PODESTA. The Middle East, as you refreshed my recollection. He was dealing with that right up until the end. He was dealing with Prime Minister Blair and Bertie Ahern on the northern Ireland issues so I think there was plenty on both the foreign policy side as well as domestic policy side that we were dealing with. He also traveled and made a number of speeches in the last week talking about what he thought the right direction for the country was including a trip to Arkansas on Wednesday of that week.

Mr. WAXMAN. And he was also dealing with the fact that he had to come to terms with the independent counsel?

Mr. PODESTA. Yes he was. And that was a significant issue.

Really kind of, I think, arose. I don't remember precisely maybe Ms. Nolan would. But it arose at the beginning of January and it worked its way up through the process right up at the end. And I think it's fair to say at Mr. Ray's insistence that the agreement that he struck with Mr. Ray, the independent counsel, was entered on January 19, the morning of the time that we're talking these events.

Mr. WAXMAN. So that was the same day that he came to terms with Mr. Ray and had to make his admission publicly about the Monica Lewinsky statements before the grand jury and all of that. That was the same day that he also had the meetings of the pardons.

Mr. PODESTA. That is correct.

Mr. WAXMAN. It was that night that it was the meetings on the pardons?

Mr. PODESTA. I guess the only thing that I would quarrel with what you just said was that I think Mr. Ray recognized and this was certainly lost in history. We should not keep fighting it. But Mr. Ray realized there was no problem with his grand jury testimony and there is no statement on the grand jury testimony.

Mr. WAXMAN. He might have been feeling a little more sensitive about overzealous prosecutors on that day.

Mr. PODESTA. I can only speculate, Mr. Waxman.

Mr. WAXMAN. I can only speculate, but Mr. Quinn was making that argument of Marc Rich that he was the victim of an overzealous prosecutor; isn't that right.

Mr. QUINN. Yes, sir.

Mr. WAXMAN. In this pardon process, the President has been criticized for not getting the input from the Justice Department. Ms. Nolan, you have been with the President in the White House Counsel's Office in 1999 all the way to the end. After you began this position did the President give you instructions as to how he wanted to handle the pardon process on how he wanted to proceed?

Ms. NOLAN. Sometime fairly soon after I began as counsel, which was in September 1999 certainly by the beginning of the year 2000, we had a discussion in which he had said that he wanted to exercise the pardon power more than he had in the past. That he felt that he hadn't exercised it fully, and he wanted to be sure that we had a process in place to be sure that pardons moved quickly through the process.

Mr. WAXMAN. So the President was saying he wanted to exercise his pardon authority more frequently than he had in the past? He wanted more pardons to be presented to him. Is that your statement?

Ms. NOLAN. That's correct.

Mr. WAXMAN. And he told you to get those pardons to him?

Ms. NOLAN. That's correct.

Mr. WAXMAN. Did you call the Justice Department and tell them to get those pardon reviews to the White House?

Ms. NOLAN. Yes.

Mr. WAXMAN. And was it running smoothly or what was happening?

Ms. NOLAN. I actually had several meetings—I think the first meeting was sometime in early 2000; I'm not sure of the exact

date—with the Deputy Attorney General and the pardon attorney and I think one or two other people from the Deputy or Pardon Attorney's Office, which we talked about the standards that the Justice Department was using in reviewing pardons and expressed the President's view that, with respect to pardons, he generally believed that restoration of civil rights was important, that if people had served their time and led a good life since then he would be in favor of receiving pardons.

We discussed the particular standards that were used by the Justice Department, some of which I think the Deputy Attorney General and—

Mr. WAXMAN. Let me interrupt you, because we have a limited amount of time. Is it fair to say that this process was not moving along as fast as the President would have liked and you would have liked?

Ms. NOLAN. That's fair to say, yes, sir.

Mr. WAXMAN. And so did you find resistance from the Justice Department Pardon Department or office or whatever it was?

Ms. NOLAN. I found no movement. I don't quite know how to describe what was happening. It was very hard for me to see inside the Justice Department, but sometime in August I said to Eric Holder, we have to have another meeting, because we're coming up to the end and we need to know that we can move along more pardons. That produced very little. Sometime I think in November or December I learned that we could expect at most 15 favorable recommendations.

Mr. WAXMAN. Did the Pardon Attorneys Office tell the White House in September or October 2000 that they couldn't take anymore pardon applications and that they weren't going to be able to review them and get the information to the White House?

Ms. NOLAN. They told us that some time in the fall. I'm not sure of the exact date.

Mr. WAXMAN. So around the time that the Pardon Attorney's Office of the Justice Department was telling the White House that it would process no more pardon applications the President was seeking out more applications; and there was also an increase in pardon requests, isn't that right?

Ms. NOLAN. Right. There had been, in fact, a great increase all through the year in applications, so the Pardon Attorneys Office had more applications and hadn't been able to move them in any significant faster rate.

Mr. WAXMAN. In December and January did you feel overwhelmed by the amount of pardon requests that you were asked to process?

Ms. NOLAN. We were really inundated with pardon requests and, in fact, sometime around Christmas week I think I spoke with Mr. Podesta and said we really should—we have to have a cutoff. We can't possibly finish what we have if more pardon requests come in.

Mr. WAXMAN. Where were they coming from?

Ms. NOLAN. They were coming from everywhere. Mr. Waxman, we had requests from Members of Congress on both sides of the aisle, in both Houses. We had requests from movie stars, newscasters, former Presidents, former First Ladies. There wasn't any-

body—I didn't—I refused to go to holiday parties because I couldn't stand being—nobody wanted to know how I was, thank you very much. They wanted to know about a pardon. So I just didn't go.

Mr. WAXMAN. So let me make sure I understand this. The White House was involved in closing up its operations but still trying to issue new regulations and negotiating a Middle East Peace Agreement. The President was insisting that you consider as many pardon applications as possible, despite the fact that the Justice Department wouldn't take any more applications after October 2000; and you were being besieged by Members of Congress and others to consider an ever-growing number of pardons. And on top of that I suspect you weren't aware of some of the pardon activities. Is that a fair statement of what was going on at the White House?

Ms. NOLAN. I think that is a very fair statement. I would add that we were also doing this in a shortened transition period and trying to work with the incoming administration. So that was another—

Mr. WAXMAN. And, Mr. Podesta, is that an accurate statement from your point of view?

Mr. PODESTA. I think that's accurate, yes.

Mr. WAXMAN. And you were hearing from Members of Congress; and I even called you on behalf of a constituent who I thought deserved consideration for a pardon, Mike Milken, and who did not get a pardon.

Ms. NOLAN. That's right.

Mr. WAXMAN. And I understand you got calls from Congressmen and Senators. Did any of them suggest you not follow the Justice Department guidelines?

Ms. NOLAN. Yes, certainly. Several of them suggested that they knew it was too late really to go through the Department of Justice, but they wanted to send the pardon application directly to the White House.

Mr. WAXMAN. How many contacts, if you know, did you get from Members of Congress, House and Senate?

Ms. NOLAN. I don't know, sir. I had probably 30 or 40 phone calls, and I think I took less than half of the calls I had. I just couldn't possibly respond to all the calls I had.

Mr. WAXMAN. Mr. Podesta, do you have any idea?

Mr. PODESTA. I would guess it's in the high double or in the triple digits.

Mr. WAXMAN. Were there any examples that stand out in your mind of Congressmen or Senators that were asking you to issue pardons and not follow the Justice Department guidelines?

Mr. PODESTA. Well, let me clarify one thing. I don't think that Members of Congress said, please issue a pardon; and, by the way, don't follow the Justice Department guidelines. I think they basically just didn't care whether we followed the Justice Department guidelines. For example, I think in one particular case in which we did issue a pardon for Mr. Lake, that was done at the end and I think did not go through the Justice Department. I think both the chairman of the Senate Judiciary Committee and the chairman of the counterpart to your committee in the Senate called on his behalf or at least made their views known on his behalf.

Mr. WAXMAN. Senator Hatch?

Mr. PODESTA. Senator Hatch and Senator Thompson. I don't think they really cared whether that had gone through the Justice Department guidelines or not.

Mr. WAXMAN. Ms. Nolan, did you know Roger Clinton was seeking pardons from some individuals or for some individuals?

Ms. NOLAN. I'm sorry, say the question again.

Mr. WAXMAN. Did you know that Roger Clinton was seeking pardon for some individuals?

Ms. NOLAN. I believe I did. I can't think of who those individuals are now, but I think I probably knew that he was interested in certain pardons. I did not know everybody who was interested in every pardon. It was impossible given the thousands, as Mr. Podesta said, thousands of people who were interested in pardons.

Mr. WAXMAN. Did you know that Hugh Rodham was being paid to obtain pardons for Vignali and Braswell?

Ms. NOLAN. No.

Mr. WAXMAN. Well, I see my time is about up. But I have to say it doesn't seem to me a very ideal process for a President exercising such an important responsibility, just seems absolute chaos at the White House and lack of cooperation from the Justice Department in what the President wanted to do, which was to give more pardons. And at some point it looks like, particularly on January 19th, the President sat there and said, I'm going to go ahead and just issue some of these pardons that he thought made sense.

Mr. Podesta.

Mr. PODESTA. Mr. Waxman, I think I might put that in a little bit more perspective, which is that I think that for the bulk of the 177 pardons and commutations that were processed, you could disagree with them, you can agree with them. Most of them were—at least the Justice Department got to chop on them, gave them their recommendations. But I think that they were managed by the White House Counsel's Office through a process in which there was substantive consideration given to them, and a judgment was made and a recommendation was made to the President, and he either took it or he didn't take it.

So I think that there's a misperception that this all happened on the last day and this giant batch of pardons and commutations went through on the last day. I think the bulk of them were considered, and they were considered on the merits, and, as I said, sometimes, in many cases, the Justice Department agreed and concurred. In some cases, they didn't, but they were considered on the merits.

Mr. WAXMAN. But do you think that the process broke in the handling of them?

Mr. PODESTA. I want to say two things.

One is that I think there are a couple of what I would describe as *sui generis* cases. I think the batch of independent counsel cases that we considered at the end were considered sort of *sui generis* and as a group, and I think that some of these cases moved through at the very end.

As Ms. Nolan testified, she talked to me about stopping the inflow. I discussed that with the staff at a staff meeting in early January, said no more new pardon applications are coming through the system. But I think obviously that there were some that came

in late, and I think that you know we bear the responsibility for having the process that we thought was manageable that in the last days I think broke down and let some of these go through. But I don't think it's the whole set of pardons, and I think if you look at those, the bulk of them are—everyone would agree are meritorious. Now some people may think that no pardon should be granted, but I think the bulk of them are meritorious.

I think there are others which were considered by the White House, judgment was rendered, you can agree or disagree with it, and there are very few that came up, and I would put Rich as being probably the No. 1 example in which the process broke down. I don't think the President got good and full advice on it. He made a judgment. As I said, I believe he made it on the merits as he understood them, but I think that we didn't serve him very well in terms of providing him with the counterargument. There's an explanation for that because of the Barak call on the 19th, etc., we all thought it wasn't happening, but I don't think we served him very well in that regard.

Mr. BURTON. We have a vote in less than 2 minutes, so we have to sprint to the floor. This will probably be the last interruption so we won't have to break. If you need to take a break while we're gone, you should do so. We'll be back in about 10 or 15 minutes.

[Recess.]

Mr. BURTON. If we could have everyone take seats and close the doors, we're going to now go to the 5-minute schedule, and I'll start off with that. We are missing a couple of witnesses here.

OK. I want to get a little bit more specific, if I can. We've kind of hit and missed on some questions. So I'm going to try to do this in a little more organized manner so we can expedite this a little quicker.

Who, among the White House staff, supported the pardons of Marc Rich and Pincus Green?

Mr. PODESTA. Let me speak for the panel. I believe we all opposed it.

Mr. BURTON. Was there anybody else at the White House that you know of that supported the pardon of those gentlemen?

Mr. PODESTA. The President reviewed the matters, and he decided to grant it.

Mr. BURTON. So it was the President alone as far as you know? OK. Who opposed it?

Mr. PODESTA. Start with the three of us.

Mr. BURTON. And was there anyone else that opposed it that expressed opposition to the President?

Ms. NOLAN. There were a couple of associate counsel who worked on pardon matters, and they opposed it.

Mr. BURTON. OK. Who participated in the debate about the pardons on the 19th and any other time? Who participated in the debate on the pardons?

Ms. NOLAN. I did, Mr. Lindsey, the two associate counsels, the President and Ms. Mills.

Mr. BURTON. And everyone was opposed to it except ultimately the President when he made his decision?

Ms. NOLAN. I think, as I said before, I don't believe Ms. Mills expressed a view on the bottom line.

Mr. BURTON. What did Ms. Mills say?

Ms. NOLAN. She argued—or suggested, I think is a fairer way of saying it, suggested that we should be looking at the selective prosecution question seriously. Had anyone looked at that? But she also had very strong views that normally pardons or the arguments about selective prosecution were less available or plausible to rich white people.

Mr. BURTON. Was there a formal recommendation from the entire staff to the President? I mean, did you all collectively say we think this is—was there a formal recommendation that he not be pardoned?

Ms. NOLAN. I'm not sure what you mean by a formal recommendation. I think President knew that each of us opposed the grant.

Mr. BURTON. OK. Besides the three of you, who—you said there were two others. Who on the White House staff expressed their opposition directly to President Clinton besides the three of you and Ms. Mills? Or Mills didn't, but besides the three of you, you said two associate counsels.

Ms. NOLAN. There were two associate counsels.

Mr. BURTON. Who were they?

Ms. NOLAN. Meredith Cabe and Eric Angel.

Mr. BURTON. Meredith Cabe, she had contact with the pardon attorneys on occasion, didn't she?

Ms. NOLAN. Yes.

Mr. BURTON. I want you to take a look at exhibit No. 63. Would you put that on the screen, please?

According to this January 10, 2001, e-mail, President Clinton called DNC Finance Chair Beth Dozoretz and spoke to her about the pardons saying he, quote, wants to do it and is doing all possible to turn around White House counsels. What was the President doing to try to turn you around?

Ms. NOLAN. I am not aware that he did anything.

Mr. BURTON. Well, in the memo, as you can see there, it says very clearly he was talking to Ms. Dozoretz, and Ms. Rich was with her. He was saying he was having difficulty, and he says I'm doing everything I can to turn them around. I think he also said you should pray about it.

Ms. NOLAN. Mr. Chairman, I don't know if this is accurate or not. All I can tell you is from my end, other than the President did some time I think the last week of January, the last week of his Presidency, it might have been the week before, raised the pardon, seemed to be familiar with the issue, but I didn't—

Mr. BURTON. But he didn't try to turn you around as denoted in this.

Ms. NOLAN. I did not experience that.

Mr. BURTON. Mr. Lindsey.

Mr. LINDSEY. No, sir.

Mr. BURTON. He discussed it with you, but he wasn't trying to turn you around or anything?

Mr. LINDSEY. No, sir.

Mr. BURTON. Mr. Podesta.

Mr. PODESTA. No, and I think that the President—I think this kind of—I don't know where this comes from, this third-hand con-

versation. I have no reason to believe that it is accurate, but it sort of subverts the authority in the White House when the counsel doesn't—the President doesn't report to the counsel. The counsel reports to the President.

Mr. BURTON. OK. I am very well aware of that. I found that troubling when I read that.

I have one more question, and I think we'll be out of time. If the staff check had been in a veto mode, could you guys have prevented the pardon if you would have been in a veto mode? I mean, you would have said you believed it shouldn't have been done?

Mr. PODESTA. The President understood our views; and, ultimately, it's his decision to grant or not to grant the pardon.

Mr. BURTON. Well, let me go ahead and yield to Mr. Waxman or someone on your staff. My time is expired.

Mr. WAXMAN. Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

First of all, I want to thank you all for being here. I want to tell you that your testimony has helped me tremendously in feeling a little bit better about this situation.

I want to just zero in on one point. It seems as if I think almost all of you, Ms. Nolan, Mr. Lindsey and Mr. Podesta, said that there was a certain point where you all felt because of the circumstances of the Rich case that it was basically not going to happen; and I think it was you, Mr. Lindsey, who said that on the 19th apparently a call came from Prime Minister Barak and that things began to change. I'm not trying to put words in your mouth, but it seems as if things were going in one direction and then all of a sudden, or may not have been all of a sudden, but they started going in another direction. Could you help us with that? The President in his New York Times explanation said that the Barak call was of some significance. Can you or Mr. Podesta or you, Ms. Nolan, shed some light on that?

Mr. LINDSEY. Let me start. We had on at least one occasion prior to the 19th had a fairly full discussion of the Marc Rich-Pincus Green application. We each expressed our views, and there was no indication at the end of that meeting that the President was going to grant the pardon request.

Mr. CUMMINGS. When was that? I'm just—

Mr. LINDSEY. Well, Mr. Podesta believes the first one he participated in was the 16th. I don't have access to a calendar, but I wouldn't argue with that. It was some time 3 or 4 or 5 days prior to the 19th.

Mr. CUMMINGS. All right.

Mr. LINDSEY. On the 19th we had put off discussion of pardons for the people involved in various independent counsel investigations, and we had scheduled a meeting with the President for the purposes of discussing those applications and requests. During that meeting or at some point during that meeting the President raised with the group—and Mr. Podesta may have been gone at this point—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.

We then had an additional discussion concerning their status, the arguments that Mr. Quinn had been making to the counsel's office at that point. And it was some time that evening that the President made the decision, after speaking again with Mr. Quinn and getting from Mr. Quinn a commitment that they would waive all civil procedural restrictions, statute of limitations and so forth, that the President indicated that he intended to grant the pardons.

Mr. CUMMINGS. And can you shed any light on that, Ms. Nolan? And then I want to come to you, Mr. Quinn.

Ms. NOLAN. No, I think again, like Mr. Lindsey, I'm not exactly sure when the first discussion was, but I did not realize until the evening of the 19th that it was live and the President specifically did mention his conversations with Mr. Barak.

Mr. CUMMINGS. Now, did you have something, Mr. Podesta?

Mr. PODESTA. No.

Mr. CUMMINGS. All right. Mr. Quinn, Mr. Lindsey just referenced a conversation about the waiving of the civil situation; and do you remember, I mean, is there a point where things in your efforts to represent your client, where things seemed to be going downhill, and then they seemed to turn? I mean, do you think that during that discussion that Mr. Lindsey just referenced, and I assume that you're familiar with it, do you remember the President ever mentioning that he had gotten more than one call or had recently gotten a call from Mr. Barak?

Mr. QUINN. Congressman, I came to the impression as we approached the end of the term that he had spoken to Prime Minister Barak more than once, but I quite honestly can't tell you how I came to believe that. I think in all likelihood I was hearing that reported back from people associated with Marc Rich in Israel. I'm rather confident that no one in the White House told me of those calls. But I was aware that on the 19th this matter was raised by Prime Minister Barak with the President.

You know, in retrospect it strikes me, as I think it does a good many people, that was a significant development. It was a turning point; and, in all honesty, I can't tell you that I ever thought that this was anything other than a tough decision. I thought we had put together a persuasive case and had a meritorious argument, but I was well aware not so much of Mr. Podesta's views but I was certainly well aware that Mr. Lindsey and Ms. Nolan were, at a minimum, highly skeptical.

Mr. CUMMINGS. All right. Thank you very much.

Mr. BURTON. Thank you, Mr. Cummings.

Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

Ms. Nolan, you had a number of phone conversations with Eric Holder on January 19th, is that correct? Isn't it?

Ms. NOLAN. I did, yes, sir.

Mr. BARR. OK. What was the subject matter of those phone calls, beginning with your call to Mr. Holder at 9:45 that morning? These are logs found in exhibit 127.

[Exhibit 127 follows:]

02/08/01 THU 10:50 FAX

02/08/01



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

FAX COVER SHEET

DATE: 2/8/01

TO: Jim Wilson, Mike Gray

PHONE NO. _____

FAX NO. [REDACTED]

FROM: FAITH BURTON

PHONE NO. [REDACTED]

FAX NO. [REDACTED]

NO. OF PAGES: _____ (EXCLUDING COVER)

COMMENTS: Eric Holder's phone logs for 1/19 + 1/22-

EXHIBIT
127

(Revised 1/22/01, 11:24AM)

COMPLETED	IN	OUT	NAME/OFFICE	PHONE	MESSAGE
x	1/19 9:25		Beth Nolan	[REDACTED]	
lv	1/19 9:50	1/19 10:15	Duke Short, Chief of Staff- Senator Thurman	[REDACTED]	Urgent! re Dir. Marshall
	1/19 10:00	1/19 10:25	David Ogden	[REDACTED]	Urgent! have him return call
	1/19 10:00	1/19 10:00	Shirah Neuman	[REDACTED]	
	1/19 10:00	1/19 10:00	Beth Nolan	[REDACTED]	
x	1/19 10:23	1/19	William T. Coleman, Jr. Melvony & Myers	[REDACTED]	
lv	1/19 11:15	1/19 10:29	Congresswoman Eleanor Norton	[REDACTED]	
x		1/19 11:05	Senator Graham	[REDACTED]	
x		1/19 11:30	Nick Gess	[REDACTED]	
x		1/19 12:26	Beth Nolan	[REDACTED]	
x	1/19 12:44		Beth Nolan	[REDACTED]	
x		1/19 3:10	Beth Nolan	[REDACTED]	

call completed
 to call back
 will call back
 call completed
 call completed

(Revised 1/23/01, 9:11AM)

COMPLETED	IN	OUT	NAME/OFFICE	PHONE #	MESSAGE
	1/22 9:05	1/22 10:30	Dan Kafsky	[REDACTED]	
x	1/22 10:15	1/22 10:45	Barbara Underwood	[REDACTED]	
	1/22 9:40		Mike McCabe		
lv		1/22 9:44	Rev. Eugene Rivers	[REDACTED] (cellphone)	
x	1/22 11:07	1/22 4:40	Jack Quinn	[REDACTED]	re employment for [REDACTED]
	1/22 1:20		Tom Strickland, USA- Colorado	[REDACTED]	re pending a death penalty case
x	1/22 1:40 1/22 3:00		Jamie Gorelick	[REDACTED]	she's reachable after 2:30pm
	1/22 3:40		Judge Ray Fisher	[REDACTED]	he wanted to talk to you while you're in the AG
	1/22 3:44		Jim Welch, FBI	[REDACTED]	
	1/22 3:14		Zach Carter	[REDACTED]	
x	1/22 5:32		Al Gonzalez, Counselor to the POTUS		
	1/22 5:35		Robert Raben		

ca = called again
 lv = left word ryc = return your call
 wh = will call back obo = overtaken by events no = no only x = call completed
 via = take off per DAG lvm = left voicemail message

Ms. NOLAN. I'm sorry, exhibit 127?

Mr. BARR. Yes, ma'am.

Ms. NOLAN. I found them. I'm not sure I can remember the specifics of each, you know, what each call was for. I remember several pardon discussions with him that day. The only one I had with him regarding Marc Rich was late in the evening, would be the last phone call on the log.

Mr. BARR. The phone—where you call him at 6:38.

Ms. NOLAN. That's correct.

Mr. BARR. And what precipitated that particular phone call about Mr. Rich?

Ms. NOLAN. As I said earlier, Ms. Mills was in my office. Jack Quinn had, I believe, called my office and ended up speaking to her; and she told me that he said Mr. Holder favored the pardon; and I called Mr. Holder right away to determine if that was correct.

Mr. BARR. And did he say to you, yes, I favor the pardon?

Ms. NOLAN. 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. I'm not sure of the exact phrasing.

Mr. BARR. So he never really answered the question.

Ms. NOLAN. Well, the end of the conversation, he said he would consider himself neutral leaning favorable, which I thought was an answer. It wasn't—you know, it was an answer. It was a description of—and I informed the President of that conversation when I met with him some time fairly soon after that. I think we met around 7, 7:30.

Mr. BARR. Now what was the President's reaction?

Ms. NOLAN. I think that was significant to the President. I don't think it was the thing that made his mind up entirely, but I think it was a significant piece of information that the Deputy Attorney General had said that.

Mr. BARR. From the standpoint that that would give him something to hang his hat on.

Ms. NOLAN. I didn't understand it that way. It is just he, Mr. Quinn, had made what were to the President very persuasive arguments. Mr. Quinn was somebody he greatly respected. Mr. Barak, who the President respected a great deal, had weighed in favor several times; and Mr.—

Mr. BARR. Who made persuasive arguments on the other side against granting the pardon to this fugitive?

Ms. NOLAN. We argued, Mr. Barr, that if Mr. Rich and Mr. Green had such great legal arguments there was a base to make them, and it wasn't there. It wasn't in the Oval Office.

Mr. BARR. And Mr. Clinton apparently disagreed.

Ms. NOLAN. He did disagree, and I think he disagreed because other people he respected had a different view, and he made a judgment that—in favor of their view.

Mr. BARR. We had—returning to the phone logs on that final sheet, there are calls to you; there are calls from Roger Adams to Eric Holder; calls from Eric Holder to Roger Adams; calls from Eric Holder to you. But none of those, as far as you know, related to the Rich case.

Ms. NOLAN. No, the only one I spoke with him about was at the end of the day.

Mr. BARR. Did these other calls—

Ms. NOLAN. I mean, I don't know about the Roger Adams to Mr. Holder.

Mr. BARR. Did these other calls between you and Mr. Holder relate to other pardon cases?

Ms. NOLAN. They related to other pardon cases. As far as I'm aware there may have been other matters that weren't pardon cases, because we do deal with other things. The only thing can I can remember is pardon discussions.

Mr. BURTON. The gentleman's time has expired. We'll have several more rounds.

Mrs. Mink.

Mrs. MINK. Thank you, Mr. Chairman.

I, too, want to join my colleagues in commending your presence here today, Ms. Nolan, Mr. Lindsey and Mr. Podesta. I think that you have added a great deal of light to the testimony and news articles and other things that we have read about the circumstances that some people think led to the decision that the President made with respect to the Marc Rich case, and I think that the fact that there were discussions between the three of you and the President with respect to this pardon is very material to the public's understanding that there was consultation amongst the people that the President trusted the most to give him their honest opinion.

Your opinion was not regarded by the President, and he went another course, but that's the President's prerogative in these cases. That's what the Constitution allows.

The first question I wanted to ask was with reference to executive privilege, which he has waived and allowed you to come to testify. Is it the clear understanding of the law that after the President has left the White House that this executive privilege continues on with respect to conversations that you had with him that led to some executive decision?

Ms. NOLAN. Yes.

Mrs. MINK. That continues on. So I think then that it is of paramount importance that the President has issued this release to allow you to come testify, to give some clarity to what happened.

Now in terms of your discussions about the Marc Rich case, from what you have said already today, there were discussions on April 19th, I think the three of you have indicated that—

Mr. LINDSEY. January 19th.

Mrs. MINK. January 19th and that he had still not made up his mind. Is that a clear conclusion of the status of your discussions,

that your impression was on January 19th when you met with him he had not yet made up his mind?

Mr. LINDSEY. I think I'll speak for Mr. Podesta and Ms. Nolan. I think their impression was that the matter had been resolved at an earlier meeting and that he was not going to grant it. When the President re-raised it on the 19th it was clear once he re-raised it that he was still considering it and that he had not made a decision, but it was their clear impression prior to that that he had accepted our recommendation and was not going to grant it.

Mrs. MINK. So there was an earlier meeting where the three of you were fairly sure that the President had decided not to grant this pardon, is that—

Mr. PODESTA. That was my impression. That was my impression. That was on January 16th.

Mrs. MINK. Mr. Lindsey, that was your clear understanding.

Mr. LINDSEY. I was not as clear as they are as to what the President—when we left that meeting with the President—intended or not intended to do.

Mrs. MINK. Did he specifically articulate it or did you just make that assumption because he didn't have a rebuttal?

Mr. PODESTA. In my case, I'd say the latter, that he raised the points that had been made in—and at least some of the points had been raised by Mr. Quinn. We argued that given his status as a fugitive, if you will—we can go back and forth on that a little, but I think we viewed him as a fugitive in at least a common sense, that the proper forum to raise those was before judicial tribunal, and it was my impression that he accepted that.

Mrs. MINK. So, given your long experience of working with the President, your assumption was, since he didn't give you a clear rebuttal on the other side, that he had been persuaded by the advice that he was getting from people that had worked with him and whom he trusted the most in the White House, is that it?

Mr. PODESTA. I think that's—

Mrs. MINK. Fairly good understanding.

OK, well, then after that, is it in the factual circumstances of things where Mr. Barak made a phone call, was it after that discussion or somewhere earlier or before? I'm trying to get a feeling as to when things might have changed in his view of this particular pardon.

Mr. PODESTA. Well, the conversation—

Mrs. MINK. When was the Barak—

Mr. PODESTA. The conversation with Prime Minister Barak occurred in midafternoon, I think, on Friday, January 19th.

Mrs. MINK. So it was after your earlier discussions.

Mr. PODESTA. After the conversation on the 16th. Then Prime Minister Barak talked to him one more time on January 19th, on Friday; and later that evening there was a further discussion, as I said, between my colleagues here. I wasn't present for that conversation, but it was early or I guess late in the evening, must have been 9 or 10 o'clock on the evening of the 19th. So it was subsequent to his conversation with Prime Minister Barak.

Mrs. MINK. So, Ms. Nolan and Mr. Lindsey, you can verify that it was likely that the telephone conversation he had with Prime

Minister Barak may have had an impact on his prior decision not to grant the pardon.

Mr. LINDSEY. He actually I think indicated that.

Ms. NOLAN. Yes, he did.

Mrs. MINK. He specifically said that to both of you.

Mr. LINDSEY. That's correct.

Ms. NOLAN. And I would be clear, though, I wouldn't characterize that he had made, as Mr. Podesta said——

Mrs. MINK. But it had influence on his thinking.

Ms. NOLAN. But it certainly seemed that he was not going to grant it, and Mr. Barak's phone call had been significant.

Mr. BARR [presiding]. The time of the gentlelady from Hawaii has expired.

The Chair recognizes the gentlelady from Maryland, Mrs. Morella, for 5 minutes.

Mrs. MORELLA. Thank you, Mr. Chairman.

Thank you, Ms. Nolan and gentlemen, for your patience. It's awfully hard to be here all afternoon under the grilling, but we do appreciate it, and we do feel that it adds further clarification to this very difficult situation.

I guess the kinds of questions I want to ask is what did you know, when did you know it, what would you have done about it had you known about it earlier, just kind of to set the record straight. For instance, I would ask the same question of all of the panel, and you can answer as briefly and succinctly as you can. Did you know that Marc Rich or his companies were trading with Qadhafi and Libya, Mr. Quinn?

Mr. QUINN. I did not know that.

Mrs. MORELLA. You did not know that. Had you known it would you have done anything about it?

Mr. QUINN. I was representing Marc Rich as a lawyer trying to persuade the Department of Justice, the Southern District and ultimately the President that the indictment was wanting. That matter was not addressed in the indictment. And I think it does bear emphasis that if Marc Rich or anyone associated with him broke any laws in that regard, the pardon does not free him from being held accountable for that.

Mrs. MORELLA. But you really were not even aware of it.

Mr. QUINN. I was not. I had no personal knowledge of that. My assignment had to do with the indictment.

Mrs. MORELLA. Ms. Nolan.

Ms. NOLAN. I did not know that.

Mrs. MORELLA. Would you have done something if you had known?

Ms. NOLAN. Well, it certainly would have been another important factor in an argument I was already making against——

Mrs. MORELLA. Mr. Lindsey.

Mr. LINDSEY. No, I understood there were allegations that he had traded with Iran but not with Libya.

Mrs. MORELLA. All right. How about Mr. Podesta?

Mr. PODESTA. I was unaware of that.

Mrs. MORELLA. You were unaware of it.

OK. Were you aware that Marc Rich or his companies were involved with trading with Iran? Maybe if you could just go yes or

no and if you want to add about whether it would have made a difference in your actions. Mr. Quinn.

Mr. QUINN. I think my earlier answer stands. I was asked the question at one point whether he had been involved in arms trading. I responded first that I had heard that that allegation had been made in an article in Playboy magazine and that I had been informed that he denied that allegation.

I took the opportunity then to call Mr. Fink in New York to confirm that my memory was correct, that he maintained that he had not dealt in arms; and I reported that back. But again, even with regard to that allegation, I do think it's important to bear in mind that the pardon does not free him from being held accountable for anything unrelated to the indictment if in fact he broke any other law.

Mrs. MORELLA. Looking at little technicalities of the law but, in general, this man is asking for a pardon—but let me just go on and ask the rest of the panel and ask if they knew anything about whether Mr. Rich's companies were trading with Iran.

Ms. NOLAN. I had conversations with Mr. Quinn in which I asked him about the arms trading allegation. I did understand that there was a Trading With the Enemy Act issue, but I was concerned about what the arms trading was and was assured that was misinformation.

Mrs. MORELLA. You were assured by whom?

Ms. NOLAN. By Mr. Quinn.

Mrs. MORELLA. By Mr. Quinn.

Let's go on Mr. Lindsey.

Mr. LINDSEY. Again, I was aware there was a trading with the enemy count in the indictment. Your question as to whether it would change my mind or I would have done anything differently—

Mrs. MORELLA. You would have done something?

Mr. LINDSEY. Yeah. I don't know if there's any way to be more against something than I was against this. So, you know, it would have been an additional basis—it was an additional basis for my opposition. But I was told that his company was not an American company, and therefore the company would not be subject to our laws.

There's an article in the Wall Street Journal the other day that suggested there are a lot of American companies that have foreign subsidiaries who, because they're foreign subsidiaries and not subject to that are not subject to that.

But, again, I was opposed to this and for all the reasons, you know, that we've talked about.

Mrs. MORELLA. And Mr. Podesta.

Mr. BARR. The gentlewoman's time has expired, but certainly Mr. Podesta can finish answering the line of questioning.

Mrs. MORELLA. Mr. Chairman, can I just mention some items that fall into the same category?

Ms. Nolan and gentlemen, the trading agreement with the Soviet Union when there was the embargo, the trade with South Africa during apartheid—the reason I was asking these questions, Mr. Chairman, was simply to point out whether we knew and, if we did

know, did we do anything about it, and if we didn't know should we have found out more about it.

So I then yield back.

Mr. BARR. Mr. Podesta, you can complete your answer.

Mr. PODESTA. Let me answer the question on Iran.

I'm not sure precisely when I learned this, before or after, but I think the underlying indictment was—involved oil trading and that involved oil trading that I guess was involved with Iran. But I associated myself with Mr. Lindsey. I was against this. So I don't know whether I would have done—taken additional steps if I had known it. I suspect that—and I don't know what the President's state of knowledge was on those issues.

Mr. BARR. Thank you.

The gentlelady from District of Columbia is recognized for 5 minutes.

Ms. NORTON. Thank you, Mr. Chairman.

I appreciate your willingness to come freely, and I certainly appreciate the President's willingness to waive his executive privilege, at the very least. It certainly speaks to the notion of whether or not he believes things should be hidden from this committee and tends to eliminate the notion that he does and wants to bring these matters out into the open.

I'd like to have your views on these notions of constitutional amendments which are popping up, especially as people who have been on the inside of the White House during the pardon process. Ms. Nolan, you indicate you had so many of these coming down and then they came late and there was a notion of, my goodness, isn't there some cutoff in all of this. As a matter of fact, the Framers reserved the pardon power, in part, because there might be things that came late. But I can certainly understand the notion that these things galloped in with increasing speed as you got near the end.

Indeed, as I said earlier in this hearing, I called the counsel's office—it must have been the day before the end of the administration—because it crossed my mind that the so-called Democracy 7 people were being tried for the second time for the same offense after having had a hung jury for protesting from the gallery that the Congress takes the budget of the District of Columbia and adds things to it. So I called and said, can we have pardon for the Democracy 7?

Of course, these were misdemeanors. It would have been a political act of the President who supports voting rights and statehood for the District. But I can certainly understand that people just get the idea in the back of their mind. And, of course, I didn't get to speak with Ms. Nolan. I got to speak with somebody in your office.

Ms. NOLAN. I apologize to every Member of Congress.

Ms. NORTON. Nor do I believe, frankly, that you should have come to the phone for me or any Member of Congress in those last hectic days, especially after what we have heard today about what you confronted.

By the way, I had no idea that there was such things as Justice Department guidelines. I am a Member of Congress and a lawyer and had no idea what the process was. You know, I called the

counsel's office the way I think people who know nothing might well do.

We have had one constitutional amendment that's kind of been shouted down that would have the pardon power reviewed by two-thirds of the Congress. That is to say, a pardon can be overturned if two-thirds of the Congress—or do you think that would make it more political? Imagine Members of Congress voting to pardon a criminal. That one didn't get very far.

Now there's another one that says no pardons after October 1st. Now I know that would make your—October 1st of the election—I know that would make your lives a lot easier, or maybe not. So I'd like your view as to the effects on the pardon power of stopping all pardons October 1st of the election year when the President is going out of office.

Ms. NOLAN. I think that the Framers had it right when they vested the pardon power in one person and that person being the President. They did it quite deliberately to ensure that one person was responsible for the decision, one person could take the hits for it and knowing full well that the kind of mercy that is inherent in the pardon power would not be exercised by committee in the same way that it would by one person.

Ms. NORTON. I ask about the timing. I'm asking about October 1st.

Ms. NOLAN. I think that I would retain that power, and I would retain it unfettered and expect that this President and future Presidents are fully subject to criticism and public rebuke if the public disagrees. But that the idea of having one person who can do it and can do it at any time I think is what the Framers had in mind, and I continue to believe that's the right way to do it.

Ms. NORTON. Mr. Lindsey.

Mr. LINDSEY. Well, I have law professors on both sides of me, so I'm not sure I'm qualified to answer this, but I agree with Ms. Nolan. They think the power, as it exists, for the purpose that it exists, should remain the same. I would just also say I'm not sure that September 30th would be any different than January 19th under that scenario.

Ms. NORTON. It would be the rush then to meet that deadline.

Mr. LINDSEY. Exactly.

Ms. NORTON. Mr. Podesta.

Mr. PODESTA. Well, I agree with Ms. Nolan.

Let me point out one other point, though, that I think that this situation gives rise to, which is it goes back to the beginning of Ms. Nolan's statements about the President's frustration about not getting recommendations for pardons from the Pardon Office in the beginning of the year 2000, which is I think that if you look back on this, the President granted I think only something less than 200 pardons over the course of his 8 years, and I think that was something that the President really noticed that he was not getting any applications moving forward out of the system as it currently exists. Partly I think that's the result of the situation in which people are afraid to be criticized for granting pardons or for recommending pardons, etc.

If you look in contrast to what President Clinton granted, the system produced I guess for President Reagan during his 8 years

some 400 pardons or more or less. There were more people in prison, more people coming out of it, more people who I believe served their sentence and lead a good life. So I don't think that the answer to the problems that we encountered is to restrict or to try to suppress or to try through to some extent through the exercise of second-guessing the reduction of the overall number of pardons and commutations. I think that would be a bad outcome.

Mr. BARR. The gentlewoman's time has expired.

The Chair recognizes the gentleman from Ohio, Mr. LaTourette, for 5 minutes.

Mr. LATOURETTE. Thank you, Mr. Chairman. And I think, to Mr. Quinn's delight, I'd like to leave the Rich-Pincus Green matter for a moment and talk about another fellow, Carlos Vignali, if I could. As we know from the news account, Carlos Vignali helped finance another group of people that was involved in the distribution of 800 pounds of cocaine shipped to Minnesota where it was going to be cooked with other chemicals to create crack cocaine for distribution to, among other people, children in the State of Minnesota. Thirty people, to my understanding, were convicted. And on January 20th only one spins out of jail, and that's Carlos Vignali, and there have been a couple of wrinkles since we last got together.

One has to do with Hugh Rodham; and, Mr. Lindsey, I'd like to start with you. I think I read in the Los Angeles Times an observation that you recall speaking at least twice with Mr. Rodham about the Vignali pardon. Were you quoted correctly?

Mr. LINDSEY. That's correct.

Mr. LATOURETTE. When and where did those conversations take place?

Mr. LINDSEY. I believe the first conversation occurred probably around the middle of December. Mr. Rodham called to ask me to take a look at a commutation application for Carlos Vignali, indicated that he was a first-time offender, that his application was supported by the Sheriff of Los Angeles County, that it was supported by the U.S. attorney in Los Angeles.

Mr. LATOURETTE. Were you aware that the U.S. attorney in Los Angeles was not the prosecuting agency during the course of that conversation?

Mr. LINDSEY. Yes, because he also told me it was supported by the trial attorney who actually tried the case in Minnesota. That turned out probably not to be correct.

Mr. LATOURETTE. Probably not.

Mr. LINDSEY. But, you know, well, we know the U.S. attorney opposed it. I don't know whether the trial attorney did or didn't, but, be that as it may, I'm telling you what he told me.

Mr. LATOURETTE. Sure.

Mr. LINDSEY. Told me it was supported by the U.S. attorney in Los Angeles, by the Sheriff of Los Angeles County, by the Cardinal Archbishop Diocese and Archdiocese in Los Angeles, Cardinal Mahoney, by several Congressmen, former Congressmen, city council people.

I indicated to him that he had served 6 years approximately. I indicated to Mr. Rodham that that was the kind of application the President actually was interested in looking at. He was interested

in looking at first-time drug offenders who did not play major roles in the crime and that we would take a look at it.

Mr. LATOURETTE. Did he represent to you that this fellow didn't play a major role in a crime? 800 pounds is a lot where I come from. I assume that's not the type—

Mr. LINDSEY. I don't think there is a finding. I actually believe the judge made a specific finding that he was responsible for 5 to 15 kilos, which is I think 11 to 33 pounds. I think the total amount of money he was involved with was \$2,500—\$25,000 excuse me. So I don't believe that it is correct that he was responsible for \$800,000; and, in fact, I think there's a specific finding that he was not.

There was also I believe a specific finding that he was not an organizer, leader of the conspiracy.

Mr. LATOURETTE. How about the second time you talked to Mr. Rodham? When did that occur?

Mr. LINDSEY. Some time thereafter. At some point we learned through the Pardon Attorneys Office that the U.S. attorney in Minnesota did not support the application, was opposed to the application.

Mr. LATOURETTE. Right.

Mr. LINDSEY. In some conversation, I can't date it for you, I told—because one of the facts he had told me at the beginning was that the attorney in Minnesota—he said the trial attorney, not the U.S. attorney—but the trial attorney in Minnesota supported it. I told him that at least as far as the U.S. Attorney's Office was concerned in Minnesota that they were not supportive.

Mr. LATOURETTE. And is that the sum and substance of your contact with Mr. Rodham on this matter?

Mr. LINDSEY. As far as I recall, yes.

Mr. LATOURETTE. Did you inquire of him what his interest was in a convicted drug dealer from Los Angeles?

Mr. LINDSEY. No.

Mr. LATOURETTE. Did you ask him whether he had received a fee?

Mr. LINDSEY. No, I didn't ask. I don't think I've ever asked that of any person who has ever contacted me.

Mr. LATOURETTE. Well, was that your assumption? Did you think he was family friend or he was acting as a lawyer?

Mr. LINDSEY. You know, I don't know. When anyone contacts me, I have no idea. I mean, if they're a lawyer, they could be there as a lawyer. Oftentimes they have friends or they know someone. I really—from my analysis it wasn't important why he was calling me. He told me about a person. The facts seemed to follow along the lines of people we were looking at, and I told him I would take a look at it.

Mr. LATOURETTE. Were you aware or did the pardon attorney tell you that Mr. Vignali lied upon his pardon application in the section that asked if he had a previous criminal conviction? Were you advised of that by the pardon attorney?

Mr. LINDSEY. I don't believe so.

Mr. LATOURETTE. Were you advised of that by Mr. Rodham?

Mr. LINDSEY. No, I believe the first time I heard that, frankly, was this morning. If I remember right, he actually indicated he had several prior.

Mr. LATOURETTE. On his pardon application?

Mr. LINDSEY. I thought so.

Mr. LATOURETTE. I don't think that's correct, and I will be happy to supply you the information and that's incorrect.

And just as a last matter, as my time—

Mr. LINDSEY. I was just informed that it is reflected in his pardon application, but, again, we can get the application and see.

Mr. LATOURETTE. It's reflected in his pardon application that he has priors.

Mr. LINDSEY. I believe so.

Mr. LATOURETTE. OK. Well, thank you, Mr. Chairman.

Mr. BARR. I thank the gentleman from Ohio.

The gentleman from California, Mr. Ose, is recognized for 5 minutes.

Mr. OSE. Thank you, Mr. Chairman.

My question is directed, I believe, to the former chief of staff, Mr. Podesta, and that is, what is the procedure by which the White House deals with gifts received during the President's tenure, particularly this President's tenure?

Mr. PODESTA. I think that Ms. Nolan could answer that more directly.

Mr. OSE. I might ask her, but we'll start with you, OK?

Mr. PODESTA. Well, I think that if the President receives a gift, it's logged into the gift unit. The gift unit then creates a running log of those. The President has the right to accept and take gifts that are presented to him if he chooses to do so. If he does not choose to do so, I believe they become the property of the National Archives, and I think that's set up by statute, but I couldn't quote the statute, the statutory citation.

Mr. OSE. Is there a procedure outlined at the White House for what qualifies as a gift to the President or one that's supposed to go to the Archives?

Mr. PODESTA. Sure.

Mr. OSE. When was that policy established?

Mr. PODESTA. I think it's been in existence since probably prior to the Clinton administration.

Mr. OSE. Do we have a copy of that particular policy as it applied to the Clinton administration?

Mr. PODESTA. I think that this is regulated by statute.

Mr. OSE. All right. Mr. Quinn, is Mr. Rich a U.S. citizen or is he not?

Mr. QUINN. It is my understanding now that he believes he is not a U.S. citizen. I understand that our State Department disputes that.

Mr. OSE. Ms. Nolan, is your recollection of the manner in which gifts are received by the White House consistent with Mr. Podesta's?

Ms. NOLAN. Yes, yes, it is.

Mr. OSE. If a gift comes to the White House, what happens? Just take me through just a brief synopsis. Let's say I send a gift to the

President valued at \$275, and it's a portrait. What happens? What are the questions that are asked?

Ms. NOLAN. The gift, as I understand it, is sent to the gift unit in the White House for evaluation; and the gift unit identifies, puts on a list who the donor is, what the value is; and the President makes a determination whether to accept the gift or not.

Mr. OSE. The President makes the determination whether to accept the gift personally or as a representative of the Federal Government or—

Ms. NOLAN. Well, it depends on whether the gift is given to the White House, as I understand it, the gift unit records reflect gifts given to the President personally.

Mr. OSE. What happens to the gifts given to the White House?

Ms. NOLAN. I believe the residence department office keeps a record of those, but I haven't seen such record. I don't know.

Mr. OSE. How would we go about establishing what those records contain?

Ms. NOLAN. I have to say I'm not quite clear what you're asking.

Mr. OSE. Where are those records?

Ms. NOLAN. I assume they're with the Archives now as part of the President's record. But I'm not sure.

Mr. OSE. OK. And my final question—Mr. Chairman, I see I'm almost out of time. I was here for the testimony about the relative lack of knowledge about Mr. Rich's past behavior in terms of his activities overseas. Relative to Mr. Vignali and the behavior that he engaged in, transporting the 800 pounds, you're all aware of Plan Colombia, the official U.S. Government policy?

Mr. PODESTA. I certainly am.

Mr. OSE. Do you have any observations about the conflict that might be perceived between the President pardoning someone transporting 800 pounds of coke and our efforts in Colombia to ameliorate or eliminate the production?

Mr. PODESTA. I think Mr. Lindsey corrected the record. He knows more about the case than I do with regard to the specific facts.

Mr. OSE. I see my time has expired.

Mr. PODESTA. I think what you're suggesting, that no one who is involved in a drug case should ever receive a commutation or should ever receive a pardon—and I understand that you may believe that, but I think that is a harsh standard.

Mr. OSE. That's not the suggestion I'm making, Mr. Podesta.

Mr. LINDSEY. If I may correct the record again. The judge made a specific finding in the Vignali case that he was responsible for 5 to 15 kilos, which I understand translates to 11 to 13 pounds, not 800.

Mr. BARR [presiding]. I think we've established the ratio between pounds and kilos sufficiently.

The Chair recognizes the gentleman from Illinois, Mr. Davis.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman. Let me also thank each one of you for appearing this afternoon.

Mr. Podesta, in your opening statement you indicated that the staff had recommended against pardoning Mr. Rich. Did you have any further individual conversation with the President about the matter?

Mr. PODESTA. No, not beyond the night of January 16th. As I said, I was not present on the night of the 19th to have that discussion.

Mr. DAVIS OF ILLINOIS. And that was part of a group discussion or group interaction.

Mr. PODESTA. On the 16th?

Mr. DAVIS OF ILLINOIS. Yes.

Mr. PODESTA. Yes.

Mr. DAVIS OF ILLINOIS. Mr. Lindsey, how long have you known the President?

Mr. LINDSEY. Over 32 years.

Mr. DAVIS OF ILLINOIS. And how would you characterize your relationship?

Mr. LINDSEY. Well, up until a month ago I was an employee for 8 years. Before that, he and I for a short period of time, were both in the same law firm. We've been friends for a number of years. We have both worked for Bill Fulbright in the late 1960's, which is where I first met him.

Mr. DAVIS OF ILLINOIS. So you would say that the two of you were very comfortable with each other.

Mr. LINDSEY. Yes, sir.

Mr. DAVIS OF ILLINOIS. Did you have any individual conversation with the President about the Rich case?

Mr. LINDSEY. I don't believe so. I can't recall any conversation with him.

Mr. DAVIS OF ILLINOIS. So any interaction you had would have been part of the group activity where someone else was present other than just the two of you.

Mr. LINDSEY. I think that is correct.

I do recall one conversation that was not part of the meeting in which I indicated to him that he should consider Mr. Quinn in this to be an advocate on one side and not his advisor, and that Jack had a client. And I don't believe that was in a meeting. I think that was the night of the 19th at some point.

Mr. DAVIS OF ILLINOIS. Ms. Nolan, were your discussions with the President individual or part of a group discussion or where other people were present?

Ms. NOLAN. Yes, my conversations with the President were part of a group discussion. I did talk to him on the telephone late on the night of the 19th, morning of the 20th for a few minutes. There were people in my office, but I talked with him on the phone.

Mr. DAVIS OF ILLINOIS. So, for the most part, it seems to me that all three of you are saying that your conversations were part of a normal interaction that one would have expected to take place given the roles that each one of you played.

Ms. NOLAN. That is correct.

Mr. LINDSEY. That is correct.

Mr. DAVIS OF ILLINOIS. At any time or any other time did you ever get the impression that there was anything to be considered other than the legal determinations in terms of trying to make a rational decision about the situation?

Ms. NOLAN. I did not. I disagreed with the President's judgment, but I believed he had his reasons for doing it that involved his view

of the merits of the case and the advice or recommendations of people he respected.

Mr. PODESTA. I agree with that.

Mr. LINDSEY. Yes, same answer.

Mr. DAVIS OF ILLINOIS. Thank you very much.

I have no further questions, Mr. Chairman.

Mr. BURTON. Mrs. Davis.

Mrs. DAVIS OF VIRGINIA. Thank you, Mr. Chairman.

I would sort of like to go back to the process under which a pardon application goes in; and I guess this is directed to Ms. Nolan, Mr. Lindsey and Mr. Podesta. It's my understanding you knew about the pardons application sometime in December, correct?

Ms. NOLAN. I think that's right, yes.

Mrs. DAVIS OF VIRGINIA. At any time did any of you discuss it with the prosecuting attorney or the U.S. attorney or get any input from them or notify them?

Ms. NOLAN. I discussed it with Mr. Holder sometime early in January, which is right after I had taken a look at it. It had come in sometime in December, but I don't think I took a look at it sometime until January. I have discussed it with Mr. Holder, the Attorney General.

Mrs. DAVIS OF VIRGINIA. I'm talking about the prosecuting attorney.

Ms. NOLAN. Well, he——

Mrs. DAVIS OF VIRGINIA. Would he be the one who contacted them?

Ms. NOLAN. Right. I normally talk to Main Justice and to the Deputy's Office—or my office would, more commonly; and we wouldn't normally reach out individually. We did on some occasions, but rarely. It usually went through the Justice Department. He represented to me at that time that he was clear what the U.S. Attorneys Office would think about the matter but that he did not think we would hear any objection from Main Justice.

Mrs. DAVIS OF VIRGINIA. Is it normal procedure that the prosecuting attorneys would get to weigh in on a case, especially one of this magnitude?

Ms. NOLAN. Yes, normally, they would.

Mrs. DAVIS OF VIRGINIA. Mr. Podesta or Mr. Lindsey, did either one of you all think to tell the President or anyone that we need to talk to the prosecuting attorneys?

Mr. LINDSEY. The President has indicated and I think we did indicate that the U.S. Attorneys Office in the Southern District was opposed to it. We knew that as a fact.

Mrs. DAVIS OF VIRGINIA. How did you know that as a fact if they did not have the opportunity to weigh in on it?

Mr. LINDSEY. Because we knew that there had been discussions prior to this application to sit down—for the U.S. Attorneys Office to sit down with representatives, attorneys for Mr. Rich, to discuss the matter and that their position was that until they came back there would be no discussions. So, again, their position was that as long as they remained fugitives there would be no discussion of any of these matters, and I just assumed that would clearly be their position with respect to a pardon application.

Mrs. DAVIS OF VIRGINIA. Did you relay that to the President?

Mr. LINDSEY. You know, can I recall specifically? I believe the President was aware of all of that, that there had been attempts. I think Mr. Quinn may have mentioned it in letters, that there had been attempts to talk with the U.S. Attorneys Office in the Southern District and they refused to have those conversations.

Mrs. DAVIS OF VIRGINIA. I'll let Mr. Podesta weigh in, and then I'll yield my time.

Mr. PODESTA. Yes, I think the proper channel for soliciting the U.S. attorney's view in this case was through main Justice, through Mr. Holder or through the pardon attorney; and I think it was a mistake not to have done that. I think from the perspective of the three people sitting up here and I think with respect to Mr. Holder I think the reason that wasn't done was because no one thought this was going to happen and no one supported it. And I think it wasn't until the evening of the 19th that proposition was put to Mr. Holder, and I think that it would clearly have been better to have solicited the views of the U.S. attorney in New York, in the Southern District of New York, and to have her views at that point in front of the President before he made a final decision on this matter.

And I think—as I said earlier in my testimony, I think we would bear some responsibility for not having had that done, but I think it's explained by the course of conduct we were all engaged in, which we were busy. We were working on a lot of things. We didn't think this was going anywhere. We didn't think it was a live option on Tuesday night.

But, obviously, I think the President made a decision. I think it's fair to say what Mr. Lindsey said, was the President understood that the U.S. attorney in the Southern District of New York would not support this. But I think in due regards to her equities that he at least should have been able to hear what her views were.

I would add something else, which is that I don't think that the President in all these matters—and I think I heard him say this on several occasions—wanted to not know what the Justice Department thought. I thought he always wanted to know what the Justice Department thought, but he didn't want them to have, in essence, a de facto veto power by not giving the White House the applications or what their views were. So I think that he was perfectly happy to get recommendations not to grant a pardon which he then could consider and then decide to do or not do. But in this case I think that, from that perspective, the system didn't work well; and we bear some of the responsibility for that.

Mrs. DAVIS OF VIRGINIA. I would like to yield to you.

Mr. LATOURETTE. Mr. Lindsey, I just heard what you said in response to the question; and Mr. Quinn said that at the last hearing. But I think in the next round I invite you to look at exhibit 135, and the observation that the Southern District of New York would not sit down and negotiate this case is not right. They agreed to dismiss the RICO case. They agreed to bail. They agreed to sit down with the lawyers that prepared the report that Mr. Rich paid for. Did you know all of that?

[Exhibit 135 follows:]

Fink, Robert - NY

From: Fink, Robert - NY
 Sent: Thursday, February 10, 2000 10:29 AM
 To: 'azulrich@...' [REDACTED]
 Subject: RE: [REDACTED]

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 RJCO 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: [REDACTED]

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



Mr. LINDSEY. No, sir, I was told that the U.S. Attorneys Office had indicated that then as long as they were fugitives they would not negotiate with them.

Mr. LATOURETTE. I would invite you to look at exhibit 135 and maybe you and I can talk about it when I get more time.

Mr. BURTON. Mr. Putnam.

Mr. PUTNAM. Thank you Mr. Chairman.

Mr. Podesta, you have testified that your opinion on this case was that the facts did not support a recommendation to the President for a pardon, is that correct?

Mr. PODESTA. That is correct.

Mr. PUTNAM. And that you stated the same, Mr. Lindsey, is that correct?

Mr. LINDSEY. I'm sorry. I was reading exhibit 135. What was your question?

Mr. PUTNAM. You stated that from the beginning it was your opinion the facts did not support a recommendation to the President for a pardon.

Mr. LINDSEY. That is absolutely correct.

Mr. PUTNAM. You did the same, Ms. Nolan?

Ms. NOLAN. I'm sorry, sir.

Mr. PUTNAM. The facts did not support.

Ms. NOLAN. That is correct.

Mr. PUTNAM. The conclusion that I draw from that is Mr. Quinn has an uncanny ability for persuasive writing. That based on the advice of every attorney in the White House who has responsibility for viewing these matters it was your memo to the President that convinced him, based on the merits of the case, that the pardon was in fact justified. Is that essentially what it was? Everyone else in the entire White House Counsel's Office, according to Mr. Podesta, unanimously was against the pardon, so this one memo to the President was so persuasive, so convincing that he made his decision to pursue the pardon.

Mr. LINDSEY. If I may respond to that. I think there were a number of issues. I think Jack did make persuasive arguments, at least to the President. In addition, we've talked about the Prime Minister of Israel weighing in. In addition, the President, at the time he made the decision, had been advised that the Deputy Attorney General, who was neutral to leaning favorable. So I cannot tell you if any one of those three factors had not been present whether the decision would have been the same. But to sort of focus only on one of those factors I think is not correct.

Mr. PUTNAM. A moment ago Ms. Nolan testified that the President made the decision based on the merits of the case and advice from those he trusted. Whom else did he seek out for advice besides those of you here who were on the White House or Justice Department staff?

Ms. NOLAN. The people I had mentioned before were the advice of Mr. Quinn, the recommendation of Mr. Barak, and the recommendation, such as it was, of Mr. Holder. That is what I was referring to.

Mr. PUTNAM. Is it common—in your review of the other pardon applications, how many other—we have got the King of Spain,

Barak. How often does it come up that foreign heads of state weigh in on pardon applications?

Ms. NOLAN. It came up I guess a handful of times in this past season.

Mr. PUTNAM. Mr. Podesta.

Mr. PODESTA. Just to give you some example, I just read that, for example, Margaret Thatcher and Prime Minister Gorbachev at the time weighed in on behalf of Armand Hammer's pardon application shortly after he had contributed \$100,000 to the Bush/Quale campaign and the RNC campaign, and those may have been factors in granting that pardon as well.

Mr. PUTNAM. And you indicated that your concern about this pardon was not great because, quote, no one thought it was going to happen. It was not a live option. Have you had an opportunity to review exhibit 67, the e-mail that indicates that, as we've previously indicated, staff were not supportive, were not in detail mode, but that, according to you, Mr. Podesta, the efforts with the President were being felt, it sounds like you're making headway and you should keep at it as long as you can. That was sent on the 16th.

[Exhibit 67 follows:]

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



PMR&W 00169

Mr. PODESTA. I don't know what—I mean, again, my recollection of that conversation was that I said to Mr. Kadzik that I was opposed do it, that the counsel was opposed to it, and that we would recommend to the President that he not grant it.

Mr. PUTNAM. Mr. Quinn, do you have any idea why Mr. Fink would have thought that, based on Podesta's remarks, you were making headway and your presence was being felt?

Mr. QUINN. No, and you'll notice that Mr. Fink is not reporting on a conversation he had with me. But I know that Mr. Kadzik and Mr. Fink will both be before the committee today.

Mr. PUTNAM. Just one final question for you, Mr. Quinn.

According to exhibit 72, there was an e-mail that indicates, from Robert Fink to Mr. Azulay, I have been asked who lobbied the President on behalf of Marc and Pinky and said it may be private and therefore did not immediately respond. Who should I say?

Why would there be any reason for embarrassment or shame or reluctance to disclose who had advocated this supposedly meritorious application?

[Exhibit 72 follows:]

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Monday, January 22, 2001 7:13 PM
To: 'Avner Azulay'
Cc: 'Jack Quinn'; 'Kitty Behan'; 'Gershon Kekst'; 'Mike Green'
Subject: RE:

Actually everyone agreed that I should tell the true story because the impression is that this was all paid for by DR. I was told to show the petitions which include the letters, and a reporter called me and said he was told Barak supported this and asked if it were true. I told him it was, although I did not know when he called or who may have spoken to him or exactly why he was supportive. I have done the same when asked if DR supported it. It will come out and it does not pay to hide what happened. People will only think the worse. Any way, I am sorry you are disappointed but I can't get away from the phones and people here wanted a no name answering questions who knew about the case. That Bob

-----Original Message-----

From: Avner Azulay [SMTP:azulrich@redacted]
Sent: Monday, January 22, 2001 7:06 PM
To: Fink, Robert - NY; 'Kitty Behan'; 'Jack Quinn'; 'Mike Green'; 'Gershon Kekst'
Cc: 'Marc Rich'
Subject: Re:

The Bloomberg local reporter called my office and home - and I have no obligation to return his calls. Bob should do the same with others. I am afraid this has a potential of getting out of hand.

----- Original Message -----

From: Fink, Robert - NY <robert.fink@redacted>
To: '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: Monday, January 22, 2001 11:11 PM

> 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. 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/>



PMR&W 00194

Mr. QUINN. Again, sir, that is not my e-mail, so I can't speak to what was in his mind. There's at least one other document that indicates that Mr. Azulay was sensitive to public opinion in Israel. But beyond that I can't comment.

Mr. PUTNAM. Thank you.

Mr. BURTON. The gentleman's time has expired.

Mr. Schrock, would you yield to me please?

Mr. SCHROCK. Yes.

Mr. BURTON. Thank you.

I hope I'm not redundant. I was gone for a little while. I had to leave. There's a few questions I would like to ask.

I know that when Mr. Quinn presented his application to the President he presented the best case possible; and when you met with the President, the three of you talked to him about the Rich pardon. Did you talk to him about Mr. Rich breaking embargoes, like trading with Mr. Muammar Qadhafi of Libya or trading with Iran when our hostages were being held in violation of embargo or that he traded with Iraq when he was involved in problems with Iraq and he embargoed oil or the grain embargo on the Soviet Union when we had the grain embargo?

Was the President aware of that? Was he aware that Mr. Rich was violating the embargo of South Africa or he was trading with Cuba during the Cuban embargo? Did you tell the President any of that?

Ms. NOLAN. Mr. Burton, I don't think I knew or know any of that, except I did know at that point part of the indictment was a Trading With the Enemies Act violation. And the President knew that.

Mr. BURTON. Did you call—

Ms. NOLAN. I told the President late in the evening that there was an allegation of arms trading, that I had spoken with Mr. Quinn several times to try to determine what that allegation was and if that was something different from trading with the enemy.

Mr. BURTON. Well, I want to get to that in just a moment. Did you or any of you talk to him about any of these violations of embargoes that was a violation of the law? Any of them? And there was one, two, three, four, five, six that we know of.

Ms. NOLAN. Other than the thing I just referred to, the Trading With the Enemy's Act and the allegation of arms trading, no, I don't think so.

Mr. BURTON. Did you ask for an intelligence briefing? Did you talk to anybody at the Justice Department about any other violation that may have taken place by Mr. Rich so you can convey them to the President?

Ms. NOLAN. No. I agree with Mr. Podesta's description and want to make clear that until 8 or 9 or later in the evening of January 19 I did not know this pardon was going forward.

Mr. BURTON. But you knew it was being considered earlier, did you not?

Ms. NOLAN. I thought that it was not going forward. I knew it had been considered, but I left a meeting sometime earlier in that week with a clear impression that it would not go forward.

Mr. BURTON. Well, what I can't understand is, even if something of this significance is being considered and you knew that this was

one of the most wanted fugitives in the world by the United States, if you thought it was even being remotely considered and you knew Mr. Quinn was pushing for it and you knew there was calls coming in from people and leaders around the world, why didn't you ask for an intelligence briefing? Why didn't you ask if there were other laws and embargoes and things like that that had been broken so the three of you could have at least explained to the President what was going on? The Justice Department knew about these things.

Ms. NOLAN. Sir, I did not know until that evening that it was a live issue. We were—for all the kinds of matters Mr. Podesta described, we were extremely busy; and we weren't spending time on pardon applications that looked like they weren't going anywhere. And that was simply a matter of trying to manage the best we could with an extremely heavy load. I didn't have the time to and wasn't inclined to do work on matters that I thought weren't live matters. Once we had the President's determination, we did ask the Justice Department for an NCIC check.

Mr. BURTON. Well, you reached out to Mr. Quinn about some of the issues, did you not? You talked to him.

Ms. NOLAN. On the 19th.

Mr. BURTON. If you talked to Mr. Quinn, why didn't you call over to the Justice Department and say, hey, this thing is a hot item. As quickly as you can get it, I want a complete rundown.

Ms. NOLAN. I spoke with Mr. Holder, sir, the Deputy Attorney General.

Mr. BURTON. What did Mr. Holder say?

Ms. NOLAN. He said he was neutral, leaning toward favorable.

Mr. BURTON. Did you say, tell me what is going on with Mr. Rich? Tell me where he violated the law. Tell me so I can tell the President clearly what the problems are with this problem. Did you ask him that?

Ms. NOLAN. If the Deputy Attorney General gives me—if he wants a pardon, I don't normally get all the underlying facts on it, sir.

Mr. BURTON. He says, well, I'm neutral leaning, yes. But the fact of the matter is you knew this was a very, very much wanted fugitive, but you didn't pursue it.

Ms. NOLAN. My view was clearly expressed to the President, was that this should not be done.

Mr. BURTON. On what basis?

Ms. NOLAN. My view was, if Mr. Quinn's arguments were all correct, if Mr. Rich and Mr. Green will be selectively prosecuted, it didn't matter. They should come back—

Mr. BURTON. I think I'm next. Do you want to take your time? I would like to go on and continue the questioning, if you would like, if you would let me take my time. But I will yield to you, if you like. Go ahead.

Mr. WAXMAN. It just appears to me this whole pardon process broke down because, ideally, the President should have had all this information. He should have known what the prosecutors had to say about this. He should have known all this background about Mr. Rich, which he apparently did not have at his disposal.

So this whole pardon process broke down, and we're trying to understand how the President could make this decision and he made it contrary to the top advisors that worked for him at the White House. Sometimes when we step back and try to figure out what's going on, we miss the obvious; and two things are going through my mind as I recollect that period of time.

The failure of the Middle East process, peace process, it should have been a tremendous blow to the President. And here Prime Minister Barak was calling him and asking him for a favor. The President must have known at that point that Mr. Barak was likely to be out of office pretty soon.

The second thing is that was the day that the President had to come to terms with the independent counsel and make a public statement of his statements not being completely accurate, if I could just be mild in my way of putting it. But the President nevertheless had to come forward and make a public statement about testimony he had given. These were two things on his mind.

Mr. Podesta, you know, no one can quite know what was going on in his head. But his concern about overzealous prosecutors, a request from the Prime Minister of Israel, probably his exhaustion, the failure to get all of the information, how much of this was contributing to the President's decisionmaking?

Mr. PODESTA. Mr. Waxman, I don't want to—I am loath to kind of psychoanalyze the President and try to figure out exactly what factors went to what. But 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.

Mr. WAXMAN. And the President was not going to give that pardon to Mr. Pollard.

Mr. PODESTA. That is correct. I think it was one thing that he was seeking, in my own view, that he really felt like he had to go back and look at it hard; and at that point it was I think too late to do what you're suggesting we should have done and that I have suggested that we should have done, which is to provide him a more complete portfolio with respect to the case. But it was on the evening of January 19 I think, as a result of that, he wanted to take a hard look at it. He did—again, I wasn't present for the conversation, so I can't go into what I thought was in his head. But I think that gives some fuller explanation of what we think the situation was at that time.

Mr. WAXMAN. I want to touch on another issue. I want to clarify something that received a lot of attention earlier. That was a conversation that Cheryl Mills had with Roger Adams. Roger Adams is the pardon person at the Justice Department. This was a conversation that was supposed to have taken place on January 20. Miss Nolan, I assume, tell me if I'm not correct, that all of the pardon decisions had been decided by January 19?

Ms. NOLAN. All of the pardon decisions except I believe Mr. Deutch.

Mr. WAXMAN. Mr. Rich was decided earlier?

Ms. NOLAN. Yes.

Mr. WAXMAN. Cheryl Mills, her position was she never called Roger Adams on January 20 or any other day and that Roger Adams called the White House Counsel's Office. She picked up the phone because everybody was so frantic and so busy. This was the last day of the President's term. And he had a question about paperwork, something about warrants that had to go back over to the Justice Department. She tried to assist him in answering that question on the paperwork.

And then I do want to make the point that she has maintained, and as far as I know it's true, that she had no knowledge about Denise Rich's contribution to the library or the campaigns or anything else. Do you have any evidence to the contrary?

Ms. NOLAN. None whatsoever.

Mr. WAXMAN. The last question I want to ask Mr. Podesta. There's been some concern in the press about this Hasidic group in New York and the appearance because they voted so overwhelmingly for Mrs. Clinton in the Senate. Do you have any information you can share with us about this group? Is it surprising that they voted so overwhelmingly or is there anything else you want to tell us about that?

Mr. PODESTA. I think much has been made in the press that the group voted overwhelmingly for Mrs. Clinton and suggested that there was some quid pro quo, which I reject.

But I went back and looked at the voting in News Square, and it's interesting that in 1998 they voted 1,132 for Governor Pataki; 8 for Peter Vallone, who was running for Governor. In 1996, they voted 1,110 for President Clinton; 31 for Senator Dole. In the Senate race in 1992, the vote was 664 for Al D'Amato; 3 for Mr. Abrahams.

So I don't know much about this community, but I do know they vote as a block. I don't think you can make much out of the fact that they, in fact, vote as a block, because they seem to do it for Republicans, and they seem to do it for Democrats.

I think the President concluded in that particular case that no purpose was served in these gentlemen staying in jail. They had all served a couple of years. He did not, by the way, pardon the gentlemen, as he was requested to do by the community leaders. He did commute their sentence to time served—not time served—he commuted it to 2 years.

Mr. LINDSEY. Thirty months with respect to three, 24 months with respect to one.

Mr. PODESTA. Because he thought they all had children at home; and it made more sense at that point to reduce their jail terms, let them go home to begin to work and pay off restitution fines which they had which he left in place.

Again, one can disagree with it. I think it was a decision made on the merits. We heard from some people outside of the community was well on that particular case, and I think it was a justifiable decision based on the fact that they had all served significant jail terms, and it made much more sense to have them home with their kids and earning money to pay the restitution back.

Mr. WAXMAN. Thank you, Mr. Chairman.

Mr. BURTON. I understand there is a need for a break, so we will take a 5 or 10-minute break, and then we will go to the next round. We will stand in recess for 10 minutes.

[Recess.]

Mr. BURTON. OK. The committee will come to order. We'll start the second round. I'll start with my 5 minutes.

Miss Nolan, you received word that Mr. Rich had been involved in arms trading; and as I understand it—correct me if I'm wrong—you asked Mr. Quinn about that, is that correct?

Ms. NOLAN. That is correct.

Mr. BURTON. Did you ask anybody at the Justice Department about it?

Ms. NOLAN. This was at 2 or 2:30 a.m. I did not.

Mr. BURTON. You did not. Well, the thing is, when somebody who is an international fugitive is about to be pardoned and somebody tells you, I guess from one of the intelligence agencies, that the man was involved in international arms trading, which may or may not have been the case, it may have been under that category, it looks like red lights would go all over the place and you would say, my gosh, we have to check this out very thoroughly.

Now I cited earlier six or seven embargoes, trading with the enemy of the United States—Iran, Iraq, Cuba, South Africa—during the embargo—all of these things—Libya, Muammar Qadhafi, whom we bombed because of those things, it seems like, if a red light went off on those things, you would say, hold it, we have got until tomorrow at noon. Let's double-check this thing. What I don't understand is why you would go to the man advocating the pardon, Mr. Quinn, and not get people out of bed at the Justice Department. I just don't understand it. It doesn't make any sense to me.

Ms. NOLAN. That's what I did. I asked Mr. Quinn the information. I talked to the President. I told him that we had this information. I remembered the words we used because I said all we have is Jack Quinn's word that the arms trading is not, in fact, an issue for Mr. Rich.

Mr. BURTON. Well, let me interrupt. All you had was Jack Quinn's word?

Ms. NOLAN. That is correct.

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 that pardon? I just don't understand it. It eludes me. Would you explain that to me?

Ms. NOLAN. Mr. Chairman, I will try to explain it to you. I don't know that you and I will see eye to eye on what the situation was then.

Mr. BURTON. I'm worried about what the American people think about it.

Ms. NOLAN. Well, I would like to try to explain it.

Mr. BURTON. OK.

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.

Mr. BURTON. Well—

Ms. NOLAN. If I may finish, Mr. Chairman, since you asked this question.

Mr. BURTON. Sure.

Ms. NOLAN. 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.

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 ahold 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.

Ms. NOLAN. Sir—

Mr. BURTON. Why would you call Mr. Quinn and not the Justice Department to find out about that?

Ms. NOLAN. I was trying to determine if Mr. Quinn understood or had an explanation for why it was there. I agree—although, as I said, it may very well be—appears that Mr. Quinn was correct about the description of the NCIC, so I'm not sure in retrospect that it was an incorrect decision. But I agree, had there been more time, had I been operating on more sleep, if the President had been operating on more sleep, if the Constitution didn't say at 12 noon this was done, there would have been more calls made. I have no question about that. I completely agree with that. I can only tell you what happened.

Mr. BURTON. Let me end by saying this: It was 2:30 a.m. The President didn't leave office until noon the next day. This was a very serious thing. It should have sent up red flags all over the place. And to ask the defense attorney for his counsel on this and not ask the Justice Department when you're going to be pardoning one of the most wanted fugitives in the world, whom everybody in

Justice and Democrats and Republicans alike said shouldn't be pardoned, it just doesn't pass muster.

Who's next? Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I am so glad you started asking those questions, Mr. Chairman. That's amazing. That's exactly where I wanted to go.

I wanted to talk about Mr. Quinn for a minute and just ask a few questions. Ms. Nolan, you seem to have a lot of confidence in Mr. Quinn, is that right?

Ms. NOLAN. Yes.

Mr. CUMMINGS. And I take it that you believe the President did also.

Ms. NOLAN. That is correct.

Mr. CUMMINGS. Now the chairman asked you a question—and I am going to get to you, Mr. Quinn, in a moment. But the chairman asked you a question, and it seems to boil down to this. You have a trusted friend of the President, someone who has represented the President, who is now an advocate for his client. And we lawyers, we are advocates for our clients. That is our job. We're sworn to do that.

At the same time, one who has a loyalty to the President, I mean, has some because he has been a significant part of his life, I mean, did you take that into consideration? Did you feel that there was some kind of not official conflict but perhaps a conflict with his advocacy with his client and at the same time his friendship with the President? And do you think Mr. Quinn would have put the President in a situation, would have, say, given the President some advice that may have done harm to the President and would have benefited his client?

And I will ask you the same question, Mr. Quinn.

Ms. NOLAN. I did not believe that and do not believe that Mr. Quinn would put the President in harm's way, or intended to, in any way; and Mr. Quinn had, in fact, said that he believed in this case. He said, I'm an advocate, but I believe in this with my whole heart and soul. I completely believe in this case.

Mr. CUMMINGS. You remember those words? Those were the words?

Ms. NOLAN. Yes.

Mr. CUMMINGS. And you believe that you felt that he really meant that when he said it.

Ms. NOLAN. I felt he meant it. It didn't change my mind. I felt his heart and soul took him to the wrong place, but I believed that he believed it, yes, sir.

Mr. CUMMINGS. Mr. Quinn, you understand my question, right?

Mr. QUINN. Yes, sir.

Mr. CUMMINGS. You are advocating for your client and at the same time you have a President who you represented. And what happens with us lawyers and our clients, we get to know them so well and we wanted the best for them, too, so we have two situations. Someone who is a non-lawyer may be looking at this and there has been some implications coming from up here that maybe there was some kind of, again, unofficial conflict.

I want you to comment on that. And the reason I'm getting to that is because I think that sometimes things can be implied, and

I would rather for you to let us know exactly where you stood with regard to the President, who you felt who was your former client, and at the same time Mr. Rich, who was your present client.

Mr. QUINN. Sure. Let me say several things, if I may, Congressman.

First of all, no one is absolutely correct. I would never have consciously put the President in harm's way or any of the people sitting next to me. I would imagine you can appreciate that I did not think my advocacy here would lead to us being in this room today. I acknowledge that.

I did believe in the merits of the case I made. I still do. I don't expect to convince anyone of that after all the publicity we've seen and all the questions that have been raised, but I believed in it, and I do today, and I would not have misrepresented the facts either to the people sitting alongside me or to the President.

When Ms. Nolan called me about this matter, I told her what my understanding of the allegation was. I told them that I wanted to confirm my understanding with the person who had led me to that understanding, one of my co-counsel; and I did so.

And I would point out that, with respect to these matters of arms dealing that have been alleged, not only were these people never indicted for anything like that, to my knowledge there's not any criminal investigation of it. And again I will repeat if they violated any law for activities outside the scope of this indictment of which the chairman has complained they can be held legally accountable.

Mr. CUMMINGS. I just want to take a moment again to thank you all for your service to the country. One of the things that has always concerned me about this committee is that so often we drag people before the committee and then their reputations are tarnished. Like somebody said, how do I get my reputation back? I really do appreciate what you all have done to try to lift up all Americans, and so I just want to take this moment to speak on behalf of Elijah Cummings and the people that I represent to say thank you.

Ms. NOLAN. Thank you, sir.

Mr. LINDSEY. Thank you.

Mr. QUINN. Thank you.

Mr. BARR [presiding]. The time of the gentleman has expired.

Ms. Nolan, Mr. Lindsey, Mr. Podesta, are any of you all familiar with the Braswell case?

Ms. NOLAN. Yes, sir.

Mr. LINDSEY. Yes, sir.

Mr. BARR. Mr. Podesta.

Mr. PODESTA. I was not familiar with it while at the White House, but I have become familiar with it from reading press accounts later.

Mr. BARR. Did any of you all see the petition filed by Mr. Braswell?

Ms. NOLAN. I believe I did, yes, sir.

Mr. LINDSEY. Yes, sir.

Mr. BARR. That's very interesting, because, according to the Justice Department, there was no petition filed.

Ms. NOLAN. We certainly received something, and I think it was in the form of a pardon petition.

Mr. BARR. Oh, really?

Ms. NOLAN. I think so.

Mr. BARR. That's very interesting because, according to the Department of Justice, he was 1 of 44 individuals pardoned on the President's last day in office who did not file clemency applications with the Department of Justice prior to January 20. How could you all have seen a petition?

Ms. NOLAN. I think, as in the case with Mr. Rich, he filed a pardon petition. It was filed with the White House, not with the Justice Department.

Mr. BARR. And apparently a very fine one. Well, this is the pardon petition for Mr. Rich. Did any of you all see that one?

Ms. NOLAN. Yes, sir.

Mr. BARR. That one really does exist. I'm really intrigued that you all could have seen a petition that the Department of Justice says didn't exist.

Ms. NOLAN. Sir, all I can tell you is the fact that the Department of Justice didn't receive a pardon petition doesn't mean that a pardon petition wasn't filled out and sent to the White House. And I believe I saw one. I certainly saw some application—

Mr. BARR. That's very interesting. Was it Mr. Rodham that filed it?

Ms. NOLAN. I don't know who filed it. I believe that it was sent to the White House through Mr. Rodham, yes.

Mr. BARR. Is that the petition that you might have seen Mr. Lindsey, a petition filed by Mr. Rodham?

Mr. LINDSEY. I did not know Mr. Rodham was involved at all. I believe what I saw was filed by Mr. Kendall Coffey. Filed may not be the right word because, again, as Ms. Nolan said—

Mr. BARR. I'm not splitting hairs. Apparently, the two of you all saw some document on behalf of Mr. Braswell.

Mr. LINDSEY. Yes, sir.

Ms. NOLAN. That is correct.

Mr. LINDSEY. And I believe it was a pardon application because I think I read it.

Mr. BARR. Did you bring that with you Mr. Lindsey?

Mr. LINDSEY. That would be in the White House files. It would be in the Archives.

Mr. BARR. Ms. Nolan, did you bring what you saw with you?

Ms. NOLAN. I don't have it.

Mr. BARR. Which one did you see, Mr. Podesta?

Mr. PODESTA. I didn't see any for Mr. Braswell. The first time I heard about Mr. Braswell was when I read about him in the New York Times.

Mr. BARR. Do you recall what was in that petition, Ms. Nolan, to your recollection, the one filed by Mr. Rodham?

Ms. NOLAN. May I be clear? I would not use the word filed, and I do not know that it was sent to the White House by Mr. Rodham. I thought it was, but I don't know for sure. It could be the same one Mr. Lindsey is talking about. I just want to be clear.

Mr. BARR. Well that's not very clear.

Ms. NOLAN. It's as clear as I can be, sir. I want to be clear about the lack of clarity of my memory.

Mr. BARR. Well, that's clear, that you're trying to be clear about the lack of clarity.

Ms. NOLAN. I don't want to overstate what I remember.

Mr. BARR. I don't think there is any doubt that any of us harbor any illusions that you do. I think you're deliberately unclear.

Ms. NOLAN. Sir, I have not been deliberately unclear.

Mr. BARR. Then perhaps you might rethink whether the petition that you saw—the documentation that you saw on behalf of Mr. Braswell came from Mr. Rodham.

Ms. NOLAN. Are you asking me to testify to facts I don't remember?

Mr. BARR. Why would I do that?

Ms. NOLAN. Sir, you seem to be objecting to the level of my memory. All I can tell you is what I remember.

Mr. BARR. That's true. I do object to the level of your memory. It's apparently pretty low.

Ms. NOLAN. I don't think that's correct, sir; and I don't think that's a fair characterization of my testimony.

Mr. BARR. You can't remember where the petition came from, yet you take great exception to the fact that I used the word "filed" which is not a legal term that I'm using. Apparently, there was documentation that was somehow delivered to the White House or got in the hands of people at the White House, namely yourself. First you say you think it was sent there by Mr. Rodham or he had something to do with it. Then as soon as we hear from Mr. Lindsey that he saw something filed perhaps or delivered by somebody else, all of a sudden your memory becomes even fuzzier and you're not sure it was from Mr. Rodham.

Ms. NOLAN. I think I testified right to begin with, that I thought it was from Mr. Rodham. I just wanted to clarify that I had so testified. But maybe we can just move on because I don't know that we'll see eye to eye.

Mr. BARR. Thank you very much for your direction to the committee.

Ms. NOLAN. You're welcome, sir.

Mr. BARR. We will come back to that.

The Chair recognizes the gentlelady from Ohio.

Mr. WAXMAN. Will you yield to me?

Mrs. MINK. Yes, I'll be happy to, Mr. Waxman.

Mr. WAXMAN. I will say that the last questioning of you has been insulting. Ms. Nolan has been before this committee on several occasions. She has always been helpful and cooperative. No one can testify to facts she doesn't know. She's testifying after many hours, and I don't think any witness should have been treated in such a shabby way as you just were.

Ms. NOLAN. Thank you.

Mrs. MINK. I would yield to the gentleman, Mr. Cummings.

Mr. CUMMINGS. I thank the gentlelady for yielding.

I want to take a moment to associate myself with the words of Mr. Waxman. You know, since I have been on this committee for the last almost 5 years I have heard a lot of people testify. And Ms. Nolan—we were just talking here a moment ago. I was talking with staff, and we were talking about how credible not only you but all of you have been. You've answered the questions straight up.

What you didn't know, you didn't know. What you didn't remember, you didn't remember. But you gave us, I believe, the very best that you had to give. And we cannot ask any more of a witness than for you to give us the best that you have to give. That is what you're sworn to do. And to object to your memory I just find simply incredible.

But I just want you to know, and I'll reiterate it until the day I die, people who work for government often sacrifice much. I am not only talking about wages. I'm talking about sacrificing reputations, hours of work, time away from their family.

When I heard you talk, Ms. Nolan, about 2:30 a.m. with your eyes—I forget how you said it—stuck closed—I think you said something like that, but I just want you to know that there are a lot of people who really appreciate it.

And again I have just wanted to—I could not let this moment go by—I wanted to scream a moment ago, but I didn't. I felt I would be called out of order by Mr. Barr, so I didn't want to do that. But I just wanted you to know that we do appreciate your testimony, all of you. And I am so glad—I am so very, very glad that it's people like you that are part and have been a part of our government, and I don't want people who look at their television screen tonight or whenever this plays to feel that people who come into public service have to go through unfair statements and things that have happened here in the last few moments.

Thank you. Thank you. I yield back.

Mrs. MINK. Mr. Chairman, I just want to join my two colleagues in expressing my own personal satisfaction with the responses that have been given. I have a much clearer view of what transpired in those last hectic days in the White House; and I think that your explanations and your timeframes in which all of this occurred are very helpful, at least it is to me and I hope to all of the people who have watched this hearing this afternoon. As to what the judgment was and how it came about, no one will ever know. But certainly the circumstances, the performance, the advice that the President's highest advisors attempted to give him is very clear.

You were there, you told him what you thought, and the decision went the other way. And I'm satisfied that there is absolutely no scintilla of evidence or suspicion of any kind of conduct that could lead to any questions as to the behavior of you or your colleagues or your staff or your assistance in the President's final determination. It was his judgment. We may disagree with it, but I am perfectly comfortable in saying this afternoon that the performance of all of you as his staff and advisors was clearly beyond any suspicion, any characterization other than the superb performance of dedicated people who have served this administration for such a long time. And I thank you for coming here today voluntarily.

Ms. NOLAN. Thank you.

Mr. BARR. The Chair recognizes the gentleman from Connecticut, Mr. Shays, for 5 minutes.

Mr. SHAYS. Thank you very much.

I think one of the things that this hearing is pointing out is that you don't give a pardon in the last few days of the President's term unless you're able to really do due diligence, and I don't agree with any comment on any side of the aisle that would suggest due dili-

gence was done. Whether someone questions her memory or not is another issue. I don't know what your memory is. Due diligence was not done. This was not the finest hour for the President and his staff. And it may be just that, not the finest hour.

But I mean I have a problem with the pardon of Susan McDougal. But, you know, I just happen to have a problem with someone who was given immunity to testify and tell the truth and just explain why in a September 1996, appearance before the grand jury the United States located a record of a check dated August 1, 1983, in the amount of \$5,081.82 drawn on the James P. McDougal Trustee Account payable to Madison Guarantee and signed by Susan McDougal. The words, quote, pay off are written in the notation section of the check. What we wanted to know is what the words "pay off" meant, and all she had to do is come and tell the truth. Instead, she went to jail because she, even after given immunity, didn't want to tell the truth; and the President pardoned her.

There is nothing really very pleasant about a lot of these pardons. So we will just plug away. And in the end I look at someone I know well, Mr. Podesta, and I hope we meet on better grounds, and I hope we find a way to get out of this mess. Because the more questions we ask, the worse it looks.

I would just want to verify a few things, and then I have a number of questions, and I may have to keep coming back.

But, Mr. Lindsey, when I was gone I had a number of people that came up to me and said that you had reason to know Mrs. Mills' schedule a little better than you had led on. And I just wanted to put on the record, because when you ask different people the questions, I may not have directed it properly, but the last week of the President's term I would like to know in that last week, the 20th down to Monday, do you know if Miss Mills was in town on Monday?

Mr. LINDSEY. Monday—what day?

Mr. SHAYS. Monday preceding the Saturday, January 15.

Mr. LINDSEY. I do not.

Mr. SHAYS. On Tuesday.

Mr. LINDSEY. I don't know.

Mr. SHAYS. On Wednesday.

Mr. LINDSEY. I don't know.

Mr. SHAYS. On Thursday.

Mr. LINDSEY. I don't think so.

Mr. SHAYS. On Friday.

Mr. LINDSEY. She came to town on Friday.

Mr. SHAYS. So your testimony is that she came to town on Friday, and she was there on Friday but not before.

Mr. LINDSEY. Again, I don't know. My testimony was I don't know. I don't think she was there on Thursday because I think she came to town on Friday. I don't know whether she was there earlier in the week.

Mr. SHAYS. Was she in the White House on Friday?

Mr. LINDSEY. Yes, that was the night we were talking about.

Mr. SHAYS. Was she in the White House on the 20th?

Mr. LINDSEY. Yes, she flew back with us to New York.

Mr. SHAYS. Thank you very much. I am going to ask each of you these questions; and Ms. Nolan, Mr. Lindsey, and Mr. Podesta, the

questions I ask each I'm asking all of you; and so on some of it will be a little redundant, but we will just plod through, starting with you, Ms. Nolan. When did you discuss with Mr. Clinton the possibility of a pardon for Mr. Rich and Mr. Green?

Ms. NOLAN. I am not sure. I think it was about mid-January, but it could have been the week before.

Mr. SHAYS. Mr. Lindsey.

Mr. LINDSEY. I can. We had a—we had a discussion prior to the 19th. Mr. Podesta believes we had a discussion on the 16th. I'll accept his memory on that. Whether we had a discussion prior to that, I don't know.

Mr. SHAYS. Mr. Podesta.

Mr. PODESTA. As I said in my opening statement, I think that we had that discussion. I believe it was on the night of the 16th and that was the first time I believe that I discussed the matter with the President.

Mr. SHAYS. Thank you. Do you have any understanding of what—if they knew about either Mr. Rich or Mr. Green, the time the pardon application was presented to him? And what is that understanding, Ms. Nolan?

Ms. NOLAN. I'm sorry, at the—

Mr. SHAYS. I read it fast. Do you have any understanding of what the—

Ms. NOLAN. It was the last phrase, at the time the pardon petition was presented.

Mr. SHAYS. Presented to him.

Ms. NOLAN. I don't know that he knew anything at that time.

Mr. SHAYS. OK.

Ms. NOLAN. Do you mean what did he know when we discussed the pardon or—

Mr. SHAYS. When he got the application, did he have a sense of what this application was all about?

Ms. NOLAN. I don't know at the time that he received the application what he knew it was. I think he did understand the arguments Mr. Quinn was making by the time we discussed it.

Mr. SHAYS. Mr. Lindsey.

Mr. LINDSEY. I would agree with that.

Mr. SHAYS. Mr. Podesta.

Mr. PODESTA. I have no knowledge of his knowledge in mid-December when he received the application.

Mr. SHAYS. I understand that you can smile about it, but you know a lot about what he thinks because you're his closest adviser.

Mr. PODESTA. But I don't know. As I said, I think the first time I talked to him about it was January 16th. So it was almost a little over a month later.

Mr. SHAYS. I see my time has run out. We're going to just have to come back. I'll just come back.

Mr. BARR. The Chair recognizes the gentleman from Ohio, Mr. LaTourrette, for 5 minutes.

Mr. LATOURETTE. Thank you, Mr. Chairman. Mr. Lindsey, I want to come back to Carlos Vignali and then maybe we can talk about exhibit 135. I was under the impression—and I think that this came from the briefing that we received from the clemency at-

torney—that Mr. Vignali lied on his pardon application. You were of the opinion that he reported past convictions.

Mr. LINDSEY. You know I'm not sure what they were referring to with respect to lying. Not whether it had to do with past convictions. I remember I think that there were past convictions listed on the pardon application.

Mr. LATOURETTE. Well—and so I would hope you'd agree with me that if he lied on the pardon application, that's a bad thing; and if he didn't lie on the pardon application and the fact was asked if he had prior convictions and listed them, I guess my question is, I'm curious as to how he fit in the profile of the first-time offender that we were interested in getting out of jail.

Mr. LINDSEY. Well, again, I found that certain of those qualifications, certain of the facts that were given to me—you asked me what I learned from Mr. Rodham. Certain of those facts turned out not to be correct. It turned out not to be correct that he was necessarily a first-time offender. He had previous run-ins with the law. They were fairly minor, but I believe he had previous run-ins. That was clearly in Roger Adams' report. So if I didn't know it from the application; I knew it from Mr. Adams' report.

I also knew from the report that the Minneapolis U.S. attorney was opposed to the application.

Mr. LATOURETTE. Right.

Mr. LINDSEY. Those facts were different than what Mr. Rodham told me. The facts that were not different was that the Los Angeles sheriff indicated he supported a commutation.

Mr. LATOURETTE. Right.

Mr. LINDSEY. That the U.S. attorney, while saying he didn't know much about the facts, felt like that the family was a good environment for which Mr. Vignali would get the proper supervision.

Mr. LATOURETTE. Right.

Mr. LINDSEY. That the cardinal from Los Angeles had weighed in, that numerous Congressmen had weighed in.

Mr. LATOURETTE. Right.

Mr. LINDSEY. That numerous other public officials had weighed in. So as we considered it, it wasn't a matter that if I learned any fact was wrong I was going to discard it.

Mr. LATOURETTE. Right.

Mr. LINDSEY. Mr. Rodham asked me to review it. We began reviewing it. In that process, we decided that we should commute the sentence.

Mr. LATOURETTE. OK. Mrs. Davis was talking to you about process, and I clearly when we heard from Ms. Holmes-Norton before not everybody that asked the President for clemency or a pardon made it to his desk, and as a matter of fact when—if I could just finish my question and then I'll be happy to have your response—and I think in the last weeks he made the observation that he was considering between 300 and 500, which certainly wasn't the sum and substance of anybody that was looking for his mercy in the waning days of the administration.

I'm curious as to how, since the Justice Department is saying it was a good idea to pardon somebody wasn't the criterion, how did you get in that pile? If I was looking for—how did I get in that pile

of 300 to 500 that was going to receive President Clinton's ultimate authority on whether I deserved grace or not?

Mr. LINDSEY. Well, there's many ways. A Member of Congress may call us and ask us to look at an application.

Mr. LATOURETTE. Let me ask you this, How did Mr. Vignali get into this pile of 300?

Mr. LINDSEY. Well, he came through the Justice Department.

Mr. LATOURETTE. With a negative recommendation.

Mr. LINDSEY. Yes, but again, it's the President's decision.

Mr. LATOURETTE. Right.

Mr. LINDSEY. First of all, it should be clear, every person that the Justice Department recommended favorably we considered. So there was no person that went through the process.

Mr. LATOURETTE. Right.

Mr. LINDSEY. That got to us whose application wasn't considered and probably granted.

Mr. LATOURETTE. Right.

Mr. LINDSEY. In addition, there were numerous people, not just Mr. Vignali, that went through the Justice Department that they recommended negatively.

Mr. LATOURETTE. Right.

Mr. LINDSEY. We indicated to them on several occasions that we didn't necessarily agree with the standards. For example, in Mr. Vignali's case, one of the reasons why they turned it down was that he throughout the process maintained his innocence. For the Department of Justice, that's an automatic rejection.

Mr. LATOURETTE. Don't you think that shows a lack of remorse on the part of the criminal, doesn't it, when you get convicted and you get caught and you still say I didn't do it? That flies in the face of remorseful, doesn't it?

Mr. LINDSEY. Not necessarily if you believe it. Are you suggesting that no person who has ever been innocent has ever been convicted?

Mr. LATOURETTE. Did you think Mr. Vignali was wrongfully convicted?

Mr. LINDSEY. No, sir, but I—

Mr. LATOURETTE. I think it shows a lack of remorse.

Mr. LINDSEY. Again, it could be a factor. It's not in the President's decision at least or in his mind an absolute disqualifier. So there were a number of factors that he considered; but anyway, my point was all the people that the Justice Department sent us favorably were considered. Many of the people that they made a negative recommendation we reviewed and the President granted. Many he didn't grant.

Mr. LATOURETTE. Right.

Mr. LINDSEY. There were others. Families against mandatory minimums, someone made reference to it, sent us a list of 24, 25 people.

Mr. LATOURETTE. Right.

Mr. LINDSEY. We took a look at them. We granted.

Mr. LATOURETTE. Twelve she said.

Mr. LINDSEY. Twelve, 13. I'm not sure of the number. They got to us through families against mandatory minimums. Members of Congress sent them to us.

Mr. LATOURETTE. I'm asking about Mr. Vignali in particular.

Mr. LINDSEY. I told you Mr. Vignali's—we took—I'm not sure what we would have done if we had gotten the recommendation from Mr. Adams. The fact of the matter is that application had been pending at the Department of Justice for over 2 years, which is one of the problems that the President had been complaining about; and it's only, you know, probably when we went back to the Department and said, you know, we are going to look at this, are they able to rush up a recommendation, and they sent it to us sometime in the last week.

Mr. LATOURETTE. Right.

Mr. LINDSEY. So my point is no person in my judgment should have to have his application sit over at the Department of Justice for 2 or 3 years. That is part of the process—the system that's wrong you know and that was—

Mr. LATOURETTE. And no person wanting to become a U.S. citizen should have to sit at INS for 2 or 3 years.

Mr. LINDSEY. I agree with that.

Mr. LATOURETTE. But anyway, as the President said in that wonderful video he made for the White House correspondents dinner, so many questions, so little time, and I will be back in a little bit.

Mr. BURTON [presiding]. Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman. I want to go back to the White House gifts, Mr. Podesta. If I understand the earlier testimony, if a citizen gives a gift to the White House and, in the office of gifts, there's a determination made if this is a personal gift to the President, does this go to archives, what have you, and there's a valuation attached to the gift—am I correct on that?

Mr. PODESTA. When a gift is sent to the President, it goes to the gift unit. The gift unit values the gift, puts it on a list. The President under the law may choose to keep that gift or it goes to the archives.

Mr. OSE. OK. How is the value of the gift that's received determined?

Mr. PODESTA. By the gifts unit, which is staffed by a career employee, I believe, of the General Services Administration who is detailed to the White House.

Mr. OSE. So GSA sends over—

Mr. PODESTA. I believe that's right, but I think there's a career person in the gift unit; and that I believe is a detailee from the GSA but I could stand to be corrected on that.

Mr. OSE. All right. Is there a check on these valuations? In other words, if I'm that GSA career employee and I say it's worth \$3,218, is that the end of the debate or is there any check on it?

Mr. PODESTA. No. I don't believe there's any rereview of the career employee's decision about what a gift is worth; and I believe that's been the system that's been in place for many, many years and many, many Presidents.

Mr. OSE. OK. How many gifts—I have no idea how many.

Mr. PODESTA. Hundreds of thousands.

Mr. OSE. Ten per day?

Mr. PODESTA. Oh, at least, I would think. I don't know. I don't know the answer to that.

Mr. OSE. Hundreds of thousand. Is that what you said?

Mr. PODESTA. Thousands. Let me correct that, thousands.

Mr. OSE. Tens of thousands or ones of thousands?

Mr. PODESTA. Over the course of 8 years, I would think it's 10's of thousands.

Mr. OSE. OK. Now, do the questions as to how to assign the gifts ever percolate up to your level?

Mr. PODESTA. Assign the gifts?

Mr. OSE. For instance, if the office of gifts can't make a determination—it's a close call—does it ever percolate up to your level for a final determination?

Mr. PODESTA. No.

Mr. OSE. OK. Ms. Nolan, does it ever come to the counsel's office?
Mr. Lindsey.

Ms. NOLAN. As to the valuation of a gift?

Mr. OSE. Or how to treat it, whether it's a gift to the President or gift to the White House or something that goes to archives or what have you?

Mr. LINDSEY. Well, first of all, just to be absolutely clear, I don't believe the White House has gift authority. So gifts to the White House are actually gifts to the National Park Service, which accepts the gifts on behalf of the White House.

Mr. OSE. Well, Mr. Lindsey, you're embarrassing me. You've exposed my ignorance here, so I appreciate that.

Mr. LINDSEY. But gifts that are meant to be part of the permanent gift collection I think go to the National Park Service that sends a thank-you note and so forth. Gifts that are meant to be gifts for the Clintons' personally are sent to the White House gift unit that makes the evaluation, puts them on a register, if you will. The President at some point reviews that register and decides whether or not he intends to keep any of the gifts personally. If he does, those gifts are reported on his annual financial disclosure form. So every year any gifts that the President accepts are reported on his annual financial disclosure form. Any gifts that he does not accept automatically at the end of the administration go with everything else from the White House, all other Presidential records, if you will, to the archives and become part of the archives collection, or President's collection, that are maintained by the archive.

Mr. OSE. If you have got 10's of thousands of gifts flowing in over an 8-year period of time, let's say it's 10,000, that's 10 gifts a day, that's 20,000, 20 gifts a day—I mean, do the math. How do you handle gifts that, say, come in the last month or 6 weeks because you're in the process of shipping stuff to the archives, you're in the process of crossing the Ts and dotting the Is on the administration? Do you maintain the process of logging in the gifts?

Mr. LINDSEY. Absolutely.

Mr. OSE. So that went on all the way till noon on the 20th?

Mr. LINDSEY. If any gifts were received on the 20th, it would have been the process, yes. Now, there are some dollar amounts, and Ms. Nolan might know below which they do not go on the register because they are de minimus.

Mr. OSE. \$250, or something like that.

Ms. NOLAN. I think it's around \$270. It changes every so often, but I can't remember. But it's approximately that.

Mr. LINDSEY. But I believe they still go through that process. But if it's determined it's below that—

Ms. NOLAN. That's the reporting requirement for the public financial disclosure.

Mr. OSE. So above that it has to be reported and below that?

Ms. NOLAN. That's right.

Mr. OSE. Now, Ms. Nolan, have you ever—

Mr. PODESTA. Got a lot of T-shirts we could send you, Congressman.

Mr. OSE. Come to my house, I need them. Has, in your role as counsel, Ms. Nolan, have you ever been involved in judgment calls on any of these gifts or setting the policy or determining what—you say National Park Service—what's a personal gift and what's for archives? Have you ever played a part in that?

Ms. NOLAN. Normally you know whether something is given to the Clintons or intended for the White House; and, therefore, a gift of the National Park Service is a determination that's made when something comes in. It's not normally a legal question. It's just a question of what the donor intends.

Mr. OSE. Have you ever been involved in such a determination?

Ms. NOLAN. I don't think so.

Mr. OSE. Mr. Lindsey.

Mr. LINDSEY. No, sir.

Mr. OSE. And, Mr. Podesta, you testified it's never gotten to your level. OK. My time's up, Mr. Chairman. I appreciate it.

Mr. BURTON. Ms. Davis.

Mrs. DAVIS. Thank you, Mr. Chairman. I'd like to go back to Mr. Quinn. Could you tell us exactly how many contacts you had with Mr. Clinton or the White House staff regarding the Marc Rich pardon?

Mr. QUINN. Sure. Let me take them one at a time. And I covered some of this in my recent submission to the committee. I had a conversation with the President on the evening of the 19th about this matter.

Mrs. DAVIS. In person? telephone?

Mr. QUINN. Telephone call. I believe that it's possible that at an earlier point in time I said to him in person I'd like to talk to you sometime. I'm confident that I didn't say to him then, either that it was about Marc Rich or that it was about pardons; but I have some memory of knowing this was on my mind and something I wanted to do, trying to indicate to him that I'd like to have a conversation with him. After the pardon was granted, early the next week—and I'm not sure whether it was Monday or Tuesday or even conceivably Wednesday—I had a conversation with him about the considerable press attention that this had gotten.

Mrs. DAVIS. OK.

Mr. QUINN. Now on staff, I, as I testified earlier, had a relatively brief conversation with Mr. Lindsey around December 12th or 13th when we were in Belfast.

Mrs. DAVIS. OK. That was in person.

Mr. QUINN. Yes.

Mrs. DAVIS. OK. Were there any other people there with you?

Mr. QUINN. There were a lot of people around, but no one else in that conversation. I think it's possible, but I'm not 100 percent

sure of this that I may also have spoken to Ms. Nolan separately on the same day in person in the course of that trip. I had subsequent telephone conversations with Ms. Nolan.

I think I had left out that I believe that on the day I filed this, December 11th, I believe I called Ms. Nolan and either told her it was coming or it was there. Then again, I had a number of telephone conversations with her subsequently. I really can't identify each and every one of them. I had, you know, more than one conversation with her on the 19th. I don't recall having had any further conversations with Mr. Lindsey, and I did not at any time have a conversation with Mr. Podesta.

Mr. BURTON. Mrs. Davis, would you yield just for one question.

Mrs. DAVIS. Sure.

Mr. BURTON. When did you start working on the Rich case?

Mr. QUINN. I started working on the matter sometime in the spring of 1999. It was—the focus of our efforts in 1999 and going through March or so of 2000 was twofold: first, the efforts we made at main Justice to attempt to get assistance from main Justice, either in the form of having them encourage the southern district to sit down with us and try to work this case out, take another look at it; or second, to, you know, see if it were possible that they might in essence take the matter.

Mr. BURTON. I thank the gentlelady.

Mrs. DAVIS. Thank you. The committee received waves records indicating you entered the White House on January 17, 2001, at 9:01 a.m., and exited at 10:58 a.m. You were scheduled to visit with the President of the United States in the residence. Can you tell us what you were doing at the White House on the morning of January 17th?

Mr. QUINN. Yeah. That was what has been referred to as the President's last public event at the White House. It was—I think Mr. Podesta alluded to it earlier. It was the designation of certain national monuments around the country, an event that he did with Secretary Babbitt. There were a couple of hundred people there. I was invited to attend that event and I did; but in the course of being there, I did not have any conversation with the President. I don't think I even saw anyone from the counsel's office.

Mrs. DAVIS. Thank you, Mr. Chairman, I think my time has expired.

Mr. BURTON. Mr. Otter.

Mr. OTTER. Thank you, Mr. Chairman. Mr. Chairman, I don't have any questions at this time.

Mr. BURTON. Would the gentleman yield to me then for a couple of questions.

Mr. OTTER. I'd yield to the chairman.

Mr. BURTON. Thank you very much. Let me ask you, Mr. Quinn. You started, you said, working on the Rich case in 1999 in the spring.

Mr. QUINN. Yes, sir.

Mr. BURTON. Better start the clock. And you said you focused your attention initially on the Justice Department to try to find out what could be done there.

Mr. QUINN. That's correct.

Mr. BURTON. Did you ever talk to anybody at the White House—I mean, you were a very close friend of the President's—did you ever talk to him about that during the years 1999 or 2000 before all this happened?

Mr. QUINN. I don't believe so, sir.

Mr. BURTON. Well, I don't want you to believe. Did you or didn't you?

Mr. QUINN. I'm quite confident I did not.

Mr. BURTON. I don't want you to be quite confident.

Mr. QUINN. Chairman, I'm doing the best I can.

Mr. BURTON. We've had these little nuances in the language. Did you, yes or no, talk to the President about this? Did you, yes or no, talk to the President about this in the year 1999 or 2000 before this happened?

Mr. QUINN. No, sir.

Mr. BURTON. You're sure about that.

Mr. QUINN. I gave you my preferred answer, and you backtracked me into that one.

Mr. BURTON. OK. I want to read you something. This is a memo from Avner Azulay. Do you know who he is?

Mr. QUINN. Yes, sir.

Mr. BURTON. It's dated Saturday, March 18, 2000. Why don't you put this up on the screen, if you could, if you could find it. It think it's exhibit 137, and it's to Robert Fink, who will be testifying later; and it's "subject: JQ." I guess that might be Jack Quinn. What do you think?

[Exhibit 137 follows:]

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 see 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
Sent: Saturday, March 18, 2000 2:11 AM
To: robert.fink
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 bureaucrat 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 repeat itself. If it doesn't - then probably Gershon's course of action shall be the one left option to start all over again. This is only for your info. Regards-AA

PMR&W 00729



Mr. QUINN. Yes, sir.

Mr. BURTON. "and MS, et cetera. I had a long talk with JQ—" Jack Quinn "—and Michael." Now, as I understand it, Michael is Michael Steinhart, who's a New York financier and good friend of Marc Rich.

Mr. QUINN. I think that's right.

Mr. BURTON. "I explained why there's no way the MOJ—" and I understand that's the minister of justice in Israel "—there's no way the minister of justice is going to initiate a call to EH—" Eric Holder "—a minister calling a second level bureaucrat who has proved to be a weak link. We are reverting to the idea discussed with Abe "—Abe is Abe Foxman, head of the Anti-Defamation League "—Abe, which is to send DR—" Denise Rich "—on a personal mission to No. 1—" now a wild guess, that might be the President "—with a well-prepared script. If it works, we didn't lose the present opportunity, until November, which shall not repeat itself. If it doesn't, then probably Gershon—" and Gershon Kurst is a public relations expert in New York "—then probably Gershon's course of action shall be the one left option to start all over again. This is only for your info. Regards, AA."

Now this was on March 18, 2000; and they were talking, if I interpret this correctly and this was not about you and MS, they were talking about asking Denise Rich to go on a personal mission to No. 1 with a well-prepared script. You don't know anything about that, or do you?

Mr. QUINN. Let me say what I know and what I don't know. First of all, you will see I think that I didn't receive this e-mail.

Mr. BURTON. No, I know you didn't receive this. I just want to know, do you know about this?

Mr. QUINN. I don't have any recollection of it but more—

Mr. BURTON. No, no. Don't give me no recollection. Do you know about this, yes or no?

Mr. QUINN. I have no recollection of having heard this but—

Mr. BURTON. But.

Mr. QUINN. OK. I do not believe that Denise Rich spoke to the President at this time about this matter. I don't believe this was followed up on.

Mr. BURTON. Well, the reason I'm asking this question is you said you didn't talk to the President about this at any time up until you know the timeframe we're talking about here, and here you started working on this back in 1999. Here's March 18, 2000, 10 months before the pardon was granted, or 11 months, and this is a pretty involved memo saying you know we're trying this, we are trying that and now we're talking about sending Denise Rich, his former wife, on a personal mission to No. 1 with a well-prepared script and the subject of the memo was you, but you don't know, you don't recall anything about it; you don't think anything happened and you didn't talk to the President about it.

Mr. QUINN. Mr. Chairman, I did not speak to the President anytime around this time about this matter. I do not believe that Denise Rich spoke to him about the matter. Now by the way, remember, this was, I suspect, around the time that we had heard from the southern district of New York that they would not sit down with us; when I had then made another effort to persuade

Mr. Holder, who in turn was consulting with two other senior officials of the Department of Justice, to meet with us and essentially take the case. Sometime around this time—and I know that the record reflects a note in my hand to this effect—Mr. Holder—I asked Mr. Holder, look, is this over, are we basically dead, are you guys not going to take this, and he said that’s correct.

It is entirely possible that these folks and 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. 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. But as I think the record also reflects, basically the legal work on this matter at all of these firms, Mr. Fink’s, Mr. Libby’s and so on, basically shut down sometime around the end of March.

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. 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.

Mr. BURTON. Well, we will talk to Mr. Fink about that later.

Mr. WAXMAN. Thank you, Mr. Chairman. Just to followup on this issue, Mr. Rich had lawyers, lots of lawyers, didn’t he?

Mr. QUINN. Yes, sir, over the years a good many.

Mr. WAXMAN. Over the years a good many, and they were trying to figure out how to serve their client. So it appears—and there’s even a story on the Web in the Washington Post—even a year ago a top aide to Marc Rich was thinking about a Presidential pardon.

Mr. QUINN. That would not surprise me. But my impression, having been involved in this, is that was not seriously considered until sometime in the vicinity of October 30th and decided upon early, you know, in the next couple of weeks; and I don’t think that the lawyers involved actually got together to meet about it until November 21st.

Mr. WAXMAN. Now, earlier in the year, as I recall your testimony from 3 weeks ago when you were before this committee, earlier in that year, Mr. Rich’s lawyers—and maybe I think you were included you were trying to get a deal with the Justice Department; and in fact, as I recall you talked to Mr. Holder about getting the prosecutors to talk to Mr. Rich’s attorneys, you and his other attorneys. Is that right?

Mr. QUINN. Yes, and heard back from Mr. Holder that he and other senior officials of the Department of Justice thought it was ridiculous that the southern district wouldn’t sit down with us.

Mr. WAXMAN. Now, was there some point in the year 2000 when you concluded that there was no chance any longer at the Justice Department?

Mr. QUINN. Yes, sir. Without being able to pinpoint the records I produced earlier in this book, my recollection is that it was sometime in the month of March.

Mr. WAXMAN. Well, I’m not as interested in the specific moment, but I’m just trying to understand the trend here.

Mr. QUINN. Yeah.

Mr. WAXMAN. These lawyers are working around the clock or at least billing around the clock and trying to figure out what to do for their client, and they want to negotiate a settlement. They had you go to Mr. Holder, see if Mr. Holder can get Justice to agree with some settlement. That didn't work out, and at that point when it fell apart, where there was no question the Justice Department was not going to agree to what you wanted, is that when the whole idea of a pardon started coming forward as the way to help your client?

Mr. QUINN. Well, again—and I'm looking now at my pardon application and specifically tab G, which reflects that the southern district informed us they wouldn't sit down with us on February 2, 2000. In the ensuing weeks, I undertook sort of what I viewed as a last-ditch effort with Mr. Holder to make a determination whether they could either persuade the southern district or get us a meeting with the head of the criminal division and the head of the tax division. Mr. Holder basically came back and said that's not going to happen. And again, the best I can do on this is that it is barely conceivable that there were conversations in which the notion of 1 day pursuing a pardon took place.

Mr. WAXMAN. I really don't want to get into all the detail of it because I don't see how it's really particularly important. Mr. Rich was able to hire lots of lawyers. They were going every way they could to help their client and at some point lawyers sending all sorts of e-mails came up with the idea that you could go in and get a pardon if you could work at it and convince the President.

But the thing I want to ask you is this, you made a case to the President that persuaded him and that case was based on the indictment not being a valid indictment. Who prepared that argument? Who came up with that theory? Was that you or did someone else do that.

Mr. QUINN. Well, it grew out of a lot of work going back a good many years. The chief architects of that argument, in my view, were Larry Urgenson, who had been in the Reagan Justice Department; Mr. Libby, who will be here with you.

Mr. WAXMAN. Scooter Libby, who's now the chief of staff to Vice President Cheney?

Mr. QUINN. Yes, sir. A partner of his named Mike Green. Mr. Fink himself.

Mr. WAXMAN. So when it was reported in the press that Scooter Libby and some of these Republican lawyers didn't have anything to do with the pardon, that might have been accurate; but they helped develop the theory that you advanced to the President to grant this pardon?

Mr. QUINN. Yeah, and I don't want to speak for Mr. Libby. That wouldn't be fair.

Mr. WAXMAN. We will hear from him shortly.

Mr. QUINN. He's a terrific lawyer, a very smart guy as are all of the other people I mentioned who are involved in this. The argument for the pardon was, as you know, that the indictment had complete defenses. That argument was laid out over literally days and days and days of meetings involving all of those lawyers and me and one of my partners.

Mr. WAXMAN. Well, that argument didn't convince the three other people sitting next to you or the President's chief advisers, but it convinced the President on a day when he was probably fuming about the deal he had to make with the independent counsel and concern about what was happening in the Middle East and looking at so many different other things and probably wanted to do something for Mrs. Rich, who was certainly very helpful to him.

Mr. QUINN. I don't think any one of us can testify to all the different things that might have been in the President's mind at the time but I think that the point that Mr. Lindsey made earlier is fair, that it's, you know, it is inconceivable, and based on what we know, more than quite likely, that the appeal from Prime Minister Barak, which by the way followed on the heels of an appeal from Shimon Peres and others in Israel.

Mr. WAXMAN. But that was all based on strategies you and other lawyers worked out to try to influence the President. I'm not being critical.

Mr. QUINN. I understand, but I think that all of these things were elements of the decision.

Mr. WAXMAN. All of us in public office have to understand that when we have an orchestrated campaign we have to recognize it for what it is, that often the rich and the powerful, whether it's an individual or an industry, get the access and make their case and it comes from all different directions because they have smart lawyers, skillful people thinking about what might be the right button to push with any of us as we sort through and make our decisions.

Mr. QUINN. Yes and I think, by the way, that the President was served by some very smart people himself.

Mr. BURTON. Let me start another round now. Going back to exhibit 137. You said that you didn't talk to the President during the year 2000. Did you talk to any of his aids about the pardon, any of the people at the White House besides the President?

Mr. QUINN. I believe the first conversation I had with anyone in the White House, again, I believe that I spoke to Ms. Nolan on December 11th to tell her the application was coming, and the next conversation I had was with Mr. Lindsey in Belfast.

Mr. BURTON. But that was the first, December 11, 2000.

Mr. QUINN. Right you asked about 2000.

Mr. BURTON. Yeah. This is 2001. So it would have been last year. So the earliest that you talked to anybody at the White House was in December 2000?

Mr. QUINN. Yes, sir. That is my recollection. The first—

Mr. BURTON. I guess I just wanted to get that straight because the memo we're talking about there if you look up above it you will see that was followed up 2 days later. The memo I referred to is on March 18, 2000 at 2:11 a.m. Incidentally and then 2 days later it says it's from Mr. Fink to Avner Azulay and it says: "thanks, I spoke to JQ after you and he told me about Denise. Let's see how his visit with Zvi goes and what EH—" Eric Holder's "—research shows. I assume you're keeping Marc Rich, MR, up to date as I have nothing real to report."

And the first memo says that they were going to try to send her to No. 1 with a well-prepared script. What did you tell him about Denise?

Mr. QUINN. I don't recall that conversation.

Mr. BURTON. You don't recall.

Mr. QUINN. No, sir, and I didn't write the memo or receive it.

Mr. BURTON. No, I know. But the memo said that they were going to suggest sending her on a personal mission to No. 1 with a well-prepared script, and 2 days later it says "I spoke to JQ after you and he told me about Denise."

Mr. QUINN. I'm not sure what he's referring to. He may have a better recollection of this, and the best I can do for you is that I do not believe, but I have no personal knowledge, but I don't believe that Denise Rich spoke to the President about her ex-husband in this timeframe.

Mr. BURTON. Mr. Barr, I yield my time to you.

Mr. BARR. Thank you, Mr. Chairman. According to the waves records, two individuals visited the White House, visited the President between this period of January 16th and January 19th when something seems to have happened in the President's mind that he would grant the Rich pardon. The two I have are Beth Dozoretz and Denise Rich; both according to the records visited the President during that timeframe. Do any of you know why Ms. Dozoretz and Ms. Denise Rich visited the President during that particular time?

Mr. PODESTA. Mr. Barr, I think given the fact that at least I believe Ms. Rich through her counsel, I believe, and certainly Ms. Dozoretz through her husband have denied that they met with the President. I think that question is unfounded, and I think that—look I don't know anything about this, but I believe Mr. Dozoretz in the newspapers laid out records that he had showing that they're on an airplane and staying in some hotel in Los Angeles. So I think the implication of your question, unless you're not reading the newspapers, Mr. Barr, is just off base.

Mr. BARR. Well, thank you very much, Mr. Podesta. You and Ms. Nolan certainly have thin skins today. I'm—

Mr. PODESTA. Mr. Barr, I have an exceedingly thick skin.

Mr. BARR. Hold on.

Mr. PODESTA. That's why I'm sitting here all day.

Mr. BARR. Hold on. I'm not reading a newspaper. I'm reading the waves records from the White House which show not only a scheduled time for the visit for Ms. Dozoretz and Ms. Rich but also a time of arrival on those days. So unless you're telling me that in your experience these wave records don't accurately reflect the reality of who's visiting the White House, the question has a very well-founded basis in fact. The White House records themselves, according —

Mr. PODESTA. The question has a well-founded innuendo, in fact.

Mr. BARR. According to these wave records, which all three of you are very familiar with and I'm sure you are too, Mr. Quinn, they indicate during that time period between January 16th and the 19th both Ms. Dozoretz and Ms. Rich, neither of whom have chosen to testify so it's very easy for you to stand here and say that these records are not good, visited the White House. And I'm simply asking, do you all know why they might have visited the White House during this period of time?

Mr. LINDSEY. Mr. Barr, if I may, you keep saying between the 16th and the 19th. Are you talking about the 19th.

Mr. BARR. According to these records.

Mr. LINDSEY. Well, the records have a date, so which date is it that they were supposed to have visited the White House between the 16th and the 19th?

Mr. BARR. Thank you for assuming the role of questioner here, but I don't mind telling you because these are the records. And according to these records, Ms. Dozoretz visited the residence, the President of the United States, visited him at his residence on the 19th at 1729.

Mr. LINDSEY. OK. The event on the 19th was a reception for Kelly Craighead who got engaged several weeks before that. Again, Ms. Rich and Ms. Dozoretz say they were not there. I have asked other people who were there who do not remember seeing them but the event that they were waved in for was a reception for Kelly Craighead who had just gotten engaged.

Mr. BARR. And the same would hold, according to the best of your recollection, for Ms. Denise Rich also.

Mr. LINDSEY. For the 19th, yes. I asked people who were there whether, because I knew they were on the waves list, whether they attended and was told that nobody remembered them being there.

Mr. BARR. My time has expired. Who's next on your side, Mr. Cummings?

Mr. CUMMINGS. Thank you, Mr. Chairman. On these records, these wave records, are they always accurate as to who's there and who's not there, who appears in the White House and who does not?

Mr. LINDSEY. No, sir. They basically are accurate as to someone being waved in.

Mr. CUMMINGS. OK.

Mr. LINDSEY. Beyond that, especially for large social events, you know, where there are lots of people, they often are not correct because at some point people get backed up and if it is a large event where there's going to be a lot of people, they will often times let people in without going through all of the procedures. But they are usually accurate as to when someone was scheduled to come in, not necessarily always accurate as to whether they were actually there at that time.

Mr. CUMMINGS. So, in other words, when we get opportunities to go to the White House and there's some function and they have your name at the gate, if I don't show up, you would still have a record that I could have come in?

Mr. LINDSEY. That's correct.

Mr. CUMMINGS. Doesn't mean I was there.

Mr. LINDSEY. Correct.

Mr. CUMMINGS. And that happens many times up here because we get our schedule conflicts, and you have got a document that says we could have gotten in; but that doesn't prove that we got there.

Mr. LINDSEY. And it also would be the case perhaps that if you are out there and getting a little unhappy about having to wait in the line that somebody might make a judgment to bring you all in without going necessarily through the procedures simply because

certain Members of Congress often times do not like standing outside while they're being waved in. So often times they would make that judgment.

Mr. CUMMINGS. Mr. Chairman, Mr. Libby is definitely going to testify tonight because I have some questions, and I want to make sure that we're hearing that he might not testify. I want to make sure he's going to testify.

Mr. BURTON. No, no. He has agreed to come, and he offered no resistance.

Mr. CUMMINGS. So he will be testifying.

Mr. BURTON. He will be here.

Mr. CUMMINGS. Good. In that light I just want to ask you a question, Mr. Quinn. I was just looking at these exhibits, and then we have spent a lot on exhibit 137; but when you turn the page, we turn, lo and behold, to 138, very interesting exhibit; and it says to the Rich team from Lewis Libby. You familiar with that document? [Exhibit 138 follows:]

402

MEMORANDUM

October 6, 1999

TO: M Rich Team
FROM: Lewis Libby
RE: Negotiations with Fugitives

Attached are charts reflecting publicly reported cases involving negotiations between federal or state authorities and fugitives. These cases may prove helpful if we wish to argue that the USG should forego the SDNY "policy" of not negotiating with fugitives or that the invocation of the policy is itself a defensive tactic to avoid the real and (for the government) embarrassing issue: there was no false tax or energy reporting.

Most of these involve cases with some profile that appear in the press, so there are likely to be additional instances. However, as ours is a high profile case, this subset is an interesting one. In addition, as these are often based on press reporting, there may be some need for additional verification or details if we decide to pursue this line of argument.

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Selected Reported Plea Bargains with Domestic and International Fugitives

Tab	Fugitive & Date	Was Plea Negotiated w/ Fugitive?	Agreement while a Fugitive?	Jurisdiction	Offense
	Claude Griffin - 1983	Yes. Case in which Griffin was a witness reports that "Griffin fled to Honduras and began negotiations which led to a plea bargain with the government." (<i>U.S. v. Nichols, 750 F.2d 1260 (5th Cir. 1985)</i>).	Yes. He was not indicted for his first two drug smuggling trips, but was indicted for two later trips and served six years.	Federal (La.)	Drug Smuggling
	Kathleen Soliah - 1989	Yes, plea was negotiated but not settled. She was captured in 1999, however "she attempted to negotiate a surrender in 1989 through her lawyer. But the negotiations failed because she requested complete immunity."	No. She was captured.	Federal (Cal.)	Conspiracy to commit murder (SLA).
	Robert S. Benedicto - 1990	Yes. He (a reported "crony" of Ferdinand Marcos) avoided arrest by fleeing to Hong Kong, Spain and then Venezuela. He gave up ownership of a bank with assets of \$130 million to the Philippine government and pled guilty to wire fraud in exchange for being dropped from the case.	Yes. Transferred bank ownership to the Manila government in exchange for the U.S. dropping racketeering and conspiracy charges. He remained a fugitive while this deal was struck.	Federal (Cal. and N.Y. (Manhattan U.S. District Court))	Indicted as co-conspirator for fraud to embezzlement; also racketeering charges against him.
	Nahum Vaskevitch - 1991 to 1994	Yes. He was indicted in 1991 for insider trading. His attorneys began negotiating with the SEC and the US Attorney's office in Manhattan. In 1992 he was given "safe passage" (temporary immunity) to return to New York and debrief the government. He was then allowed to return to Israel while his attorney negotiated a settlement with the SEC and a guilty plea with the US Attorney in Manhattan.	Yes. He pled guilty to one count of conspiracy to trade on insider information and he agreed to settle SEC civil charges by paying \$2.8 million. He was sentenced to three months in prison (previously eligible for up to five years).	Federal (U.S. Attorney in Manhattan (S.D.N.Y.) and S.E.C.)	Insider Trading
	Katherine Ann Power - 1993	Yes. She had a lawyer negotiate her plea while she was a fugitive. Her attorney stated she negotiated the plea with both the federal and state government. Another article states she "surrendered as part of a plea bargain with Massachusetts authorities." Still another article states that "[a]fter a year of negotiations, Power surrendered . . . and pleaded guilty to a reduced charge of manslaughter.	Yes. Pled guilty to manslaughter and armed robbery. No additional time for federal crime, served concurrent with state sentence.	Federal (Mass.) and Mass. (state court)	Bank robbery involving murder of police officer.

Possible or Questionable Instances of Government Plea Negotiation with Fugitives

Tab	Fugitive & Date	Was Plea Negotiated w/ Fugitive?	Agreement?	Jurisdiction	Offense
	Eldridge Cleaver - 1977	Some articles suggest that he returned to the U.S. under a plea bargain arrangement. ("[R]eturned to the United States in 1977 to surrender to the FBI under a deal." or ""returned to the United States in 1977 under a plea-bargain agreement that spared him prison time..."). Other articles imply that he returned to the U.S. first and then surrendered and pled guilty ("came back to America in 1975 and worked out a deal, pleaded guilty to assault and was sentenced to community service.")	Pled guilty to an assault charge and attempted murder charges were dropped.	Oakland, CA (state court)	Assault, attempted murder.
	Bernardine Dohm -- 1980 (fugitive for 11 years)	Yes, but inconclusive as to when negotiations occurred. <i>Fortune</i> magazine indicated in 1995 that she gave herself up "after negotiating a deal without prison." Other articles indicate that Dohm turned herself in after some charges were dropped (because of illegal electronic surveillance), and she initially pled not guilty but changed her plea after reaching a plea bargain.	Yes, 3 years probation	Chicago (state court)	Participation in "days of rage" street demonstration. On FBI Most Wanted List.
	Charles Yah Lin Trie - 1998	Yes, surrendered after negotiations took place. But he pled guilty after surrender.	Yes. He reached a plea agreement with the government after the first week of his trial. All charges were dropped in return for his guilty plea on the false statements charge.	DOJ	Fifteen count indictment: obstructing justice, conspiring to defraud government, wire fraud, three counts of aiding and abetting the filing of false statements to the FEC.
	Martin Frankel - 1999	There were negotiations, but it is unclear what they were about. Government has denied discussing any "deals."	Arrested and awaiting extradition from Germany.	FBI/U.S., (U.S. Attorney in Bridgeport CT)	Wire fraud & money laundering.

Mr. QUINN. Yes, sir.

Mr. CUMMINGS. Can you tell me about it.

Mr. BURTON. Excuse me. Would you put the document up? Thank you.

Mr. QUINN. The southern district had taken the position in response to a letter that Mr. Urgenson had written some years earlier that it would not negotiate with attorneys for these men because they were fugitives. In the course of our work together on this matter, Mr. Libby I recall, volunteered to put together a document which would demonstrate that in fact there was no Department of Justice policy prohibiting them from negotiating with fugitives, and this is the product of that work.

At around this same time, by the way, you will recall there were press reports about the Bank of New York, Russian money-laundering matter which was pending in fact in the southern district of New York. And based on those press reports, it seemed apparent to us that the U.S. Attorney's Office had in fact dealt with attorneys for people who ultimately became defendants and pled in the matter, even though they were not in the country.

So we were trying to demonstrate there was no such policy and that it was at least the practice in a good many U.S. Attorney's Offices and perhaps even in the southern district from time to time to negotiate with attorneys for people who had absented themselves.

Mr. CUMMINGS. That's dated October 6, 1999; is that right?

Mr. QUINN. Yes, sir.

Mr. CUMMINGS. And so that we'll be real clear, this is the same Lewis Libby who is now chief of staff for Vice President Cheney?

Mr. QUINN. Yes, sir.

Mr. CUMMINGS. All right. I just wanted to make sure I was clear on that. Let me just go on to something else. Ms. Nolan, you said something that was very interesting a little bit earlier and I wanted to see what you meant by this. You said when you were talking about advising the President and you had talked about the President, is the President—he makes the decision; he had the final decision. You said one person would have to take the hit for it, in other words for a decision; and I take it that what you meant by that is that if it was a wrong decision, that there might be some criticism. Is that what you were alluding to?

Ms. NOLAN. Yes.

Mr. CUMMINGS. And did you all ever say to any of the—you, Mr. Podesta, Mr. Lindsey, or Ms. Nolan, did you ever say Mr. President, you know, you are the President, but I think you're going to really take the hit for this one because people are really going to be very critical of you, although you may feel very strongly that you're doing the right thing. Did any of you ever say anything like that to the President, just out of curiosity?

Ms. NOLAN. Yes. I said it with respect to a number of pardons, some of which I was right about, some of which I wasn't.

Mr. CUMMINGS. When you say you were right about, what do you mean? In other words—

Ms. NOLAN. There was some that I suspected that would be criticized that weren't and some that I thought would be criticized that would be.

Mr. CUMMINGS. Did he feel comfortable in so-called taking the hit for them?

Ms. NOLAN. He fully understood that he might take the hit and he listened to our recommendations. We had discussions about how things would look and appearances. He didn't always agree with our assessments, and I have to say my assessments were sometimes quite right-on and sometimes not.

Mr. CUMMINGS. Mr. Lindsey.

Mr. LINDSEY. I think the answer is almost the same. I'm not sure. I mean, I think I made it clear to the President as did others that pardoning Marc Rich would not go down well; that you know, I was, again I was opposed to it because he was a fugitive. As others said, he had the ability of all these arguments that Mr. Quinn was making, were correct, he could come back, he could have the RICO claims dismissed. He could present the arguments of the two law professors as to why there was no tax fraud. He could argue that the trading with the enemies involved a company that wasn't subject to U.S. law. He could make all those arguments. And that I did not believe that people would understand why you pardoned a fugitive.

Mr. CUMMINGS. Thank you, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Cummings. The gentleman's time has expired. Mr. Barr, you can have your own time now.

Mr. BARR. Thank you, Mr. Chairman. Going back to the Braswell pardon, did any of you all have any communications or discussions in person or on the phone with Mr. Rodham about the Braswell case?

Ms. NOLAN. I did not.

Mr. LINDSEY. I did not.

Mr. BARR. Mr. Podesta.

Mr. PODESTA. No.

Mr. BARR. Are you aware of any conversations Mr. Rodham had with anybody at the White House concerning the Braswell pardon?

Ms. NOLAN. I'm not.

Mr. LINDSEY. I'm not personally aware of any. I have read, I think, press reports; but I have no personal knowledge.

Mr. BARR. Mr. Podesta.

Mr. PODESTA. No, I have no knowledge of that.

Mr. BURTON. Would the gentleman yield briefly.

Mr. BARR. Certainly.

Mr. BURTON. Do you recall during the last couple of weeks of the administration how often Mr. Rodham was there? We've had reports he was there 2 or 3 days a week. Was he there continually, or was he just there 2 or 3 days a week? Can you give us some information on that?

Mr. LINDSEY. I personally wouldn't know whether he was there unless he came by to see me, called me or I ran into him.

Mr. BURTON. You don't know if he was in the residence, any of you?

Mr. PODESTA. I don't know what his presence was, in the residence or at the White House.

Mr. BURTON. Thank you. Thank you, Mr. Barr.

Mr. BARR. With regard—back on the Rich pardon, did any of you all, Ms. Nolan, Mr. Lindsey, or Mr. Podesta, have any discussions

with either Ms. Denise Rich or Beth Dozoretz about the Marc Rich pardon?

Ms. NOLAN. I did not.

Mr. LINDSEY. I believe I have never spoken, I don't think, to Denise Rich. Ms. Dozoretz called me on one occasion and asked me about two pardons: Milken and Marc Rich. It was at a time when I—I'm not quite sure exactly what I indicated to her. I told her I thought the President wasn't going to do Milken and I hoped he wouldn't do Rich.

Mr. BARR. Would this have been in early January?

Mr. LINDSEY. Early to mid-January, yes. Again, it's hard for me to place it; but it could have been well within that last week sometime.

Mr. BARR. Mr. Podesta.

Mr. PODESTA. No, I never talked to either one of them.

Mr. BARR. Thank you. Mr. Quinn, I'd like to give you an opportunity. You and I had a discussion at your last hearing with regard to a January 10th, I think it was January 10th, e-mail that had to do with Ms. Dozoretz. We had a discussion about that, and then there was a subsequent discussion you had in your testimony on the Senate side; and there seemed to be when you read your two statements one was much more elaborative and contained a lot more information and background which was not a part of your answer here, and I'd like to give you an opportunity to discuss that, if you would, please.

Mr. QUINN. Sure. And in fact, as a result of your appearance and Mr. Shays' on a television show subsequently, I have gone back and looked pretty, pretty carefully at the exchange and the fact that I testified the way I did in the Senate, I think it's fair to say, was in some sense—is directly related to how this didn't unfold here. I think in fairness, if one goes back and looks at the transcript, at least this is the way I read it, I was first asked a question which I understood to be asking me to express a view as to why the President was making a call to her and as with every other thing that might be in the President's head, I didn't know and tried to explain that I didn't know whether he was calling to discuss the pardons or whether he was calling for some other matter, and it came up in the course of that.

Then you seemed to clarify that you were interested in knowing why she was involved, at which point I said, oh well. And I began to tell you the facts that I laid out in my Senate testimony. You will see in the transcript that you interrupted me and then you were interrupted by the chairman and time expired and we went off to another subject.

Now, the principal focus of our discussion in almost 9 hours that day was on my dealings with Mr. Holder and to a lesser degree with the White House Counsel's Office. I was certainly impressed after the hearing that it would be important for me to give a more complete presentation of my discussions with Ms. Dozoretz in the Senate testimony that occurred just 6 days later, and as I hope you know I then filed that Senate testimony with the chairman for inclusion in the record of this committee's hearings.

Mr. BARR. Thank you. Maybe if Mr. Shays in your time if you could give me an opportunity to just ask one quick followup question on that.

Mr. BURTON. We have to go to Ms. Norton first, and then we'll come back.

Ms. Norton.

Ms. NORTON. Mr. Quinn, I'm curious, when one looks at your resourcefulness as an attorney, one can only admire what you have done. Indeed, I think it's what one would expect a splendid lawyer to do given the openings that he had. Let me ask you, do you believe in the adversarial process as a way for discovering truth?

Mr. QUINN. Certainly.

Ms. NORTON. Given the fact that you had to appear here now twice for hours on end and that your client has been made more notorious than he ever was as 1 of the 10 most wanted men in the United States, do you think the Congress would be wise to advise a President in the past to make sure that he gets both sides completely of every pardon matter before making a pardon? I say that not only with respect to the now, but I think that your client and you have also taken a tremendous hit because you were too clever by half perhaps. The resourcefulness I think that any lawyer would admire, and I say that as a lawyer, but looking back and standing back, where you might have gotten the same result, would it not have been better to have the President fully briefed on both sides, to have the Justice Department have the pardon papers, have the pardon attorney, have the papers long before she did so that she wasn't trying to go on the Internet at the last moment to do her work? I mean, hasn't the fallout been a whole lot more than on the President of the United States but on you and on your client Mr. Rich as well?

Mr. QUINN. Yes. There's certainly a lot of truth to that conclusion. But I would like to make a couple of points that I think are important. You've heard a great deal from the people to my left about the timing of this being put in front of the President and all the other things that were going on. But I'd like to remind you that the application was filed 5 weeks before the pardon was granted.

Ms. NORTON. Filed with whom?

Mr. QUINN. At the White House.

Ms. NORTON. My question goes to the Justice Department, the pardon attorney.

Mr. QUINN. Yes, I'd like to get to that. OK. I had had a course of dealings with Mr. Holder from 1999 about the Marc Rich indictment.

Ms. NORTON. When did the pardon attorney get the papers?

Mr. QUINN. The pardon attorney, you mentioned earlier not having been aware of the rules of the pardon attorneys office, those rules demonstrate quite clearly that this was in the type of pardon that the pardon attorney could move on favorably. Because those rules are as, in my view, are limited to those applicants that have been tried, convicted and spent time in jail. It was clear to me from the beginning that the other people in the chain of command, namely, the Deputy Attorney General, the White House Counsel's Office, and the President himself, if anyone was going to move on

this favorably, it would have to move in those three offices, not in the pardon attorney office.

Ms. NORTON. I thought you got the papers for the pardon attorney 48 hours before, if I recall correctly.

Mr. QUINN. No, that was a different document, Congresswoman. That was my letter of January 10 to Mr. Holder, which apparently was misdirected not to his office, but to the pardon attorney's office. But the other thing I'd like to remind you of is that as far as I was concerned, I very much wanted there to be a communication between the White House Counsel's Office and Mr. Holder, because I had been, and I don't want to overstate this in fairness to Mr. Holder. I thought that Mr. Holder was sympathetic to the notion that we had reached an absolute impasse with the southern district. I had had a conversation with Mr. Holder, and the documents in the record that reflect this, which suggested to me, in his words, that he was not personally against there. Not personally against in a circumstance like this frankly was—

Ms. NORTON. I don't understand why you say pardon, this was not an instance where the pardon attorney should advise—

Mr. QUINN. I am not saying shouldn't advise. What I said was this was not the type of pardon which the pardon attorney under those procedures—

Ms. NORTON. Well, who was Mr. Holder to rely upon then? Was he to do his own research on this matter?

Mr. QUINN. Mr. Holder could rely on anyone and everybody.

Ms. NORTON. Why shouldn't he rely on the pardon attorney?

Mr. QUINN. He may well have. I never discouraged him from talking to anybody. And if I may—

Ms. NORTON. I can understand why.

Mr. QUINN. Can I finish this point?

Ms. NORTON. I can understand why you wouldn't have wanted to go back to the southern district. These are prosecutors. I don't overly rely on the Justice Department at all because they are prosecutors. I think the Justice Department is advisory just like the counsel's office is advisory. A judgment call has to be made here.

Mr. QUINN. Yes.

Ms. NORTON. The point I am trying to make here is that if a principal has the opportunity to set up in his own mind and in his own way an adversarial system, he can keep himself from making mistakes. That was his own job but as it turns out, the fallout has been on you and your client as much as the President.

Mr. QUINN. I understand that I did want to bring to your attention a document, which during my last appearance here, that I did not have in front of me, which was an e-mail I wrote on Christmas day to the people I was working with here in which I told them that I am hopeful that Eric Holder will be helpful to us, but we can expect some outreach to New York. So I thought—

Ms. NORTON. Did you think that Mr. Holder was reaching out to the pardon attorney?

Mr. QUINN. I don't think I thought one way or the other he would.

Ms. NORTON. The reason I am asking about the pardon attorney if I can just finish this and be gone.

Mr. BURTON. All right.

Ms. NORTON. I don't appreciate the fact that over and over again that Mr. Holder is being made the fall guy here.

Mr. QUINN. I am not doing that.

Ms. NORTON. You indicated from the beginning that you were not doing that. The way not to do this is to make sure the pardon attorney has this and not to make this such a question of jurisdiction as you have made it. You're not trying to make him the fall guy, but the fact is that one of the bright stars of the African American community has had his reputation damaged.

Mr. QUINN. And it shouldn't be.

Ms. NORTON. And a lot of us do not appreciate it. He has taken full responsibility for it, but I think there was also some very smart lawyering going on here avoiding the pardon attorney and going around the process, and it's the kind of thing that almost any lawyer seeing openings might have done. But the net effect of it is that Eric Holder, the President of the United States, Marc Rich, yes, and even Jack Quinn, have been hurt by the way this process unfolded, and I don't think you should take a lot of credit for it. But you offered some advice in response to a question to me before about the kind of things that might be done to shore up the process. I thought it was very good advice about an Executive order, and the thrust of my question was that if there were an Executive order to indicate that the President had within his own context a sufficiently adversarial process to make an informed and responsible decision, that he could defend, might well be something that we would want to recommend or an Executive order ought to say.

Mr. QUINN. Yes, and I think I told you last time that I thought that was a good idea.

Mr. BURTON. The gentlelady's time has expired.

Mr. Shays.

Mr. SHAYS. Mr. Barr, you wanted me to yield to you.

Mr. BARR. Yes, thank you. I appreciate the gentleman yielding.

I am looking at the e-mail of January 10, and I'm no longer focussing on your testimony here in the Senate. What I'm looking at is the substance of the e-mail and your subsequent explanation in the Senate, and if you could just clarify what Beth Dozoretz was doing here. The e-mail of January 10 indicates that the President takes the initiative and calls her and talks about with her about the pending pardon application. Your explanation, and maybe we're talking about two completely different things here, I don't know. Your explanation or your discussion before the Senate indicates that you went to Beth to encourage her to intercede on your behalf with the President, which seems very different from the discussion of this e-mail description which the President reached out to her. What was her role in all this. Was she acting as your agent or as a friend of Denise Rich's or in some other capacity?

Mr. QUINN. I informed Beth Dozoretz sometime around the Thanksgiving home day that I would be pursuing a pardon for Marc Rich. 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 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.

Mr. BARR. And the reason you brought that up is because she was the finance director for the DNC or was.

Mr. QUINN. She had been. And I wanted to be very careful to make sure that no discussions about this ever took place in the context of anything related to fundraising. I had a couple of conversations with her after the pardon was granted in which I essentially reminded her of that.

She had called to congratulate me on Saturday. Said this guy is going to be enormously grateful, he owes you a lot, he owes everybody who was involved in this process a lot. And I reflected on that conversation after I have got off the phone with her and I called her back, initiated a call and said to her relating to our earlier conversation when you say he should be very grateful, I want to be very clear you're not talking that he should be grateful to the President. And I said we had a conversation about this a long time ago. I trust that no one ever had a conversation with the President about this matter and connected it in any way to any fundraising activity, and she said absolutely not. And left me with the impression that my concern that she had been vague about this was misplaced, that she was not talking about that at all.

Mr. BARR. I thank the gentleman for yielding.

Mr. SHAYS. My time has really ended but let me ask you, Ms. Nolan, I will ask you what were the other pardons you warned the President about that didn't make the news?

Ms. NOLAN. I wasn't—

Mr. SHAYS. Don't be shy.

Ms. NOLAN. I was more concerned about some of the independent counsel pardons than I think the press, I don't think that they got, I don't think they got the reaction that I expected.

Mr. SHAYS. Name me the pardon that you advised him. You have been freed to tell me. You are not breaking a faith here. What were the specific pardons that you told the President—did you warn the President, for instance, about Susan McDougal?

Ms. NOLAN. Yes.

Mr. SHAYS. What are some others.

Ms. NOLAN. You know, I'm sorry, I was concerned generally about the independent counsel Starr/Ray pardons. I just don't remember right now which they are.

Mr. SHAYS. When you have time to think about it, I want you to write down a list and I'm going to ask you again. This is a very serious question. I just want to know and you should know.

Ms. NOLAN. I can tell you this, Mr. Shays, I just want you to know this now. I can try to come up with a list, but I am not going to be able to—I couldn't tell you who all got pardons right now. I just don't have that in my memory banks.

Mr. SHAYS. I'm asking you a specific question. I want to know the pardons—

Ms. NOLAN. I'll tell you what I remember, certainly.

Mr. SHAYS. And we'll come back at another time.

Ms. NOLAN. OK.

Mr. BURTON. Mr. Shays your time has expired.

Mr. LaTourette.

Mr. LATOURETTE. Thank you for not making me a freshman again, even though Mr. Shays wanted me to be.

Mr. SHAYS. I apologize.

Mr. LATOURETTE. I would like to go back to Vignali, and hopefully finish this, and Ms. Nolan, and I would ask you, were you aware that Hugh Rodham was advocating for a petition for Carlos Vignali, did you know that?

Ms. NOLAN. I don't think I knew that, but I may have known that.

Mr. LATOURETTE. And Mr. Lindsey, we already heard from you. Mr. Podesta, did you know that?

Mr. PODESTA. No.

Mr. LATOURETTE. At any time, did you all, in this meeting on the 16th in the Oval Office, or on the 19th, or any time, were you ever present at a meeting where the Vignali case was discussed with the President of the United States? Ms. Nolan.

Ms. NOLAN. Yes, I believe I was, yes.

Mr. LATOURETTE. Was Mr. Lindsey there at that meeting?

Ms. NOLAN. I don't remember which meeting it was, that Mr. Lindsay was generally there. There was one meeting that we had that he wasn't. I think he was there, though, yes.

Mr. LATOURETTE. How about you, Mr. Podesta? Were you there?

Mr. PODESTA. Mr. LaTourette, I can't be specific. I was engaged in a discussion—I heard the merits of Vignali. I didn't have a strong view about Vignali. I think it was in front of the President. But it's possible that it was a separate meeting that only involved the staff as opposed to the President.

Mr. LATOURETTE. I am interested in what took place in front of the President, and the meeting that you remember, Ms. Nolan, whether these guys were there or weren't there, was the fact that Hugh Rodham was advocating this position, or was advocating that Mr. Vignali receive a pardon commutation, was that discussed in your presence? Was Hugh Rodham's name invoked to the President of the United States in this meeting?

Ms. NOLAN. I don't know, Mr. LaTourette.

Mr. LATOURETTE. How about you, Mr. Lindsey?

Mr. LINDSEY. I don't recall. I don't have a specific memory of mentioning it. I wouldn't have hesitated to mention it. I just don't recall.

Mr. LATOURETTE. You don't remember. How about you, Mr. Podesta?

Mr. PODESTA. With the caveat that I gave earlier, in the meeting I was in where Vignali was discussed, Mr. Rodham's name did not come up.

Mr. LATOURETTE. Going back to the meetings of the 16th and the 19th when you're doing the Rich pardon, as you sat in that meeting, I know the fundraising was not discussed. As you said on the

meeting on the 16th, Ms. Nolan, were you aware that Denise Rich had contributed \$1.2 million to the Democratic National Committee, \$75,000 to Senator Clinton's campaign, and \$450,000 to the Clinton library? Was that within your knowledge?

Ms. NOLAN. I did not know that and don't know that.

Mr. LATOURETTE. Mr. Lindsey, how about you?

Mr. LINDSEY. The amount I had no idea about. I knew she was a supporter of the Democratic Party and had been a supporter of Mrs. Clinton, and that she had indicated some level of support to the library, but the dollar amounts I had no idea.

Mr. LATOURETTE. Were you aware that she wasn't somebody that came to a clam bake and bought a \$35 ticket? She was a significant contributor to all three of those causes?

Mr. LINDSEY. Yes.

Mr. LATOURETTE. How about you, Mr. Podesta?

Mr. PODESTA. No, I was not aware of that.

Mr. LATOURETTE. You were not aware that she was a contributor to any of those causes. Do you know, any of you, whether or not the President was aware that she was a participant and a contributor to those three causes? I'll start with you, Ms. Nolan. I assume no since you didn't know she was one.

Ms. NOLAN. I do not know.

Mr. LATOURETTE. How about you, Mr. Lindsey?

Mr. LINDSEY. I've seen clippings of an event where he's standing on a stage somewhere with her and Mrs. Clinton, so to the extent she was on the stage with them, yes, I would assume he knew that she was a major supporter.

Mr. LATOURETTE. How about you, Mr. Podesta?

Mr. PODESTA. I do not know what the President's knowledge was which is, I think, the question you asked. Although subsequently, just to clarify what Mr. Lindsey said, I didn't know this at the time, I subsequently learned having seen that photo over and over again, that was a benefit concert for the Leukemia Foundation that she's involved with, but that had nothing to do with the Democratic Party.

Mr. LINDSEY. You can't believe what you see in the press.

Mr. LATOURETTE. I understood that to be a charitable event also. I think she was giving him a saxophone and not cash on that particular occasion, if I understand the clipping. How about with Braswell that you were asked about by Mr. Barr? Are you aware that Mr. Braswell was being advocated by Hugh Rodham.

Ms. NOLAN. Yes, I believe I was.

Mr. LATOURETTE. And you were, Mr. Lindsey?

Mr. LINDSEY. No, I was not.

Mr. LATOURETTE. And Mr. Podesta?

Mr. PODESTA. No.

Mr. LATOURETTE. Did you have a meeting with the President of the United States on the Braswell pardon, Ms. Nolan?

Ms. NOLAN. Yes.

Mr. LATOURETTE. Mr. Lindsey, were you present at such a meeting?

Mr. LINDSEY. I am not sure we had a meeting on the Braswell pardon.

Ms. NOLAN. I think it came up in a meeting. I don't think that we had a meeting on the Braswell pardon.

Mr. LINDSEY. I don't recall Braswell coming up in a meeting.

Mr. LATOURETTE. How about you, Mr. Podesta?

Mr. PODESTA. I don't remember Braswell at all until I heard about it subsequent to January.

Mr. LATOURETTE. And Ms. Nolan, since you're the only one who has a clear recollection of the Braswell matter coming up in a meeting, was Hugh Rodham's name invoked to the President of the United States during the course of that meeting as someone who was interested in seeing Mr. Braswell—

Ms. NOLAN. I don't believe so, Mr. LaTourette, but I am not positive.

Mr. LATOURETTE. I think if we do another round, I would like to ask you a similar set of questions about Roger Clinton, and then I think I'll be done with this panel, I think.

Mr. BURTON. Mr. Davis.

Mr. DAVIS OF VIRGINIA. Thank you very much. Mr. Quinn, I have some questions for you. I know it's been a long day for you. I appreciate you being here now twice on your own volition. I just have a few questions that I'm not sure about and I want to clear up. Can you tell me anyone, other than the people who were either paid by Mr. or Mrs. Rich, or were their friends or the objects of their political or charitable benevolence who were really in favor of this pardon?

Mr. QUINN. What I can do is tell you whether each and every one of the people who wrote letters or spoke up in favor of it were in some ways beneficiaries of their generosity. I just don't know the answer to that.

Mr. DAVIS OF VIRGINIA. I would like you to turn to exhibit 79, it's a copy of the agenda for a November 21, 2000 meeting among the Rich legal time. No. 7 on the item on the agenda states maximizing use of D.R. and her friends.

Mr. QUINN. Yes, sir.

Mr. DAVIS OF VIRGINIA. Perfectly understandable. Who were her friends? What did you mean by that?

Mr. QUINN. Mr. Davis, I did not write this, and my best recollection is that when I did get together with Mr. Fink and Ms. Behan, I don't believe we went through these items, at least I don't recall having done so. But you know as for what Mr. Fink had in mind, he will be here some time later.

Mr. DAVIS OF VIRGINIA. Let me ask you this, in your Senate testimony, you said I expect Mrs. Dozoretz would inquire about the status of our application, and I believe she might provide me with some status of my application and thereof. As a lawyer, I wanted information from as many sources as I could get about where my petition stood in the White House so I could refocus my efforts and my arguments to achieve the desired result for my client. Did Mrs. Dozoretz keep you updated on the status of the application?

Mr. QUINN. There were times when I would get phone messages from her asking me what the status of the matter was. We had a number of conversations. The ones that stick out in my mind as having been meaningful in this regard are that as I had requested early on in the process, she indicated to the President that I was

going to be filing a pardon application, she left a message for me to the effect that I should meet with or talk to Bruce Lindsey, and I understood again, thirdhand, that the President had, in essence, said fine, Quinn is filing a pardon application, he should deal with the White House Counsel's Office. The other one that sticks out in my mind is the conversation which we've talked about here today and a couple weeks ago that's reflected in this Avner Azulay e-mail. I don't recall whether she reported that information to me directly at around the same time, but it's entirely possible.

Mr. DAVIS OF VIRGINIA. How many times do you think you spoke to Mrs. Dozoretz about the pardon application?

Mr. QUINN. It's quite honestly hard for me to say. I had, over the course of a few months, a fair number of phone messages with her, some of which no doubt led to conversations, but not all of those conversations would have been about this matter. We have been friends, we're, from time to time, invited to social events by her and her husband. I was working with her to try to put her together with a startup company in which I have thought the Dozoretz might want to get involved, and there were conversations and get-togethers in connection with that. I am confident that I have actually spoke to her far fewer times than the pink message slips in my office might indicate. I just hesitate to pick a number.

Mr. DAVIS OF VIRGINIA. Would it be more than 10 times possibly?

Mr. QUINN. Very unlikely.

Mr. DAVIS OF VIRGINIA. More than five?

Mr. QUINN. Probably, in that neighborhood; 5 to 10.

Mr. DAVIS OF VIRGINIA. If I was to ask you how many contacts you had with either Mr. Clinton or his White House staff regarding the pardon, could you put a number on that?

Mr. QUINN. I can tell you with certainty the answer to that as regards the President. And I can tell you the answer to that as regards Mr. Podesta. Zero in his case. And as I indicated in my written answers to the committee, I had, I believe, that I at one point told the President that I hoped to talk to him, that I don't believe I said it was about either Rich or a pardon. I had the conversation on the 19th of which you were aware, and then I had this subsequent conversation with him the following week.

Mr. DAVIS OF VIRGINIA. All right let me ask you—

Mr. QUINN. I'm sorry, because I do want to be complete. Then, of course, I spoke to Mr. Lindsey definitely once. I don't remember further conversation with him. I communicated with him in writing. And I had a number of conversations with Ms. Nolan, particularly at the end of process there. But before that as well.

Mr. DAVIS OF VIRGINIA. Could we turn to exhibit 155 for a second. That's on the Jack Quinn memorandum at the top.

[Exhibit 155 follows:]

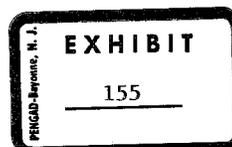
416

JACK QUINN

FAX SA/PORUS TO
Gloria (for Betz)

(~~REDACTED~~)

TELL GLORIA TO
GET THIS TO ~~HER~~
BOTH - ASAP



Mr. BURTON. I'll let the gentleman finish this question and we'll have another round if you would like to ask more questions.

Mr. QUINN. Yes, sir.

Mr. DAVIS OF VIRGINIA. Could you read that to me?

Mr. QUINN. It says fax JQ/POTUS to Gloria for Beth. Tell Gloria to get this to Beth as soon as possible.

Mr. DAVIS OF VIRGINIA. I was just going to ask you about that one.

Mr. QUINN. Yes. This relates to that report from Mr. Azulay that the report from Mr. Azulay I believe follows this. My recollection is that in one of the conversations I had with Ms. Dozoretz, I told her of the letter I wrote to the President, which I don't have in front of me. It's about a page and a half letter. Do we know the date? On January 5. She, I believe this is the period of time when she was out in Colorado and upon hearing about the letter I sent asked if she could have a copy of it. And I believe it was subsequent to getting a copy of that letter at that point she had a conversation with the President.

Mr. DAVIS OF VIRGINIA. Thank you very much.

Mr. BURTON. The gentleman's time has expired.

Mr. Waxman.

Mr. WAXMAN. Thank you very much, Mr. Chairman. I just want to put some things in perspective. And I'm responding to Mr. LaTourette's question about the three people that work at the White House, whether they knew that Mrs. Rich had given money and substantial amounts of money to the Democratic Party, to the President's library. Who's kidding whom? She gave \$450,000 to the library. She gave hundreds of thousands to the Democratic Party. The President didn't know what she gave in any instance, but he knew she was a big supporter. But let's also remember when the oil and gas interests donated \$29 million mostly to Republicans in last year's election, that people thought maybe we ought have a bill providing subsidies and tax relief provisions worth billions to the oil and gas interests. Was there a quid pro quo? I don't know that you can jump to that conclusion, but they certainly got their case across.

Let's look at another. In 1997, big tobacco companies gave the Republican Party \$8.8 million in contributions, and then the Republican leadership snuck into a bill on the Balanced Budget Act a \$50 billion tax credit for the tobacco companies. In January, President George Bush held a closed door economic summit with 36 business leaders. And according to the Center for Responsive Politics, the combined contribution of 27 of these business leaders to a Republican candidate or the Republican Party was over \$1.6 million. Well, look, what's going on? Big money gets access. And it gets access to both sides, Democrats and Republicans. And it's a sorry spectacle. That's why I have supported Mr. Shays and Mr. Mehan and Senator McCain and others in trying to reform the campaign finance system. But the reality is that those who have a lot of money and a lot of power do get their voices heard. I was pleased that Mrs. Eleanor Holmes Norton from the District of Columbia pointed out something that I wasn't aware of, and you wouldn't know it from what you read in the newspapers, that a large number of pardons that were granted by President Clinton were to peo-

ple who were warehoused in prisons on some of these mandatory sentences.

Ms. Nolan, maybe you can tell us. Did you go over some of those pardons where you felt good about them, or did you feel uncomfortable with a lot of them?

Ms. NOLAN. No, I felt very much that assisting the President in using his clemency power was one of the most satisfying things I did as his counsel, and it was exactly those kind of cases that were very rewarding. And he, there's obviously a great deal of controversy, and I think we have all acknowledged understandable controversy about some of the pardons he gave. I don't—but there were many pardons for, and commutations for people who nobody knew who really were looking for justice and mercy from the President and who received it.

Mr. WAXMAN. It's obvious that because the President did some good things, it doesn't negate the fact that he did something that most of us think was an improper judgment call, giving a pardon to Marc Rich. I can't see the rationale for it. I know Mr. Quinn has developed this rationale with others who have been in the employ of Mr. Rich. But when a man is a fugitive from justice, it seems to me that you don't exercise the power of the pardon on his behalf. But I think we ought to be more honest in this committee and with the American people about the fact that there's a lot of big money, powerful interests that do get their cases heard and often favorably. That is the way it works. It's unfortunate, and then the issue is is it criminal? That means was it exchanged for money? Now we know that Mr. Quinn evidently believes his argument of why the pardon should have been granted, but we also know that he worked for Mr. Rich. The President doesn't work for Mr. Rich and the President made the judgment that he thought was right. And we disagree with it. There's an investigation by law enforcement to see if there's anything illegal, but I certainly have heard no evidence any stronger than those other examples I cited earlier. Those were not proud moments when big powerful interests get their way, but it doesn't mean they weren't right, and it doesn't mean that when people agree with them that it might not be for the best motives.

Mr. BURTON. We have a few more questions from a few more members, and we should be able to wrap this up. Counsel has some questions, so I understand that some of you need to take a little bit of a break. So if you like, we'll take a quick break and try to wrap this up in the next half hour.

[Recess.]

Mr. BURTON. OK. We will resume the questioning with Mr. LaTourette. Mr. LaTourette, you're recognized for 5 minutes.

Mr. LATOURETTE. Thank you. Mr. Chairman, I just observed during the recess, I was chatting with Mr. Quinn, and I think he's had such a good time, he'd like to become an exofficio member of the committee. He's indicated he's enjoyed our proceedings very much over the last couple of times. I would like to talk as advertised about one other relative of the first family, and that would be Roger Clinton and ask each of you in turn, beginning with you, Ms. Nolan, were you aware at the time the pardons were being consid-

ered at the White House in January of this year that the President's brother was advocating on behalf of certain individuals?

Ms. NOLAN. Again, Mr. LaTourette, I am not sure what I learned subsequently, and what I knew then. I think I probably was.

Mr. LATOURETTE. You think you probably were before?

Ms. NOLAN. Yes.

Mr. LATOURETTE. How about you, Mr. Lindsey.

Mr. LINDSEY. No, sir, I don't believe so.

Mr. LATOURETTE. How about you, Mr. Podesta?

Mr. PODESTA. I believe I was aware that he had asked for a pardon, but I subsequently heard that it may have been for more than one, but I think I was aware he asked for one for a friend of his.

Mr. LATOURETTE. Let me go back to some of the people we've already been talking about, and Ms. Nolan, since you seem to have recollection, were you aware that Roger Clinton was involved at all in the request made on behalf of Carlos Vignali?

Ms. NOLAN. No, I don't think I was.

Mr. LATOURETTE. How about Glen Braswell?

Ms. NOLAN. No.

Mr. LATOURETTE. How about a fellow by the name of Philip Young?

Ms. NOLAN. No.

Mr. LATOURETTE. Mitchell Wood?

Ms. NOLAN. I have to say I don't even recognize those names. I am not aware that anyone was involved in them.

Mr. LATOURETTE. Mr. Podesta, since you have some recollection, do you recall who it is that Mr. Roger Clinton might have been interested in?

Mr. PODESTA. No, but my recollection was that he had asked for a pardon for a friend of his and it was being denied.

Mr. LATOURETTE. And that's the only—

Mr. PODESTA. Yes, I didn't know, and don't know that he was involved in any of those.

Mr. LATOURETTE. OK. Well then, I guess we'll just throw it out there so we're all squared away. During any of the discussions that you had on the 16th, the 19th or anytime else during these waning days of the Clinton administration, was the fact that the President's brother was interested in advocating a position on behalf of anybody discussed in your presence and also the President's presence?

Ms. Nolan.

Ms. NOLAN. I don't recall a discussion about it. I have some sense that I knew. But I don't remember discussing it with the President, particularly.

Mr. LATOURETTE. OK. How about you, Mr. Lindsey, no?

Mr. LINDSEY. No. I had a discussion with the President about a pardon for Roger, but other than that, no.

Mr. LATOURETTE. I'm specifically speaking about Roger looking for a pardon for somebody else. So you have no recollection of that?

Mr. LINDSEY. Right.

Mr. LATOURETTE. How about you, Mr. Podesta?

Mr. PODESTA. I frankly don't remember who told me that he asked for a pardon for a friend of his, but when I heard about it was denied, I really didn't think much about it beyond that.

Mr. LATOURETTE. Mr. Chairman, that concludes anything I was interested in. I thank the panel very much for their attention.

Mr. BURTON. Thank you, Mr. LaTourette.

Mr. SHAYS.

Mr. SHAYS. Ms. Nolan, you had a chance to look at the list. I'm sorry that during the break we still put you to work. How many names do you have on that list?

Ms. NOLAN. I didn't count it.

Mr. SHAYS. Why don't you give us the names.

Ms. NOLAN. Six or seven.

Mr. SHAYS. Why don't you give us the names. These were pardons that you have warned the President about that didn't seem to make the public's attention.

Ms. NOLAN. I don't mean to say they didn't make the public's attention. I don't think it got the same kind of attention that I was concerned that they would get.

Mr. SHAYS. What were they?

Ms. NOLAN. William Borders, Henry Cisneros, John Deutch, Linda Jones, Jim Lake, Susan McDougal, Jack Williams.

Mr. SHAYS. Thank you. I was most unfriendly thinking about the present, and I basically had this theory that I shared with no one that the President pardoned Marc Rich, so we wouldn't pay attention to the pardon of Susan McDougal. Cheryl Mills is a trustee of the library, I am told, and I am told that you, Mr. Lindsey, are a consultant to the library; is that correct?

Mr. LINDSEY. That is correct.

Mr. SHAYS. What does a consultant do as it relates to the library?

Mr. LINDSEY. I advise with respect to all sorts of decisions. I am one of the main contacts with the architects, with the exhibit designers, I am involved in discussions with the President—the library is not only a library. It's a library foundation, and the library foundation serves more than one purpose. The first purpose is to actually build a library which we then give to the Federal Government and the Federal Government maintains, but the library foundation is also the entity through which the President engages in sort of his public policy post-election activity. So, for example, in addition to building a library and giving it to the government, William Jefferson Clinton Presidential Foundation is involved in and will be involved in all sorts of public policy activities that the former President will be involved with. And I have been involved in discussions with what those should be and where we're going in that direction.

Mr. SHAYS. Are you still working with the President? Since he is no longer President, you're still under his employ through the library or also through his private office.

Mr. LINDSEY. Well, I also handle the legal matters in the transition office, so for example, I'm involved in continuing e-mail reconstruction issues, I'm also the President's representative of the National Archives. So I'm involved in requests to the Archives for information.

Mr. SHAYS. I mean, I gather that like Cheryl Mills, you are a trusted friend, and in your case, an employee of the President?

Mr. LINDSEY. Again, I'm an employee, I'm a consultant, not an employee.

Mr. SHAYS. I understand that.

Mr. LINDSEY. For tax purposes, of the foundation. The President is not a member of the board of the foundation.

Mr. SHAYS. I think it's fair to say you're a trusted friend, someone he respects. So with that I would like to ask—I know that Mr. LaTourette asked if you told the President that Hugh Rodham had called you on behalf Carlos Vignali, and I believe you said you didn't tell the President.

Mr. LINDSEY. I said I have no recollection of telling him. I think I would have told him in one of the meetings that Ms. Nolan or Mr. Podesta was present, because I think that's the only time I ever discussed Carlos Vignali with the President at all. And if they, neither remember a reference to Hugh Rodham, I would probably accept their judgment that I probably didn't, but I frankly didn't know.

Mr. SHAYS. It's so hard for me to imagine that a trusted friend and advisor to the President wouldn't have warned the President that a family web was involved in a pardon that he may ultimately agree to. It just strikes me that's like ethics 101.

Mr. LINDSEY. It's interesting, after Mr. Rodham brought Mr. Vignali's application to my attention, we spent a lot of time looking at the merits of the application. You know, I don't know if a Congressman had called me and brought an application to my attention, I would necessarily have mentioned it to the President.

Mr. SHAYS. But in the case of Hugh Rodham he was paid.

Mr. LINDSEY. I did not know that at the time, sir.

Mr. SHAYS. Now in the case of new stories, I'm kind of hoping that the stories kind of end so we can kind of exit this sordid affair, and we just now have learned that Tony Rodham's role with Edgar Allen Gregory, Jr., and Vonna Jo Gregory and the pardon involved there, these are business associates that he has. And I would like to know if you knew and if the President knew that Tony Rodham was advocating for these two individuals.

Mr. LINDSEY. Yes, I knew and I believe the President knew.

Mr. SHAYS. Did you speak to Tony Rodham about this?

Mr. LINDSEY. Yes. Tony Rodham called me mostly concerned about the fact that the application had been pending over in the Department of Justice and asked me whether I could try to move it along.

Mr. SHAYS. And you were aware from that conversation that he had spoken to the President about it?

Mr. LINDSEY. I don't know if it was that conversation. I think I was aware at some point in the process that Tony had spoken to the President about it.

Mr. SHAYS. Did the President discuss the Gregory pardon with you?

Mr. LINDSEY. Yes.

Mr. SHAYS. OK. And what did he say?

Mr. LINDSEY. He indicated to me, well, he indicated to me that he understood that the Gregorys were unable to do business in certain States, and that competitors of the Gregorys were raising their

conviction some 17, 18 years ago as a basis as to why various States shouldn't do business with them.

Mr. BURTON. I'll yield the gentleman my 5 minutes so he can conclude.

Mr. LINDSEY. He thought that was not fair. I think the agriculture commissioner from Florida may have actually brought it also to his attention, or at least we knew that the agriculture commissioner in Florida—

Mr. SHAYS. Bottom line, they were involved in two banks that went under and they gave loans to their friends. There were a lot of people that did that, but they didn't get pardoned here.

Mr. LINDSEY. Mr. Shays, this was again in 1982. The President's belief on pardons is that if a person makes a mistake, does something illegal, wrong, if they have to pay the price for that, if they have to go to jail or they go on probation and then they live a good life from that point forward, that they should not be denied the restoration of their rights because of that. He certainly would believe that a person 17 years afterwards shouldn't have a conviction, be used to keep them from making a living. And therefore, believed that if, in fact, they had lived a good life, if they had not been in additional trouble from that point—

Mr. SHAYS. I hear you, Mr. Lindsey. It's fortuitous that you mentioned the term 17 years, there are parallels. But the fact is the Justice Department objected to this pardon; isn't that correct?

Mr. LINDSEY. Yes.

Mr. SHAYS. Now, what I just want to wrestle with a little bit is that the President knew in the case of these two individuals is they had a financial relationship with a family member.

Mr. LINDSEY. I didn't tell you that, sir, and I don't know that to be a fact.

Mr. SHAYS. You didn't know that they did real estate transactions? This is unknown to you, unknown to the President?

Mr. LINDSEY. Again, I don't know what was known to the President. It was unknown to me until I read it in the paper this morning.

Mr. SHAYS. So basically, what we have in the books are two family members that advocated for pardons got them accepted, and they had a financial relationship. One got a payment, others actually had business dealings with. Doesn't that just strike you as just being a bit unethical, that you know the family shouldn't be involved in that way?

Mr. LINDSEY. Well, again, I am opposed to success fees or contingency fees in criminal matters, including pardon applications. I am not sure where I come out on Mr. Rodham, who is an attorney, as to whether or not he should be allowed, be able to represent people before the government, including the White House. With respect to Mr. Rodham, I knew—Tony Rodham, excuse me, I knew he was a friend of the Gregorys, I did not know of the financial relationship. I did not believe that those factors were considerations. There were many other, there were several other people, I don't know many other—there were several other people, for example, Hugh Rodham expressed interest in that we didn't grant. And the fact is the basis I think is that some we determined were meritorious, and others we didn't on the merits, not on the relationship.

Mr. SHAYS. My time is ending. I just want to thank all four of you. Mr. Quinn, I would thank you again for appearing a second time. I am going to make a parting comment and say that I don't think it's possible for you to have served Marc Rich faithfully and the President faithfully at the same time. And that's the reason you're here, in my judgment.

Mr. BURTON. The gentleman yields back his time?

Mr. SHAYS. I yield back.

Mr. BURTON. Is there further discussion?

Mr. Cummings.

Mr. CUMMINGS. I wasn't going to say anything, but with what Mr. Shays just said, I got to say something. And I want to give you an opportunity, Mr. Quinn, to respond to if you want to respond to what was just said. Again, I have said it many times, I get tired in this committee of people's representations being tarnished, and then there's no way for them to get their reputation back. We have one life to live. This is no dress rehearsal. This so happens to be that life. Now if you want to respond to what Mr. Shays just said you may, but other than that I have some questions.

Mr. QUINN. We went over this a few weeks ago.

Mr. CUMMINGS. I can't hear you. I'm sorry.

Mr. QUINN. I'm sorry, it's off. We did go over this a few weeks ago, I think Mr. Shays is off base. I don't think that in this context, anyone failed to understand that I had a client and I was acting as an advocate.

Mr. CUMMINGS. All right. Let me ask you this. I listened to the question, listened to the testimony, the questions of Ms. Eleanor Holmes Norton about a half hour ago, and she said something certainly that I must revisit, and when she talked about Eric Holder, and I also want to add to the name, Cheryl Mills. One of the things that happened with Mr. Holder is he has had an impeccable reputation with the Congress, and he has been just a wonderful public servant. And it's so interesting that as he leaves, left office, that all of this seemed to come falling down around him. And you, in answer to Mr. Quinn, to answer to something that was said by Congresswoman Eleanor Holmes Norton, she said it seems like Mr. Holder seems to be the fall guy or is becoming the fall guy. You disagree with that; is that right?

Mr. QUINN. I certainly disagree. Well, that shouldn't be the case.

Mr. CUMMINGS. Do you think Mr. Holder acted properly in this instance with regard to this? And I will ask the same thing of you, Ms. Nolan.

Mr. QUINN. Congressman, I think we've heard an awful lot about circumstances which, in retrospect, all of us regret. But I don't think that makes him or any of these people sitting here with me blameworthy. This process would have worked an awful lot better. We know that. A lot of things went wrong. But a case was presented on the merits. I happen to believe that the President decided this for reasons with which everybody in the Congress may disagree, but which were wholly appropriate for him to base his decision on.

Mr. CUMMINGS. Ms. Nolan.

Ms. NOLAN. I have a great deal of respect for Mr. Holder. I worked very closely with him when I was at the Department of

Justice, and then when I was at the White House. I think he, like I and others in this, because of press, of affairs and the last minute look at this, again didn't fully examine the matter. But I think that is, as he's acknowledged, unfortunate but understandable. And I think it would be ridiculous and I don't believe it, in fact, will be true that his reputation is tarnished in the end. I think he, as many are, is getting a little bump right now. But he's an outstanding person, an outstanding lawyer, and I think this country knows that and will know that again.

Mr. CUMMINGS. I agree with every syllable you just said. Let me just leave you with this. You know when people tune into this they see parts of it, but one of the things is clear and I just want to go back to this, to you, Mr. Podesta, to you, Mr. Lindsey, and to you, Ms. Nolan, I just want to make sure the record is clear, and for the person who just tuned in that during these discussions with the President, there was no—to your knowledge, there was no mention of contributions made by Ms. Rich to the library or to the First Lady or to the President of the DNC. I think I got everything there.

Mr. PODESTA. That is correct.

Mr. CUMMINGS. Is that correct, Mr. Lindsey?

Mr. LINDSEY. Yes, sir.

Ms. NOLAN. Yes, absolutely no mention.

Mr. CUMMINGS. And you would consider yourselves some of his closest advisors with regard to this situation, that is, the pardons?

Ms. NOLAN. Yes.

Mr. CUMMINGS. That is all.

Mr. BURTON. Thank you Mr. Cummings.

Mr. Waxman.

Mr. WAXMAN. If I might make a concluding comment as well, just to followup on what Mr. Cummings had to say. When you have a real confusing situation as it appears the last days of the Clinton administration came to and a breakdown of the system, where ideally the Justice Department, the Pardon Office, the prosecutors, everybody would have had their opportunity to weigh in and influence the President's decision, when that broke down it was unfortunate. But I would think we would be doing a great deal of harm to people who would think about working for the government of the United States to have to have their reputations tarnished unfairly.

I have known Mr. Holder as well from the work on this committee and I think he's a man of great integrity. I think the four people before us are people of great integrity. And I don't think that they should be tarnished with a brush because people disagree with the judgment that the President made. I also think that Cheryl Mills' name has been mentioned, and just because her name has been mentioned that she was at the White House, no one should think there's anything wrong with anything she did because I haven't heard anything that would lead me to believe that she did anything that anyone can criticize. So let's keep all that in perspective but if we do have people's reputations tarnished easily, which I have seen happen in this committee and Congress in the past, which was easy for Members of Congress to throw smear bombs, let's realize that what we really do is harm the whole idea of public service. We ought to encourage people to come in and serve the interests of the Nation.

They may make mistakes, but who hasn't made a mistake? And if there are mistakes that are made, let's understand the mistakes aren't made by everybody involved, but only by some. There are some mistakes that are made inadvertently or just in the context. We can look at an isolated issue of these pardons, but so much is going on at the same time that all of us think what would happen if we had to be judged based on what was said or done by us at one moment in time, which wasn't of consequence to us at that moment when so many other things were far more important, it would be so unfair and we ought to keep all of that in perspective.

And the other thing I want to say, Mr. Chairman, is we've been here with this panel for over 6 hours. We have another panel to follow, and I know we agreed that the staff can ask questions a half hour each side, that means another hour for this panel. The members have taken four or five rounds, I would like to request that the counsel on both sides submit questions in writing to the four members of the panel that are before us right now. If they're not satisfied with their responses, we can always bring them back in, but I can't imagine that there's anything that anybody has to ask any of these four people that has not been asked at least four or five times already.

So I'd like to make that request to you so that we can get on to the last panel. It's already after 7 p.m. If we have to take the same amount of time with the next panel that we took with this panel, let's see that would put us at 1 a.m. So I think we ought not to unfairly tarnish peoples' reputations nor should we engage in a form of kidnapping by holding them hostage. So I would hope that we can move expeditiously.

Mr. BURTON. We will try to expedite the counsels' questions as quickly as possible.

Mr. Wilson.

Mr. WAXMAN. My request is being denied?

Mr. BURTON. We'll move expeditiously.

Mr. WILSON. I don't want to research the kidnapping statutes here. That will be my break to you all, and I will go as quickly as possible, and my role is always the housekeeping role, to try to establish a few things that are not clear on the record.

First of all, Ms. Nolan, did you have a recommendation on the Vignali pardon matter?

Ms. NOLAN. You know, Mr. Wilson, I was not enthusiastic about the Vignali pardon, but I really can't remember whether in the end was opposed or sort of persuaded that given the large support he had it was tolerable.

Mr. WILSON. Did you give any advice to the President on the Vignali matter?

Ms. NOLAN. I know we discussed it, but I really don't know at what point we discussed it and at what point my discussions were with my staff.

Mr. WILSON. Was there any written recommendation at any point on the Vignali matter?

Ms. NOLAN. Normally what went in to the President was a chart that would contain the recommended pardons. On some occasion, we sent them a chart without a recommendation for pardon he wanted to consider. That's what I don't remember, whether Vignali

went on a chart in which we were making a recommendation. I honestly, I just don't remember. It wasn't a pardon I was particularly involved with.

Mr. WILSON. Fair enough. The Justice Department did have a recommendation, did it not? It's my understanding they recommended against the pardon.

Ms. NOLAN. I believe they opposed it. Yes.

Mr. WILSON. What factors did you take from the Vignali matter that led you to reject their recommendation?

Ms. NOLAN. Mr. Wilson, I didn't work closely on that matter. I don't have much memory of it other than I remember the discussions about what U.S. attorney did or did not support the bishop or archbishop of Los Angeles. I do remember those discussions so I remember I was aware of it but it was not one—of course, most of these were not matters that I looked at directly. I just got reports from staff. I know Mr. Lindsey had some conversation about it. I didn't with anyone other than my staff.

Mr. WILSON. If I can, I'll turn to Mr. Lindsey. Mr. Lindsey, did you have a recommendation on the Vignali matter?

Mr. LINDSEY. Again, I originally was probably negative. After the call from the—first of all, it wasn't a pardon, it was a commutation. But after I received a call from the sheriff of Los Angeles and our office reached out to the U.S. attorney in central district of California and Los Angeles, I decided that given the community support and their position that into the county in which he would go to live, that they would be aware of the crime situation, if you will, in their community, and if they were not concerned about him coming back to their community, that I thought it was an appropriate commutation.

Mr. WILSON. Did you communicate that to the President?

Mr. LINDSEY. Yes, sir.

Mr. BURTON. Let me ask a question. Did you think to possibly contact the prosecuting attorneys who prosecuted the case in Minnesota?

Mr. LINDSEY. We said the opinion of the U.S. attorney from Minnesota. He was opposed to it. So we knew the opinion of the U.S. attorney in Minnesota. We knew we had looked at—I was aware of amount that was involved. It was \$25,000.

I was aware of what, what his role was, if you will. I mean, if you'd listen to the chairman now, this is an 800-pound conspiracy going over a number of years. The fact of the matter is, the evidence and the finding of the court was that he was involved for, I think, less than 6 months; that he was responsible for 5 to 15 kilos, the 11 to 33 pounds; that he was not an organizing, leader/manager of the conspiracy. All of that we took into consideration.

Yes, we took into consideration the recommendation of the U.S. attorney. We also took into consideration the recommendation of the sheriff of Los Angeles, the position of the U.S. attorney in Los Angeles, the position of Cardinal Mahoney.

Mr. BURTON. We've heard that before, but the fact is, you did not talk to any of the people who were involved in the case up there. They have been very, very forthcoming, and their sequence of events and what took place is not consistent with what you have just told us.

Mr. LINDSEY. Well, the pardon attorney had spoken to them and gave us a written report that included their position on this matter.

Mr. WILSON. Turning to the Braswell matter, Ms. Nolan, did you have a recommendation of the President on the Braswell matter?

Ms. NOLAN. Yes, I believe I recommended in favor of Braswell.

Mr. WILSON. You did, Mr. Lindsey did you have a recommendation?

Mr. LINDSEY. Based upon what I knew at the time, yes, I recommended in favor of it.

Mr. WILSON. OK. And, Ms. Nolan, what principal factors—and if you could be brief, what principal factors did you have to recommend in favor of the Braswell petition?

Ms. NOLAN. What I remember about it, Mr. Wilson, is that it looked like the kind of situation that the President was looking for quite a long time ago, 15, somewhere between 15 and 20 years, I think. A crime with no apparent—to us at the time—further activity, criminal activity of any sort. So it looked like the kind of pardon that the President was looking to do.

Mr. WILSON. Did you have a recommendation on the Gregory petitions?

Ms. NOLAN. Those weren't done, those were done earlier, the Gregory.

Mr. WILSON. I believe they were done earlier.

Ms. NOLAN. Petitions.

Mr. WILSON. In early 2000.

Ms. NOLAN. I don't remember what my recommendation was.

Mr. WILSON. Mr. Lindsey, do you know whether you had a recommendation on the Gregory petitions?

Mr. LINDSEY. Yes, if I believed they were being financially hurt because of a conviction 17, 18 years ago and that they had done nothing subsequent to be in trouble with the law, that they were deserving of a pardon.

Mr. WILSON. Now, Ms. Nolan, on the Braswell matter, how would you be aware that there was no ongoing criminal activity or ongoing investigation of Braswell if you didn't check with the Justice Department?

Ms. NOLAN. Well, I mean, we did; I think that my staff did do an NCIC check. I don't know—again with these matters what I would know is what was brought to me, the information that was brought to me by my staff. I was aware of the petition the last week, but I recollected the name and believed that we had already had it in process. So I don't think I focused on whether we had gotten full information from the Justice Department.

Mr. WILSON. So to your knowledge there was no check with the Department of Justice; it was simply your staff handling the matter internally?

Ms. NOLAN. Well, the staff would check with the Department of Justice to do an NCIC check.

Mr. WILSON. So in this case the staff had the Department of Justice do the NCIC?

Ms. NOLAN. Yes, that's correct.

Mr. WILSON. And you're aware that did happen?

Ms. NOLAN. I believe it did, yes.

Mr. WILSON. If we could get the chronology for the late night of the 19th and the early morning of the 20th, when did you first learn, and I'll go through this quickly so—I just want to get a very brief answer to each question—but when did you first learn—at what time did you first learn that the Rich pardon was not a dead issue?

Ms. NOLAN. Well, I had a conversation, I think—as I testified earlier, I was told that Mr. Quinn said Mr. Holder still supported it.

Mr. WILSON. I'm trying to get the time.

Ms. NOLAN. Well, according to Mr. Holder's telephone records, it was 6:38 p.m. that I called him.

Mr. WILSON. OK.

Ms. NOLAN. And it was right about that time, I mean, I picked up the phone and called him. We went to see the President shortly thereafter, somewhere between 7 and 8 p.m.

Mr. WILSON. So it's fair to say that somewhere between 7 and 8 you realized the Rich pardon was not a dead issue and there might be something more to be done?

Ms. NOLAN. That's correct.

Mr. WILSON. That's fair.

And after that, what was your next step?

Ms. NOLAN. My staff, one of my associate counsels, I'm not sure who, contacted the Department of Justice to get an NCIC check.

Mr. WILSON. OK, and it's my understanding the result of that NCIC check, among other things, was the information provided to you that there was an issue with arms-dealing; is that correct?

Ms. NOLAN. That's the information I got somewhere between 1 and 2 a.m., that's right.

Mr. WILSON. And you called Mr. Quinn next. At what time did you call Mr. Quinn?

Ms. NOLAN. Somewhere in that timeframe of between 1 and 2. I'm not sure. I'm putting it in that timeframe because I think that I called the President at 2:30. So I'm just sort of backing that up.

Mr. WILSON. So you had your conversation with Mr. Quinn, and I know you did explain that earlier. I won't ask you about that. But was that your last step prior to the final conversation with the President about the Rich matter?

Ms. NOLAN. That's correct.

Mr. WILSON. And you had a conversation with the President about 2:30; is that correct?

Ms. NOLAN. That's correct.

Mr. WILSON. And what did you tell him?

Ms. NOLAN. I told him that the NCIC check revealed this arms-trading. It did list Mr. Rich as a fugitive; that—

Mr. WILSON. Can I just stop you there.

Did he reject that? I know we've had Mr. Quinn tell us that he had explained to people that Mr. Rich wasn't a fugitive, and Mr. Lindsey had quibbled with the technical aspect of fugitivity, but did the President believe Mr. Rich was a fugitive?

Ms. NOLAN. I don't know the answer to that.

Mr. WILSON. Did you ask him?

Ms. NOLAN. I don't know whether I asked him. I don't think I asked him. I mean, I think we had a discussion about it doesn't

matter whether he's a fugitive or not in terms of my view of—I don't know that it was critical to the President.

Mr. WILSON. Did you have a discussion where it became clear whether it was critical to the President? Did he for example say, I don't care that he's a fugitive, or I don't believe that he is technically a fugitive? Did he provide some feedback to you?

Ms. NOLAN. I don't believe he said anything like that.

Mr. WILSON. OK. Did he know that you were doing an NCIC check?

Ms. NOLAN. Yes.

Mr. WILSON. He did. So when we left—well, I'm not sure we had that step then because before you—did you tell him earlier in the evening that you were going to do an NCIC check?

Ms. NOLAN. I don't know. I don't think so.

Mr. WILSON. When did you tell the President you were going to do an NCIC?

Ms. NOLAN. I'm sorry. He knew we did it when I called him at 2:30 a.m.; he knew that's what we were doing with everybody. I don't know that we had a specific discussion about Mr. Rich, but he understood that part of our process was to do an NCIC check.

Mr. WILSON. OK. And what did the President say about the arms-trading matter, if anything?

Ms. NOLAN. With respect to both of those matters, that'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.

Mr. WILSON. So he was the one that signed off on Mr. Quinn as the final authority on that matter?

Ms. NOLAN. I suppose that's right.

Mr. WILSON. OK. And what happened next?

Mr. BURTON. Did he in any way indicate that you ought to call the Justice Department back and find out just how extensive that problem was with the arms-trading?

Ms. NOLAN. No, sir.

Mr. WILSON. What happened next, then, if anything?

Ms. NOLAN. About an hour and a half later, about 4 I got to go home.

Mr. WILSON. OK. But I guess we can do it a little more slowly then.

Ms. NOLAN. I don't think anything—nothing else happened.

Mr. WILSON. But did this conversation between yourself and the President get translated to the ultimate executive grant of clemency? Did you tell somebody after you met with the President about the discussion?

Ms. NOLAN. Several of my staff lawyers were in the office with me when I talked with the President, so they knew about the conversation I'd had.

Mr. WILSON. And who was with you at the time?

Ms. NOLAN. Meredith Cabe and Eric Angel. And Cheryl Mills was there—well, had gone out to dinner; she was coming to stay at my house.

Mr. WILSON. OK. So she was with you during—was she with you during the telephone conversation you had with Mr. Quinn?

Ms. NOLAN. Yeah, she was in my office; and I think she talked to Mr. Quinn also.

Mr. WILSON. At the same time that you were speaking with Mr. Quinn?

Ms. NOLAN. I know I spoke with Mr. Quinn by myself. I don't know if we talked on the phone together or not.

Mr. WILSON. OK.

At any time during that evening did either yourself or your staff or Ms. Mills or the President suggest that you might reach out to any of the intelligence agencies that would be able to brief you on Mr. Rich?

Ms. NOLAN. No.

Mr. WILSON. I guess that can't go much further than that. It just wasn't something that was even entertained in your mind?

Ms. NOLAN. No.

Mr. WILSON. The only reason I ask is because Mr. Rich had been living out of the United States for 17 years. He was a very well-known man, who had traded in metals and various other natural resources all over the world, dealings with—publicly reported dealings with practically every enemy we'd had over the last 20 years.

It's hard for us to understand that somebody wouldn't think, we could get such and such an intelligence resource on the telephone right now and see if they have anything at all to offer us. That just didn't crop up in the Rich situation?

Ms. NOLAN. No.

Mr. WILSON. Does anybody on the panel know how many times Prime Minister—former Prime Minister Barak actually called the President? Mr. Podesta.

Mr. PODESTA. Are you referring to how many times he called him or how many times he called and talked about the Rich matter? I think that the President talked to Mr. Barak more than the combined number of phone calls of all other foreign leaders during the year 2000.

Mr. WILSON. That's good distinction. I'm sorry for that. The number of times they discussed the Rich pardon.

Mr. PODESTA. I think two or three; I'm not precise about that.

Mr. WILSON. How do you know that?

Mr. PODESTA. Because I was involved in the discussions with Mr. Berger and with the President and the others, Mr. Ross and the others about those phone calls generally, which obviously which were centered on the Middle East peace process. But when Pollard or the Rich matter came up, the President would brief us on that; and I think that it came up two or three times. I'm not sure.

Mr. WILSON. Does anybody?

Mr. PODESTA. Prior to January 19th, it did come up. I'm certain that it came up prior to January 19th. I don't know the first time it came up, and I don't know—I think it may have been three times that he raised it.

Mr. WILSON. I know that because I've seen that in the newspapers, but there have also been reports from Israel that it was only one time.

Mr. PODESTA. There was only one time that he raised it? I don't believe that's correct.

Mr. WILSON. We're just trying to resolve the discrepancy.

Mr. PODESTA. I just don't believe that's correct. I think that's—again, other people may have a recollection of that, but I believe he raised it—I'm certain he raised it before January 19th, at least in another conversation, and he may have raised it in two other conversations.

Mr. LINDSEY. If I could, the President indicated on the 19th, I believe, that was the third time at least; I don't know if it was third or fourth, but maybe third time at least that Barak had mentioned it to him.

Mr. WILSON. He told you that?

Mr. LINDSEY. In our meeting when he 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.

Mr. WILSON. Fair enough.

Ms. NOLAN. Can I just say, I thought he said "fourth."

Mr. LINDSEY. I thought it was three or four. It could have been four.

Mr. WILSON. Ms. Nolan, earlier you mentioned that you first learned about the Rich pardon matter in mid-January; is that correct?

Ms. NOLAN. No. I agree with Mr. Quinn that he called me on December 11th to tell me he was submitting a pardon application. I think it was after Christmas, so end of December that I looked—you know, had a chance to look at it.

Mr. WILSON. OK. Ms. Nolan, did you have any contacts with Beth Dozoretz regarding the Rich pardon?

Ms. NOLAN. No.

Mr. WILSON. Mr. Lindsey, did you have any contacts with Beth Dozoretz regarding the Rich pardon?

Mr. LINDSEY. Yes. As I testified earlier, she called me one time and asked about two pardons.

Mr. WILSON. And that was the one time?

Mr. LINDSEY. That's the one time.

Mr. WILSON. Mr. Podesta, did you have any?

Mr. PODESTA. No.

Mr. WILSON. OK. Well, Ms. Nolan, are you aware of any contacts between Beth Dozoretz and the President regarding the Rich pardon?

Ms. NOLAN. None.

Mr. WILSON. Mr. Lindsey.

Mr. LINDSEY. Other than what I've read in Jack's e-mails, no. I mean, I have no direct knowledge of any.

Mr. WILSON. And those from your subsequent reading?

Mr. LINDSEY. Right, exactly.

Mr. WILSON. Fair enough.

Mr. Podesta.

Mr. PODESTA. The same answer as Mr. Lindsey.

Mr. WILSON. Mr. Quinn, who suggested that Peter Kadzik be hired to work on the Rich matter?

Mr. QUINN. Well, Mr. Kadzik was at a firm that, as I understand it—

Mr. WILSON. Had done work for a number of years, but I think his first billing on the Rich matter was in November of—

Mr. QUINN. Right, but he's a partner of Michael Green, who was actively involved, and I believe it was Mike who suggested that he get involved.

Mr. WILSON. And is it your understanding that his first involvement was in November 2000 Quinn on the Rich matter?

Mr. QUINN. On the pardon, I don't know what past involvement he may have had in Rich matters, but I think that's basically right in terms of the pardon process.

Mr. WILSON. Why was Mr. Kadzik brought on to work on this matter?

Mr. QUINN. Again, Mr. Green suggested it would be a good idea to get him involved, that he was well regarded, trusted by Mr. Podesta, and that he could be a useful person to convey our arguments to Mr. Podesta.

Mr. WILSON. Is it fair to characterize then, what you have said, he was hired because of his access to and friendship with Mr. Podesta?

Mr. QUINN. That's not what I said.

Mr. WILSON. What I said, is it fair to characterize what you said as that? That's why I mentioned—

Mr. QUINN. My impression was that he was being brought in because of the high regard in which Mr. Podesta held him.

Mr. WILSON. I'm not sure if I'm quick enough to distinguish between those two things, but it was because of his relationship with Mr. Podesta, correct?

Mr. QUINN. Again, it was Mr. Green's suggestion about—I'm not going to try to divine what he was thinking.

Mr. WILSON. Right.

Mr. QUINN. But I am not going to quibble with your own right to characterize it as you see fit.

Mr. WILSON. On January 6, Mr. Kadzik billed time for a conference with you. Was that an in-person meeting?

Mr. QUINN. No. I don't believe I ever discussed this matter with Mr. Kadzik in person. This—

Mr. WILSON. Let me actually—

Mr. QUINN. What day of this week is this?

Mr. WILSON. I misspoke in asking you the question. But what we have is a billing record that indicates Mr. Kadzik billed time for a conference with Mr. Podesta. Did, in fact, Mr. Kadzik meet with you on January 6 about the Rich matter?

Mr. PODESTA. If you refer to my opening statement, yes, he did, which I've already testified to.

Mr. WILSON. Right.

Did—one of the things that came up in the e-mails that we reviewed a while back was that there's an indication that you told Mr. Kadzik that you thought Mr. Rich and his lawyers, "benefited from being under the press radar." Did you ever tell Mr. Kadzik anything to that effect?

Mr. PODESTA. No, I don't believe I did.

Mr. WILSON. Did you ever discuss with Mr. Kadzik any benefit obtained from the matter not being prominent or not being in the public eye?

Mr. PODESTA. Well, I don't remember precisely the conversation. There was a brief meeting in my office that occurred, but I was—

certainly by then I was—had consulted, I believe, with Ms. Nolan. I was opposed to the pardon; I told Mr. Kadzik I was opposed to the pardon. I wasn't trying to give them any advice about it.

I don't know what Mr. Kadzik may have said to me that transpired in that conversation which led to his reporting that back. But I don't remember saying that, and whether he raised it with me or not I just do not recall.

Mr. WILSON. OK. And then, not to do this backward, but that seems to indicate you do not have a recollection that didn't happen. So it might have happened. You just don't recall; is that correct?

Mr. PODESTA. All I'm saying to you is—well, I think the answer to that is, I don't recall. But I was certainly not trying to give them advice. Again, this is a third-hand e-mail, and I don't think I was giving him advice at this point. I told Mr. Kadzik that I didn't think it was warranted, and I opposed it.

Mr. WILSON. Just if we could put up exhibit No. 62 on the screen, and I think you have it in front of you. It is an e-mail dated January 9, 3 days after the conversation that we were just talking about.

[Exhibit 62 follows:]

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@heraldtribune.com]
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@heraldtribune.com]
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

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Thank you.

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PMR&W 00158

Mr. PODESTA. What number is that?

Mr. WILSON. It's No. 62, if you could take a quick look at that.

I don't think we'll be able to go any further. This is not an e-mail that you were a part of, but if you could just take a quick look at that. And at the top there's this very short, I think we've "benefited from being under the press radar. Podesta said as much." I think we've covered fully it, but there's nothing here—

Mr. PODESTA. These are from two individuals I haven't spoken to.

Mr. WILSON. I understand that. OK, fair enough.

If you were opposed to the pardon, Mr. Podesta, why didn't you direct people to at least obtain input from the Southern District of New York?

Mr. PODESTA. Frankly, Mr. Wilson, I thought the matter was dead, and I thought with all of us being opposed to it that no work, no real work, needed to be done on it because I thought it was a dead matter.

As I said earlier, I think that we would have benefited from having done that, but we didn't, and I take responsibility for that.

Mr. WILSON. Did Mr. Lindsey, did you have any conversations interaction with a rock musician, Don Henley, about obtaining a pardon for somebody?

Mr. LINDSEY. I don't know if I ever spoke to him or not. I know he called my office a number of times; and I think I ultimately spoke to an assistant of his, but I don't believe I ever spoke to Don Henley.

Mr. WILSON. Do you know the name of the individual for whom he was requesting a pardon?

Mr. LINDSEY. Again, it seems to me it was a commutation, not a pardon. I do not remember the name. It was a man who was involved in gambling in California and had—was now very active in certain—Gambling Anonymous and trying to help other people break that, and but I don't recall the name.

Mr. WILSON. In this matter do you know whether the Justice Department provided a recommendation regarding this particular commutation request?

Mr. LINDSEY. I do not. I do not.

Mr. WILSON. Ms. Nolan, are you familiar with the matter that Mr. Lindsey's talking about?

Ms. NOLAN. I don't. This is not to say I wasn't familiar with it at the time, but I don't. It doesn't ring any bells.

Mr. WILSON. Mr. Podesta.

Mr. PODESTA. I've spoken to Mr. Henley about environmental matters, but I don't think I ever spoke to him about a pardon.

Mr. BURTON. I just want to make sure I've got all this straight here.

This memo that we had before us, this No. 62, where—it's from Jack Quinn, sent Tuesday, January 9th, to Robert Fink. It says, "I think we have benefited from being under the press radar. Podesta said as much."

You do not remember saying anything like that?

Mr. PODESTA. I don't remember having this conversation. I certainly didn't speak to these people. I don't know what it's in reference to, and I don't remember doing it.

I know that in the meeting that I had with Mr. Kadzik on the 6th that I opposed this pardon, and I was certainly consistent in that; and I was not trying to give them any pointers, so I don't know what this is in reference to.

Mr. BURTON. Well, it's a significant statement, and if you didn't say it, that's fine, but this is from Mr. Quinn.

Mr. Quinn, do you remember him saying something like that?

Mr. QUINN. I'm confident I wrote this e-mail, but I'm also confident that I never spoke to Mr. Podesta about this.

Mr. BURTON. Where did you get this information, "I think we've benefited from being under press radar. Podesta said as much."

What did Mr. Podesta say that made you think that?

Mr. QUINN. I had a report from Mr. Green, who in turn talked to Mr. Kadzik, and that was what I understood to have been reported.

Mr. BURTON. So it was third-hand.

Mr. QUINN. Yes, sir.

Mr. BURTON. I think our time's expired.

Counsel, who are we recognizing?

Mr. SCHILIRO. I don't have any questions for the panel, which I'm sure will disappoint you, but Mr. Kanjorski does, so I'm going to yield some time to him.

Mr. KANJORSKI. I'm just going to take a few moments to test Mr. Quinn's kidneys, Mr. Chairman.

Mr. Quinn, in your previous oral and written testimony before this committee, I received the distinct impression that, beginning in late 1999 you worked with many of the attorneys in town working for Mr. Rich. You named three of them—Mr. Garment, Mr. Urgenson and Mr. Libby—and, on page 4 of your testimony, you stated that you knew the current counsel and law firms involved in Mr. Rich's defense, and you respected their reputation and judgment. And I implied from that, or inferred as the case may be, that you were saying they agreed with your petition for pardons, since they helped you, as I understand, prepare all the material. It was basically their work product and you were the editor of this work product for submission and application. Is this correct?

Mr. QUINN. No, sir. Let me try to straighten that out.

First of all, the gentlemen with whom I worked initially were Mr. Urgenson, Mr. Libby, Mr. Green and Mr. Fink. Mr. Garment had been involved previously, but was not involved with me. As we discussed earlier today, the basis of the pardon application was a series of arguments to the effect that the indictment was flawed. I understand all of them to agree with that, that is to say, that the indictment was flawed, but I did not mean to imply that they had worked on the pardon itself. The only other thing I would add is that at least according to the New Yorker magazine, Mr. Garment did say after the fact that he didn't know why the President granted the pardon, but he agreed with it.

Mr. KANJORSKI. Then, as of this moment, you don't know whether these lawyers agreed with the pardon?

Mr. QUINN. Again, they certainly not only agreed that the indictment was flawed, they explained to me why the indictment was flawed, but I have to let them speak for themselves.

Mr. KANJORSKI. That's on the indictment. What do you know regarding their feelings of whether or not there was merit here for the pardon?

Mr. QUINN. The only thing I know going to the pardon is what I told you about, what Mr. Garment was quoted as having said in the New Yorker.

Mr. KANJORSKI. So from the time in October that you began working with these men in October 1999 until sometime in mid-January, even though you used all their work product—you'd obviously been briefed on their case, their briefings, their arguments, their positions—you never asked them whether or not they favored granting the petition for pardon?

Mr. QUINN. No, sir.

Mr. KANJORSKI. And you have no idea whether or not they favored the pardon?

Mr. QUINN. But, Congressman, I had enormously high degree of confidence that they agreed that the indictment was thoroughly flawed.

Mr. KANJORSKI. But not sufficiently flawed to support a pardon?

Mr. QUINN. They weren't involved at that point.

Mr. KANJORSKI. I see. OK, I'll just take a moment then. I've often had the occasion over the last 8 years to work with at least two of the three members of the panel. I want to compliment you on your testimony. It was certainly forthright. I think you have been under a great deal of strain.

It's very difficult to take the position that you took in private confidence—a disagreement with someone that you worked for—and now come publicly and disclose that disagreement. But you've certainly done the honorable thing. Your testimony today, as I understand it, is that in your opinion, the judgment exercised in granting the pardon was probably faulty, but that you feel there was no wrongdoing, illegality or impropriety in the action of the President in issuing the pardon. Is that correct?

Mr. PODESTA. That's correct.

Ms. NOLAN. That's correct.

Mr. LINDSEY. That's correct.

Mr. KANJORSKI. Thank you very much, Mr. Chairman.

Mr. BURTON. Well, I think that concludes our hearing as far as you're concerned. I want to thank you all for being here, and I hope that your derrieres are not completely asleep so you can walk out of here. Thank your much.

We'll now have the next panel come before us.

We will now welcome our third panel to the witness table—Lewis Libby, Robert Fink and Peter Kadzik—and I doubt seriously if we're going to be here anywhere near as long as we were with first two panels.

Would you all please rise, so I can swear you in.

[Witnesses sworn.]

Mr. BURTON. Be seated.

Do any of any of you have an opening statement?

Mr. KADZIK. I have no opening statement. I'd be pleased to answer the committee's questions.

Mr. BURTON. Mr. Libby.

STATEMENT OF LEWIS LIBBY

Mr. LIBBY. Mr. Chairman, members of the committee, once again pursuant to the committee's requests, I welcome the opportunity to provide whatever useful information I can about my knowledge of the Marc Rich matter.

I should add that I'm here today in my personal capacity and not as a representative of the government or speaking in any way for the government. I did not represent Mr. Rich in connection with the pardon or the pardon application. However, a brief overview of my past representation of Mr. Rich as a private attorney and my decision not to participate in the effort to obtain a pardon may be useful for you.

In the spring of 1985, Mr. Rich and Mr. Pincus Green asked Mr. Leonard Garment, a Washington attorney, to represent them in connection with an outstanding criminal indictment. At the time, Mr. Rich had already renounced his U.S. citizenship and was living in Switzerland. Mr. Garment told Mr. Rich and Mr. Green that he would not be able to represent them unless he first determined that they had a sound legal defense.

Mr. BURTON. Excuse me, Mr. Libby, could you push the mic just a little bit further away from you.

Mr. LIBBY. I'm sorry, sir.

Mr. BURTON. You have a very strong voice and it depends on how you pick it up. Thank you.

Mr. LIBBY. About this time, Mr. Garment asked me to join his firm. Mr. Garment assigned me to help assess whether there were legal defenses to the tax and energy fraud charges to which the Rich companies had already pled guilty. Attorneys from the firm of Milgrim, Thomajan & Lee, including Mr. Robert Fink and other expert counsel, participated in the analysis. We later included notable tax law experts as well.

In August 1987 we presented our analysis of the facts in law to an assistant U.S. attorney for the Southern District of New York. We argued that based on all the information available to defense counsel, Marc Rich companies had properly reported their tax obligations and energy transactions and that these criminal charges should be reexamined. I wish to emphasize that in approaching the Southern District of New York we were not seeking a pardon, but rather negotiated settlement of the outstanding indictment.

Our efforts were unsuccessful. In 1989, I resigned from private practice in the representation of Mr. Green and Mr. Rich to join the Defense Department where I served until 1993. Sometime after my return to private practice, I assisted Mr. Fink and Mr. Urgenson, a partner at Kirkland & Ellis and a former official of the Justice Department, in another attempt to open discussions with the Southern District of New York. This effort, somewhere in the 1993 to 1995 timeframe, also failed.

Thereafter, I viewed the matter as largely inactive, and I do not recall any significant work on the matter until 1999. Sometime in 1999, I first learned that Mr. Rich had retained Mr. Jack Quinn. Mr. Quinn said that he planned to ask the Department of Justice to look at the case or persuade the Southern District to do so. I participated in efforts to brief Mr. Quinn about the case and the subsequent effort to prepare yet another request to the Southern

District. These efforts also failed. Immediately thereafter, in roughly the spring of 2000, I was instructed by counsel for Mr. Rich and Mr. Green to stop all work on behalf of them.

In late November 2000, one of the defense counsels, Mr. Michael Green, called me. Michael Green said that the defense team was planning to approach the White House for a pardon. I was at the time spending nearly all my free hours working on the possible transition a new administration and determined that participation in a pardon effort would be inconsistent with my time commitments and my role related to the transition and the possible new administration.

I informed Mr. Green that I would not participate in an effort to obtain a pardon. I did not at any time thereafter represent Mr. Rich or Mr. Pincus Green or work on their behalf in connection with the effort to obtain a pardon.

I stand ready to answer any questions you may have.

Mr. BURTON. Mr. Kadzik, you do not have an opening statement?

Mr. KADZIK. That's correct, Mr. Chairman.

Mr. BURTON. Mr. Fink, do you have an opening statement?

STATEMENT OF ROBERT FINK

Mr. FINK. Yes, I do, but in the interest of making the last shuttle and seeing my family tonight, if you think you can accommodate me, I'd be happy to dispense with it.

Mr. BURTON. OK. You can submit it for record, and we'll use it in the record.

[The prepared statement of Mr. Fink follows:]

Testimony of Robert Fink

March 1, 2001

Chairman Burton, Representative Waxman, distinguished members of the Committee. I appear in the hope that I can be of assistance as you discharge your responsibilities.

I approach this task with some trepidation. I am a lawyer. I take my responsibilities as a lawyer very seriously, including my ethical obligation to protect and preserve my clients' confidences and other privileges. Accordingly, I intend to honor what then Associate Supreme Court Justice Rehnquist described as "the oldest of the privileges for confidential communications known to the common law."¹ I shall cooperate as fully as possible with the Committee consistent with these obligations, and I appreciate your willingness to consider these obligations in fashioning your questions and considering my answers.

Please allow me to make one point clear at the outset. I believe deeply in my clients' cause. I believe Marc Rich and Pinky Green were the subject of unfair treatment. I have been and remain a willing advocate for them. I willingly participated in the pardon application process. I did what I could to enhance the chances of success and I am confident that my actions were well within the bounds of responsible advocacy. And, as a lawyer, I appreciate the dedication of the other members of the team to our clients cause. I was delighted with the outcome.

Now let me turn to a brief summary of my role in the representation of my clients as it relates to the subject of the Committee's inquiry.

¹ *Upjohn Co. v. U.S.*, 449 U.S. 383, 389 (1981).

I am a civil and not a criminal lawyer. I have never entered an appearance in a criminal matter. Moreover, I am not a tax specialist. I am what may be best described as a generalist. Thus, much of the information and analysis I learned over the years was developed by other lawyers. But I do have some first hand information which I would like to share with you. Perhaps, the most useful information derives from my participation in efforts starting in 1992 to initiate negotiations with prosecutors in the Southern District of New York. It was my view for many years that the confusion, anger and intense media interest that surrounded the grand jury investigation and the original prosecution had prevented the parties from engaging in an open dialogue regarding the merits of this case. Our efforts were directed at creating a dialogue in which a detailed and careful analysis of the merits of the case would be considered and fairly evaluated. Ultimately, the arguments we developed, but which I believe were never fully assessed by the prosecutors, would become the legal and factual foundation of the pardon application to the President.

My first personal involvement was with then United States Attorney Otto Obermaier and Assistant U.S. Attorney Jim Comey. While they were open-minded, they felt they were not in a position to review the merits of the case and could only agree to a guilty plea to at least a felony with exposure to jail in light of the history of case and my clients' absence. Because our analysis was that our clients did not commit any crimes, we found this unacceptable.

After Mr. Obermaier and Mr. Comey left office in 1994, I joined with other counsel in a new effort to present the case to their successors. We first attempted to satisfy the new U.S. Attorney, Ms. Mary Jo White, that this case, which had been billed as the biggest tax fraud case ever, did not, in fact, involve tax fraud.

Thus, we met with the new prosecutors on the case and advanced several arguments.

1. We began by pointing out to them that two of the most respected tax experts in the country, Professor Bernard Wolfman of Harvard and Professor Martin D. Ginsburg of Georgetown, had concluded that the tax treatment charged as evasion in the indictment was actually lawful and proper. Indeed, they concluded the government should not win even a civil tax case. Our request was simple. We asked the government and any tax experts they chose, to meet with Professors Ginsburg and Wolfman so that they could personally evaluate their analysis of the tax case against our clients. We urged this approach because the tax allegations were the core of the case against our clients.

2. The Professors' analysis was based in part upon facts set forth in proceedings brought by the Department of Energy in 1985 two years after the indictment, concerning many of the same transactions outlined in the indictment. The DOE analysis had not been available to the prosecutors who had prepared the indictment. We pointed out that the DOE's analysis was consistent with the Professors' analysis and at odds with the analysis in the superseding indictment.

3. We also emphasized that there seemed to be no other case where even corporations, no less individuals, were criminally prosecuted for the energy practices like those alleged here, including major oil companies who had participated in the same transactions.

4. Our clients were charged with RICO violations which the Department of Justice later concluded should not be brought in a tax case; the RICO forfeitures sought were excessive even in a proper RICO case.

5. We also pointed out that the charges of unlawful dealings with Iran were defective. The superseding indictment partially acknowledges this defect by dropping the Iranian charges against the corporate defendants after the

companies moved to dismiss them. Indeed, to the best of my recollection, the Southern District office never raised these charges in any of my discussions with them and the assistant in charge told me in 1994 that he understood that there might be a problem with these charges although he personally had not looked at them.

But these were not the issues that drove the discussion. The assistant I met with was concerned about how the case appeared in light of the high profile press coverage in 1983 and 1984. He was also concerned about fugitivity, the fact that this was a RICO case and the corporate guilty plea. If our clients were not guilty of the tax fraud in the indictment, why did the corporations plead guilty and effectively pay \$200 million? Our answer was simple: RICO.

The indictment returned on September 19, 1983, marked one of the first, if not the first use of RICO, and RICO forfeiture, in a major white collar case.

The indictment applied RICO's most draconian provisions and sought forfeiture of the defendants' entire interest in the alleged enterprise, including hundreds of millions of dollars in interests that were not even claimed to be the proceeds of criminal conduct. In light of the threat of ruin posed by these potential RICO forfeitures, the pleas became the only course open to the corporate defendants.

In addition to the threat of RICO forfeitures, the corporate defendants were crippled by pretrial restraints that included hundreds of millions of dollars in asset freezes and by a cut-off of credit and trading activity caused by the enormous forfeiture claims.

The combined use of disproportionate RICO forfeiture claims and restraining orders was unprecedented in a white-collar case. The Department of Justice recognized the potential abuses from the use of RICO and in 1989 adopted

rules prohibiting prosecutors from seeking forfeitures or pretrial restraints that are disproportionate or disrupt normal, legitimate business activities. In addition, the Justice Department acknowledged that RICO was not to be used in tax evasion cases. I submit that corporate guilty pleas obtained in these circumstances are not evidence of the guilt or innocence of my clients and should not have been a barrier to a full discussion of the charges. Yet, the reality was that the corporate guilty pleas and years of negative publicity created an almost irrebutable presumption of guilt.

Ultimately, the prosecutors refused to even meet with the Professors to examine the heart of the indictment unless our clients first returned to New York and faced hundreds of years of imprisonment in what to me and my colleagues was a clearly overcharged indictment.

It was against this background that in 1999 we asked Jack Quinn to consider representing Marc Rich in order to facilitate a discussion with the government. Mr. Quinn agreed and felt that he might be able to organize a meeting between government tax experts and the Professors. He started with the Department of Justice. You are aware that even though the Justice Department was open to the idea of a meeting, at the Southern District it was summarily rejected. Frankly, at this point it seemed we had no where else to go.

In October 2000, we decided to seek a Presidential pardon. The steps taken to pursue that effort have been the focus of the prepared remarks and testimony of Jack Quinn. Within the constraints of my ethical obligations, I will do my best to respond to your questions.

Mr. BURTON. Since there are no more opening comments, we'll yield to the gentleman from Ohio, Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman.

Mr. Kadzik, I'd like to start with you, if I could. Your law firm, as I understand it, represented Marc Rich for a substantial period of time, but your work was not certainly as extensive as that of other members of your firm. Is that an accurate observation?

Mr. KADZIK. That's correct.

Mr. LATOURETTE. When were you first asked to participate in the representation of Marc Rich to work on his file?

Mr. KADZIK. I was consulted in the late 1980's when Mr. Libby and Mr. Garment were in the process of preparing to approach the U.S. Attorney's Office in the Southern District of New York, because at that time I was representing another client with respect to a matter before the U.S. Attorney's Office in the Southern District and they asked me for my thoughts and advice on what kind of approach they should take, what the likelihood of success was and whether I knew any of the personalities, whose names I don't recall now, that they were going to deal with.

Mr. LATOURETTE. When you say "personalities," the thinking was that if you had worked previously with someone in the U.S. Attorney's Office that you might be able to give them some advice as to what advice would be successful with this or that person?

Mr. KADZIK. This is correct.

Mr. LATOURETTE. And subsequent to that were you then asked to participate in this processing of the pardon application, which is the subject of this hearing here?

Mr. KADZIK. Actually there was one other contact before, in 1999, when there was going to be another effort to approach either the U.S. Attorney's Office of the Southern District of New York or the Department of Justice. Mr. Green asked me what I thought about approaching either of those two entities. I told him that I thought that approaching the Justice Department, rather than the U.S. Attorney's Office would be more fruitful; and then subsequent to that was in late November, early December 2000 with respect to the pardon.

Mr. LATOURETTE. OK. And then that was—specifically was the pardon application that was being prepared by Mr. Quinn and others?

Mr. KADZIK. That's correct.

Mr. LATOURETTE. OK. And now prior to—in addition to the work that you might have done for Mr. Rich's concerns, I think I remember, being a member of the committee, that you appeared before this committee as counsel for Mr. Podesta during the White House e-mail hearings; is my memory correct on that?

Mr. KADZIK. I represented Mr. Podesta. He did not appear before the committee. He was interviewed by Mr. Wilson and other members of the staff.

Mr. LATOURETTE. That's what I meant by appearing before the committee, appearing before committee staff.

Mr. KADZIK. Yes.

Mr. LATOURETTE. And was that your only work for Mr. Podesta?

Mr. KADZIK. No. I also represented Mr. Podesta with respect to his appearance before the grand jury in the Monica Lewinsky mat-

ter and also in connection with the e-mail controversy. He testified in the Alexander case before Judge Royce Lamberth.

Mr. LATOURETTE. OK.

I think the staff has put before you a book of exhibits, and we'll try and show them on the screen as well, and I would like to focus on exhibit 130, which is a series of Dickstein Shapiro billing records, and they indicate, at least as I'm reading them, and if I'm reading them incorrectly, please stop me and tell me I'm reading them incorrectly—that between December the 12th of last year and January 20th of this year, President Clinton's last day in office, you had seven contacts with either John Podesta or the White House regarding Marc Rich's pardon application; am I reading that correctly or does that fit with your recollection?

[Exhibit 130 follows:]

DICKSTEIN, SHAPIRO MORIN & OSINSKY LLP
 2101 L Street NW • Washington, DC 20037-1526 • Tel [REDACTED] Fax [REDACTED]
 Federal Tax ID [REDACTED]

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
 1/5/0
 # 29.



DSM0059

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 & Osinsky LLP
 Asset [REDACTED] for Further credit to: Remitter Name. Please refer to invoice and matter number when remitting.
 Invoices are payable upon receipt.

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Re: General
M0375.0000Invoice 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				<u>\$ 3,500.00</u>

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

DSM0060

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2101 L Street NW • Washington, DC 20037-1526 • Tel [REDACTED] • Fax [REDACTED]
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	\$ <u>3,500.00</u>
TOTAL DUE UPON RECEIPT	\$ <u>3,500.00</u>

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DSM0061

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
 2101 L Street NW • Washington, DC 20037-1526 • Tel [REDACTED] • Fax [REDACTED]
 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

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 Bank of America, Washington D.C. Transit Code # [REDACTED] for Credit to Dickstein Shapiro Morin & Oshinsky LLP
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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Invoice No. 2028257
M&P Securities
Page 2Re: General
M0375.0000

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

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Invoice No. 2028257

Re: General
M0375.0000

M&P Securities

Page 3

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	1.00
		REDACTED	
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

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Invoice No. 2028257
M&P Securities
Page 4Re: General
M0375.0000

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;	9.50
01/23/01	P Kadzik	REDACTED 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

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DSM0065

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Re: General
M0375.0000Invoice No. 2028257
M&P Securities
Page 7

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

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

DSM0068

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
 2101 L Street NW • Washington, DC 20037-1526 • Tel: [REDACTED] • Fax: [REDACTED]
 Federal Tax ID: [REDACTED]

REMITTANCE PAGE

Robert F. Fink, Esq.
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 1251 Avenue of the Americas
 New York, NY 10020-1104

February 13, 2001
 Client/Matter No. M0375.0000
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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Invoice No. 20287
M&P Securi
PagRe: 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

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

DSM0066

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Re: General
M0375.0000Invoice No. 2028257
M&P Securities
Page 6

Date	Attorney	Description	Hours
		JQ, KB, RFF, BR and AD; telephone conversation with LG; telephone conversation with RFF, JQ and AD; 1 REDACTED telephone 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, J. 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

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

DSM0067

Mr. KADZIK. That's correct.

Mr. LATOURETTE. Did you contact anyone or have contact with anyone in the White House regarding this pardon application aside from John Podesta?

Mr. KADZIK. There were three contacts with administrative assistants in his office and the press office on the, I believe the 18th, 19th and 20th, just to determine whether or not there had been any pardons granted and, if so, whether a list was available.

Mr. LATOURETTE. OK. Exhibit 130 shows that on December 12th last year you contacted JDP, and I assume that's John D. Podesta.

Mr. KADZIK. That's correct.

Mr. LATOURETTE. OK. Would you describe or have you already described—is that the substance of your conversation, whether or not pardons had been granted and whether or not that was available, or was that contact something else?

Mr. KADZIK. Those, the contacts I described previously, were not with Mr. Podesta. The contact with Mr. Podesta on the 12th was a brief conversation where I asked him what the pardon process, the consideration of pardons, was going to be like in the White House. He indicated it would be primarily handled by the White House Counsel's Office.

I told him that my law firm represented three individuals who were seeking pardons, and he suggested that I send him a "piece of paper," I think, as he put it, concerning those three individuals; and I did, and that was it.

Mr. LATOURETTE. In this phone conversation of December 12th did you identify who those three individuals were?

Mr. KADZIK. Yes.

Mr. LATOURETTE. And did he express, either upon further conversation or just—and I assume one of them was Marc Rich?

Mr. KADZIK. That's correct.

Mr. LATOURETTE. Did he have any observation or offer any observation to you about Marc Rich?

Mr. KADZIK. No, he did not.

Mr. LATOURETTE. And did you have any discomfort as a lawyer—maybe you did or maybe you didn't—but in going to another client of yours, seeking a pardon from the President of the United States or this representation, did it cause you any concern at all?

Mr. KADZIK. I wouldn't say that I was seeking a pardon. I inquired as to whether or not—who in the White House would be considering pardons. He said it would be primarily the White House Counsel's Office, and it was my understanding that Mr. Quinn had submitted a pardon application to the counsel—White House Counsel's Office.

Mr. LATOURETTE. Do you think, just as in the 1980's when your firm asked you to sort of pick your brain about who best to approach and how should we approach this person or that person, that perhaps your services were sought in December of last year—the same sort of thing, get a feel for the lay of the land over at the White House as to what—how best to get this to where it needed to go? Was that the advice you were being asked to offer?

Mr. KADZIK. I would view it as a process inquiry, yes.

Mr. LATOURETTE. There was an article this year in Newsweek and that indicated that the President's aides—about we've just

heard from Mr. Podesta and the others that they were opposed to the pardon of Marc Rich. Did you hear any of their testimony, so I don't have to go into that?

Mr. KADZIK. Yes.

Mr. LATOURETTE. To your knowledge, did Mr. Podesta indicate to you his position on the pardoning of Marc Rich?

Mr. KADZIK. Yes, he said he was opposed to it.

Mr. LATOURETTE. When did he tell you that, if you remember?

Mr. KADZIK. The three subsequent conversations I had with him, which I believe were on January 2nd, January 6th and January 16th.

Mr. LATOURETTE. Was it part and parcel of your responsibility as a lawyer for Marc Rich to attempt to influence or change Mr. Podesta's mind as to his position?

Mr. KADZIK. No.

Mr. LATOURETTE. Did you ever attempt to do that?

Mr. KADZIK. No, I didn't. Once he told me he was opposed to it, I knew that I wouldn't be able to change his mind.

Mr. LATOURETTE. Did Mr. Podesta provide you any recommendation as to how you might proceed to achieve the successful result on the application that your firm was processing.

Mr. KADZIK. No, not at all.

Mr. LATOURETTE. Did Mr. Podesta indicate to you at any point in time how the President of the United States felt about this particular pardon application?

Mr. KADZIK. No, he simply indicated to me the decision was the President's.

Mr. LATOURETTE. OK.

If I could ask you to turn now to exhibit No. 58, that seems to refer to a call, I think, of January 2, 2001.

[Exhibit 58 follows:]

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:Pazulrich@
 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@
 To: 'Avner Azulay' <azulrich@
 <marc.rich@
 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



PMR&W 00106

> Best regards, 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.

>

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>

>

Mr. BURTON. Can I interrupt briefly?

Mr. LATOURETTE. Sure.

Mr. BURTON. You said you talked to Mr. Podesta and he indicated he was opposed to the pardon, but he further said that the decision was up to the President. Did he indicate in any way what his recommendation was going to be to the President? It just seems like that conversation has something missing in between. He said he's opposed to it, but he said that decision is going to be left up to the President.

Mr. KADZIK. Well, I think in the conversation was that he was opposed to the pardon and that, if asked, he was going to say that he was opposed to it. And I think I asked whether or not that meant that the staff was going to veto it and he said the decision is the President's.

Mr. BURTON. So he didn't elaborate on what the staff might or might not say to the President?

Mr. KADZIK. No, he did not.

Mr. BURTON. OK. Thank you.

Mr. LATOURETTE. Again, exhibit No. 58—I'm sorry, lost my place for just a second—I think is a reference to the telephone call that you had with Mr. Podesta on January 2nd of this year, and it's that he told you that the Rich pardon was still in the mix as of that date.

Is that a correct reading of that exhibit and is that your recollection?

Mr. KADZIK. Yeah, my recollection that he told me that a decision had not yet been made.

Mr. LATOURETTE. OK. Did he use the words "in the mix," or is that your description of what he indicated to you?

Mr. KADZIK. He didn't use those words, and I don't think they're mine either. I assume they're Mr. Fink's.

Mr. LATOURETTE. Mr. Fink's?

Mr. KADZIK. Right.

Mr. LATOURETTE. Were you unclear at all on this date, January 2nd, January 3rd, of this year that Mr. Podesta opposed this pardon application?

Mr. KADZIK. It was perfectly clear to me that he did oppose it.

Mr. LATOURETTE. OK.

Now, exhibit No. 62, did you have a conversation at any time with Mr. Podesta wherein he indicated to you that you—and I don't think you personally, but that this Rich pardon application was benefiting by being "under the press radar."

[Exhibit 62 follows:]

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@heraldtribune.com]
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@heraldtribune.com]
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

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PMR&W 00158

Mr. KADZIK. No, he did not.

Mr. LATOURETTE. And so, again, as you look at exhibit No. 62, I guess that's Mr. Fink's interpretation again of the conversation? Did you have a conversation with Mr. Fink regarding what it was you and Mr. Podesta talked about on January 6th?

Mr. KADZIK. I have never spoken to Mr. Fink.

Mr. LATOURETTE. Did you have any personal knowledge—and I'm sure we'll ask Mr. Fink in a minute; did you have any personal knowledge as to where Mr. Fink would get the information necessary to express that opinion?

Mr. KADZIK. The only thing that I can speculate as to is, I spoke to Mr. Green after I talked to Mr. Podesta. I said that he was opposed to the pardon, as was the staff, and I think that Mr. Podesta made an offhand comment to me that while there was a lot of controversy in the press about other pardons, such as Mr. Milken, there had been no press coverage with respect to Mr. Rich or Mr. Green.

Mr. LATOURETTE. And that was seen as a good thing?

Mr. KADZIK. It wasn't seen as anything. It was simply a statement of fact.

Mr. LATOURETTE. OK. Now, exhibit No. 67, it looks like this is a reference to the telephone call that might have taken place between you and Mr. Podesta on January 16th. This 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?

[Exhibit 67 follows:]

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



PMR&W 00169

Mr. KADZIK. No.

Mr. LATOURETTE. Again—

Mr. KADZIK. 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.

Mr. LATOURETTE. Do you have—again, this sort of chain from Mike Green to you to the author of exhibit No. 67, do you have any personal knowledge as to how the author of exhibit No. 67 would reach the conclusion that the staff was not in the veto mode if that information didn't come from you, who was the person who had the conversation with Mr. Podesta?

Mr. KADZIK. I don't know upon what that was based. I can only speculate that it was because the decision, there was no final decision yet.

Mr. LATOURETTE. OK. At any point during the contacts that you had with Mr. Podesta, did he identify why it was that he was opposed to the Rich pardon or what concerns the White House Counsel's Office had concerning this application?

Mr. KADZIK. No, we didn't discuss the merits of it in detail at all.

Mr. LATOURETTE. OK.

The final two pages of entries on exhibit 130 indicate that you continued to have teleconferences with former White House staff after the granting of the pardon on January 19th or 20th. And I'll let you flip to those, and then I have a couple of questions.

Mr. KADZIK. Yes, I've got them.

Mr. LATOURETTE. OK. And you see those entries?

Mr. KADZIK. Yes, I do.

Mr. LATOURETTE. Who were you talking to during that period of time after the granting of the pardon.

Mr. KADZIK. My recollection was that I received telephone calls from Karen Tramantano, the former President's current chief of staff, and someone from the press office, I don't recall who, asking me if I would be willing to do press appearances in defense of the President's decisions with respect to the pardons; and I told them that given the fact that my firm represented Mr. Rich, I wouldn't be, certainly, seen as a neutral observer and that I wasn't the best person to do that.

Mr. LATOURETTE. And is that sum and substance of all of the context referenced in that billing statement?

Mr. KADZIK. Yes, yes.

Mr. LATOURETTE. Mr. Chairman, how much time do I have?

Mr. BURTON. There appear to be 16 minutes left.

Mr. LATOURETTE. I will stop whenever you want me to, but I would like to ask Mr. Kadzik one more question because at the beginning of the hearing, Mr. Waxman in his opening remarks talked about how you got here; and I think that, obviously we had an observation on our side about whether you were supposed to be here or not.

Mr. Waxman had an observation during his opening remarks, and I'd like to invite you to take a couple of minutes and express in your own words how that occurred and so we can get that out of the way and go—if you'd like to. If you don't want to, that's fine with me too.

Mr. KADZIK. I received a letter from the committee on Monday, the 26th, asking me to appear, and I responded on Tuesday saying that I had previous business commitments in California on Thursday. I was in my office until after 9 p.m. on Tuesday. I had nothing further, so I went forward with my plans to go to California on Wednesday. When I got off the airplane in California on Wednesday I was met by a U.S. Marshal, served me with a subpoena. I promptly turned around went back to the counter and booked myself on the exact same airplane that I flew out on, to fly back on, and spent less than 45 minutes in San Francisco in order to come back here today; and I'm now scheduled to go back to San Francisco at 9:50 this evening in order to make the second of the two meetings I had planned.

Mr. LATOURETTE. If it is still my opportunity to talk, I'd like to talk to you for a minute, Mr. Fink.

Mr. FINK. Sure.

Mr. LATOURETTE. Mr. Fink, how long have you known or been associated or represented Marc Rich?

Mr. FINK. Two decades.

Mr. LATOURETTE. Two decades, exactly 20 years, or is that a—

Mr. BURTON. Mr. Fink would you pull the mic just a little bit closer.

Mr. FINK. It could be 20½, 21; it's around two decades.

Mr. LATOURETTE. OK.

Did you do work for Mr. Rich when you were associated with the law firm of Milgrim, Thomajan—and I hope I pronounce that name correctly—and Lee?

Mr. FINK. Yes, I did.

Mr. LATOURETTE. And when would that have been year-wise?

Mr. FINK. Starting in 1980.

Mr. LATOURETTE. We had testimony at the last hearing, I think, from the former assistant U.S. attorneys that at some time during the investigation of Mr. Rich there was a steamer trunk, or multiple steamer trunks, that were attempted to be taken out of the country on a Swissair flight; are you familiar with that?

Mr. FINK. Yes, I am.

Mr. LATOURETTE. And is our information correct that it was a paralegal from that firm Milgrim, Thomajan & Lee that was responsible for that activity?

Mr. FINK. The trunks were in the custody of a paralegal from that firm.

Mr. LATOURETTE. OK. At any point in your knowledge, since Mr. Rich left the country, has he returned to the United States?

Mr. FINK. Not to my knowledge.

Mr. LATOURETTE. I want to talk now about some conversations that we had with Mr. Quinn and a series of e-mails; and I think we talked a little bit about them with the previous panel, but for your information, it's exhibit 135.

[Exhibit 135 follows.]

Fink, Robert - NY

From: Fink, Robert - NY
 Sent: Thursday, February 10, 2000 10:29 AM
 To: 'azulrich@...' [REDACTED]
 Subject: RE: [REDACTED]

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: [REDACTED]

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



Mr. FINK. Just a moment, please.

Mr. LATOURETTE. Sure.

Mr. FINK. OK. I'm there.

Mr. LATOURETTE. OK. Is it a fair observation that during the course of your representation of Mr. Rich on this matter, that being the outstanding criminal indictment, that you had made a number of overtures at a number of different times, either you or people working with you, in an attempt to resolve this in an amicable or less painful way for Mr. Rich?

Mr. FINK. I think that's fair.

Mr. LATOURETTE. OK. Specifically, the e-mails that occur in exhibit No. 135 seem to be—I have three of them. The one at the bottom, actually the bottom two seem to indicate that in February of the year 2000 somebody has heard from the Southern District of New York that they're really not interested in sitting down and discussing this while Mr. Rich remains a fugitive.

But I'd like to focus on the top one which—that's a notation that's been authored by you; is that correct?

Mr. FINK. Yes, it is correct.

Mr. LATOURETTE. OK. And as I understand the import of that, it basically indicates that sometime during the course of your representation there have been discussion and there have been offers made both by you and also by the U.S. attorney for the Southern District of New York; is that correct?

Mr. FINK. Well, I don't know they would characterize it as you have.

Mr. LATOURETTE. OK.

Mr. FINK. I would be comfortable saying there were many discussions. I don't know that we ever got to a real offer in any of those discussions.

Mr. LATOURETTE. OK. Specifically, there has been testimony before this committee that the thing that was really the hammer-blow—and some people blamed Rudy Giuliani, some people blamed other people—the thing that really put Mr. Rich to flight was the RICO charge. Do you have that opinion?

Mr. FINK. I do not know what put Mr. Rich to flight, to use your phrase. I do know that RICO was perceived to be a huge force that affected the case and the outcome of the case.

Mr. LATOURETTE. Looking at exhibit 135, 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.

Mr. LATOURETTE. OK. And when you say "discussed," the specific words in the e-mail were that "I was told at one point that they would drop the RICO charge if we wanted Marc to come in."

Mr. FINK. Yes.

Mr. LATOURETTE. Were you told that?

Mr. FINK. It wasn't formalized. It was discussed as a possibility.

Mr. LATOURETTE. OK.

Mr. FINK. I perceived it, I perceived it to be a serious possibility, but as I understood it, the discussion was if Marc would come in and surrender—

Mr. LATOURETTE. Right.

Mr. FINK [continuing]. We would consider in advance dropping the RICO charge.

Mr. LATOURETTE. And likewise, was there a consideration in this set of negotiations, or you can tell me if it is another one, that bail would be arranged, as well, as part of this negotiation so that he wouldn't have to remain incarcerated pending the outcome of the criminal proceeding?

Mr. FINK. I think that occurred as part of the very same conversation.

Mr. LATOURETTE. And that condition was that they would like to have his passport so he would not leave again if he didn't like the way things were going on; is that right?

Mr. FINK. That's my best recollection of that conversation, which was probably 9 years ago.

Mr. LATOURETTE. It goes on to indicate that they would also meet with the lawyers, the professors—and when they say “professors,” had this report already been done by the professors we've heard so much about that were hired to examine the tax intricacies of Justice Ginsburg's husband; are those the professors you were talking about?

Mr. FINK. Yes, but I think to avoid any misunderstanding that I am now talking about a different conversation.

Mr. LATOURETTE. OK. So in one conversation—well, let's break them down. In one conversation, they said they would consider dropping the RICO, agree to bail if he would give up his passport and sit down and negotiate the case. Did you then have additional discussions where they said they would sit down with the lawyers and professors and do a full review before proceeding to trial, that they would take a look at the strength of their case and engage in further discussion with you?

Mr. FINK. To be clear, there was no discussion about dropping RICO at the time of this second conversation.

Mr. LATOURETTE. OK. Their hang-up, as I read the totality of the e-mail, and maybe we're talking about two or three different discussions, but their hang-up seemed to be that they didn't want to negotiate, sort of come up with their best shot and have Mr. Rich reject it from Switzerland. They wanted to at least have something—if they're going to do a lot of work, they'll listen to what the professors had to say, evaluate their case. They at least wanted to have some assurance that he was going to submit himself to their jurisdiction, did they not?

Mr. FINK. I think your characterization is reasonable. Their exact characterization is an exhibit to the pardon application. It's one of the letters from the U.S. Attorneys Office.

Mr. LATOURETTE. Did you ever negotiate this case with a fellow by the name of Gerald Lynch when he was in the U.S. Attorneys Office?

Mr. FINK. I would have to say a double negative. No, I don't think I ever negotiated this case with anybody; and I do not believe I have ever met Mr. Lynch.

Mr. LATOURETTE. How about Robert Litt?

Mr. FINK. No, I'm not sure I've met him either. Let me take that back. To the best of my knowledge, I don't think I have met him. How am I doing? I have not met him.

Mr. LATOURETTE. I think you're doing fine.

When did you decide to engage the services of Jack Quinn in this matter?

Mr. FINK. In all fairness, that decision wasn't mine. But that decision was made summer—early summer of 1999.

Mr. LATOURETTE. When you say it wasn't yours, who made the decision, if you know?

Mr. FINK. Mr. Rich.

Mr. LATOURETTE. Mr. Rich came up with the name of Jack Quinn by himself.

Mr. FINK. No. Maybe I'm being too precise, but I want to be precise here. The person who decided to engage Mr. Quinn was Mr. Rich. Mr. Rich did not come up with Mr. Quinn's name.

Mr. LATOURETTE. OK. The specific pardon application—

Mr. BURTON. Excuse me, if I might interrupt. How did he obtain Mr. Quinn's name? Through what source?

Mr. FINK. Through me.

Mr. BURTON. So you knew Mr. Quinn from his professional work and his work in the White House?

Mr. FINK. No, I did not.

Mr. BURTON. How did you come up with Mr. Quinn's name?

Mr. FINK. His name was given to me by Gershon Kekst.

Mr. BURTON. Can you tell us the context in which he recommended Mr. Quinn?

Mr. FINK. We were having lunch, and I asked him if he could recommend someone who I called the white-haired man. It's an expression.

Mr. BURTON. Does that mean someone who had connections with the White House?

Mr. FINK. No. It did not, at all.

Mr. BURTON. So you weren't looking for somebody who had a connection with anybody at the White House.

Mr. FINK. Certainly not as you would describe it. We were looking for someone who understood the entire political process. And I shouldn't say we. I was the one who raised this, and I was wondering if he knew someone who I honestly expected then and still believe today does not exist, but who understands the whole political process, because I was convinced—at least highly frustrated with efforts to approach this simply as an attorney and wondered if there was some other aspect to the way our government works that would allow us to get an opportunity to have Mr. Rich's case heard without him having to surrender. That was my goal in asking that question of Mr. Kekst.

Mr. LATOURETTE. That was very delicately put, and I think what that means—

Mr. FINK. Thank you. I think it's also accurate.

Mr. LATOURETTE. I do, too. How I interpret it, certainly as Mr. Waxman was indicating before, that your best lawyering didn't seem to get the job done and so we need to go another way and that is to find someone who has access to whomever.

Mr. FINK. Well, actually, that is not true. At least it wasn't in my mind. And I understand that you're going to look at everything I say and all of the e-mails with the advantage or in my view disadvantage of all that's happened. But, no, I represent this to you, I'm under oath. I am not Washingtonwise. In fact, quite to the contrary. And I was looking for someone who had an overview of the entire political process. I didn't have the White House in mind. I didn't have anything in mind. In fact, you could have read my mind very quickly.

Mr. LATOURETTE. Well, that would have been in 1999 when Mr. Quinn was first retained.

Mr. FINK. Actually, I am not exactly sure when my conversation with Mr. Kekst was. It could have been late 1998, early 1999. I wasn't fast on this process. There wasn't urgency behind on it.

Mr. LATOURETTE. Mr. Quinn testified before the committee that in fact he wasn't first retained to work on a pardon. He was retained to work on the case. When would you say the focus of the representation of Marc Rich before the government shifted to the notion of a pardon?

Mr. FINK. In October 2000.

Mr. LATOURETTE. And did you ever have any contact with the White House, the White House staff, the White House Counsel's Office on the behalf of this pardon application or was that left to others?

Mr. FINK. That is a multi-faceted question. I think the answers to each and every one of them is no.

Mr. LATOURETTE. OK. There was an agenda set for a meeting on the Rich pardon, and it's exhibit No. 79 if you want to take a minute to find that.

[Exhibit 79 follows:]



robert.fink@ [redacted] on 11/19/2000 03:18:55 PM

To: jquinn@ [redacted] gershon-kekst@ [redacted] Kathleen
Behan/Atty/DC/ArnoldAndPorter@ [redacted]
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

The information contained in this communication may be confidential, is intended only
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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.

Mr. FINK. I'm there.

Mr. LATOURETTE. That, among other things, item 5A on the agenda is the need for secrecy. Do you see that?

Mr. FINK. 5a. Yes, I see it.

Mr. LATOURETTE. Were you at that meeting on November 21?

Mr. FINK. Well, respectfully, I prepared this agenda in anticipation of a meeting that was supposed to occur on November 21.

Mr. LATOURETTE. OK.

Mr. FINK. This meeting didn't occur.

Mr. LATOURETTE. OK. But you prepared exhibit No. 79.

Mr. FINK. Yes, I did.

Mr. LATOURETTE. And in preparing for a meeting that didn't occur, your thought was to have 5a, the need for secrecy. That was your thought as one of the items that should be discussed at a meeting, should it occur.

Mr. FINK. Yes, I definitely wanted to discuss that at this meeting which didn't occur. But if it had, I would have raised it.

Mr. LATOURETTE. Can you explain what it is that you meant by a need for secrecy during the course of a meeting on the Marc Rich pardon?

Mr. FINK. I can give you any best guess. Recollections aren't that easy to come by for me. But my best guess—and I believe this is a reasonably good guess because I would have felt this way—is that Marc Rich has been victimized by the press and publicity and that if the press learned about this that victimization would continue.

Mr. LATOURETTE. Did you have a similar concern—and it goes to another e-mail that we talked about with other witnesses—about benefiting by being under the press radar? Which I think ties into what you just said was there a concern in your group that not only the press would find out but the U.S. attorney for the Southern District of New York would find out what you were up to.

Mr. FINK. Can I pause?

Mr. LATOURETTE. You can do what you want to do.

Mr. FINK. No, I just want to be good here. I don't believe I wrote any e-mail about Mr. Podesta's suggestion about being under the radar. I'll volunteer that I don't remember such a conversation.

And as to your second question, no, this was about press publicity.

Mr. LATOURETTE. OK. You don't recall any discussion—and the reason I ask you, I'm not a tricky guy.

Mr. FINK. No, that's fine.

Mr. LATOURETTE. He was here before. He indicated that he would rather have the device given or the OK given or the whatever given by Justice Washington as opposed to Justice Southern District of New York. He sort of indicated that there was a discussion or a feeling that maybe we don't need to tell Mary Jo White and her folks what we're up to. We'll just leave it to Eric Holder and Janet Reno and the folks in Washington. Do you remember any of that?

Mr. FINK. I remember being of a similar mind. It would have been my preference, had I had some power, to at least have the issue start in Justice Department. But, in fairness, you know, we're talking about this now after the pardon application and the pardon

being granted. When I wrote this agenda that we're referring to, I didn't know very much about the process or what would happen.

Mr. BURTON. The gentleman's time has expired.

Mr. Waxman.

Mr. WAXMAN. Thank you very much, Mr. Chairman.

I want to thank the three witnesses for being here at this late hour.

Mr. Libby, I want to ask some questions of you because you've had a long involvement with Mr. Rich and probably better than any other witness that we've had before us would understand the merits of the case that Mr. Rich was offering in his defense. The President of the United States wrote an op-ed in the New York Times, and in the op-ed he said or implied that you had advocated for a pardon. And I understand that's wrong and you stated you had no involvement in the effort for a pardon, is that correct?

Mr. LIBBY. It's correct that it's wrong, sir.

Mr. WAXMAN. But the President gave other reasons, and the first reason the President gave was, "I understood that the other oil companies that had structured transactions like those in which Mr. Rich and Mr. Green were instead sued civilly by the government." Was the President right about this statement?

Mr. LIBBY. Yes, there were other companies that had similar transactions; and to the best of my knowledge those were generally handled civilly.

Mr. WAXMAN. The second reason the President gave was, "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." Was the President right about this statement?

Mr. LIBBY. Yes, sir, I believe he was. That would be the ARCO proposed remedial order issued by the Department of Energy.

Mr. WAXMAN. The third reason the President gave was, "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 were correct in their U.S. income tax treatment of all of the items in question and that there was no unreported Federal income or additional tax liability attributable to any of the challenged transactions." Was the President correct about this?

Mr. LIBBY. Yes, sir.

Mr. WAXMAN. The fourth reason the President gave was, "in order to settle the government's case against them the two men's companies have paid approximately \$200 million in fines, penalties and taxes, most of which might not have even been warranted under the Wolfman/Ginsburg analysis, that the companies had followed the law and correctly reported their income." Was the President correct on this statement?

Mr. LIBBY. Yes, sir.

Mr. WAXMAN. The fifth reason the President gave was, "the Justice Department in 1989 rejected the use of racketeering statutes in tax cases like this one." Was the President right about this?

Mr. LIBBY. That is my understanding of the Justice Department manual.

Mr. WAXMAN. Well, Mr. Libby, it appears that you agree with most of the points the President made.

Let me ask you the bottom line question. President Clinton apparently concluded that Mr. Rich had not committed the crimes he had been accused of. Do you agree with this? Do you think that Mr. Rich is a tax fraud and a criminal or do you agree with President Clinton's assessment of the merits of the case?

Mr. LIBBY. I believe, sir, that, based on all of the evidence available to defense counsel, the best interpretation of the evidence is that they did not owe any tax, even in the civil matter. That would be the interpretation given by the two tax professors.

Mr. WAXMAN. Therefore, there should not have been a criminal liability.

Mr. LIBBY. Based on the evidence available to the defense, that would be correct, sir.

Mr. WAXMAN. Mr. Libby, according to several press accounts, there was discussion in the Bush administration about whether or not the Rich pardon was invalid because of lack of service. On January 28, 2001, Vice President Cheney said that Justice Department lawyers may be looking at this issue. The next day President Bush announced that he had decided against acting on lawyers' ideas for revoking the pardon. Are you aware of any discussions in the White House or the Department of Justice about whether or not the Rich pardon was invalid?

Mr. LIBBY. No, sir. I recused myself immediately from any matter having to do with Mr. Rich, and I did not participate in any such discussion. But I have seen the press stories, as you have, I suppose.

Mr. WAXMAN. So you were not involved in them, and you were not aware of them.

Mr. LIBBY. That is correct, sir.

Mr. WAXMAN. Mr. Libby, I believe I asked you earlier, when you concluded your representation of Mr. Rich I think you testified that was—tell me again. When did you end your representation of Mr. Rich?

Mr. LIBBY. My best recollection is that I stopped work sometime in the spring of 2000.

Mr. WAXMAN. Spring of 2000?

Mr. LIBBY. Right, in anything active for Mr. Rich. I probably put away from some files after that, but that would be the last bit of work for them.

Mr. WAXMAN. You were asked in November 2000 to participate in the pardon. What happened at that point?

Mr. LIBBY. As I testified in my statement, sir, I declined to participate in the pardon.

Mr. WAXMAN. And when did you have your last conversation with Mr. Rich before joining the Vice President's staff?

Mr. LIBBY. I am not really sure, 1999, 2000, something like that.

Mr. WAXMAN. Mr. Libby, I would like to read to you an opening line of the story the Washington Post is reporting today. A top aide to Marc Rich alluded more than a year ago to seeking a Presidential pardon for the fugitive financier in correspondence with Rich's attorneys, calling it the unconventional approach which has not yet been tried and which I have been proposing all along, ac-

ording to one of dozens of documents made public today. The e-mail that the Post quotes was written on February 10, 2000. It's exhibit 135 in the book in front of you. Mr. Libby, were you representing Mr. Rich at the time that e-mail was written—February 2000?

[Exhibit 135 follows:]

Fink, Robert - NY

From: Fink, Robert - NY
 Sent: Thursday, February 10, 2000 10:29 AM
 To: 'azulrich@' [REDACTED]
 Subject: RE: [REDACTED]

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 RJCO 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: [REDACTED]

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



Mr. LIBBY. It was still during the course of our efforts with the Southern District of New York, sir.

Mr. WAXMAN. Are you familiar with the unconventional approach that the e-mail refers to? It's exhibit 135.

Mr. LIBBY. I don't believe I have ever seen this e-mail before, sir; and I don't know particularly what it's speaking about.

Mr. WAXMAN. Could you repeat your answer?

Mr. LIBBY. I don't believe I have ever seen this e-mail before, and I'm not sure what he's speaking about.

Mr. WAXMAN. It's interesting, earlier today Mr. Quinn didn't know about that e-mail either, and he was given a pretty hard time about it. I guess the conclusion I think I can reach is, even if you're a lawyer you may not be familiar with this particular e-mail and that's your testimony and his testimony.

Mr. LIBBY. Yes, sir.

Mr. WAXMAN. In November 2000 you were called into some discussion either by phone—well, let me ask you specifically. You said you were contacted in November 2000 about the idea of a pardon. Was that a meeting or a telephone conversation?

Mr. LIBBY. A telephone conversation.

Mr. WAXMAN. That was between you and who else?

Mr. LIBBY. Mr. Michael Green, as I mentioned in my opening statement.

Mr. WAXMAN. Did he discuss the grounds or strategy of this?

Mr. LIBBY. No.

Mr. WAXMAN. What did he tell you?

Mr. LIBBY. It was a confused conversation, because I didn't quite understand what he was talking about at first. And then he said that they were going for a pardon, going to the White House for a pardon, something like that. And I said that I could not participate in that.

Mr. WAXMAN. Let me take you back to the administration of former President Bush. Was there any effort at that time to get a pardon for Mr. Rich?

Mr. LIBBY. Not that I recall, sir.

Mr. WAXMAN. If I asked you whether you contacted anybody that was part of the Bush administration to advocate the pardon, your answer would be—

Mr. LIBBY. Not that I recall.

Mr. WAXMAN. Mr. Libby, according to press reports, you called Mr. Rich on January 22 of this year, is that accurate?

Mr. LIBBY. That is correct, sir. I believe January 22 is right.

Mr. WAXMAN. Where were you when you called him?

Mr. LIBBY. At home.

Mr. WAXMAN. Why did you call him?

Mr. LIBBY. He had spoken to Mr. Green, who is a good friend of mine, and he had told Mr. Green that he thanked Mr. Green for all the work that Mr. Green had done on his case over the years and that he also wished to thank me for the work that I had done prior to the pardon on his matters over the years. But that he didn't know if it would be OK for him to call me. He did not want to get me in any trouble calling me. And so I thanked Mr. Green for telling me that, and I said I would call Mr. Rich to say it was OK. And I called Mr. Rich, and he thanked me for my work on the

case, and I congratulated him on having reached a result that he had sought for a long time.

Mr. WAXMAN. Have you had any other contact with Mr. Rich since you've joined Vice President Cheney's staff?

Mr. LIBBY. No.

Mr. WAXMAN. Have you had any contact with Mr. Rich's attorney since joining Vice President Cheney's staff?

Mr. LIBBY. Mr. Green is a good friend of mine, and I have had contact with him.

Mr. WAXMAN. What kind of contact have you had with him?

Mr. LIBBY. Well, he and his wife were good enough to take our kids to the Inaugural parade which in a rainstorm was an act of heroism on his part, and we met up with him there, and I showed him my office. Social contact.

Mr. WAXMAN. Social contact. Not about Mr. Rich.

Mr. LIBBY. Social contact. He told me they had received a pardon for Mr. Rich. He showed me a list from the Internet. Things like that, no substance about it.

Mr. WAXMAN. Since joining Vice President Cheney's staff have you had any conversations with anybody within the administration about the Marc Rich matter?

Mr. LIBBY. Yes, sir.

Mr. WAXMAN. Will you tell us about that?

Mr. LIBBY. Yes, as soon as this became public I went to the general counsel for the Vice President and told him that—about my representation in the past and I was recusing myself to anything that might come up about it. I subsequently went to the President's general counsel, told him about my participation in it and said I was recusing myself. And I went to my deputy to be sure that he would know, in case there was any paper flow I shouldn't see, to say I have recused myself from the Marc Rich matter. People in the corridor have expressed regret that I had to come up here and testify, and I suppose that qualifies with being about the Marc Rich matter.

Mr. WAXMAN. Let me commend you, because I think you took the absolute correct response in joining the government to recuse yourself on this matter.

Mr. LIBBY. Thank you, sir.

Mr. WAXMAN. Since joining Vice President Cheney's staff have you had any conversation with anybody outside the administration about the Marc Rich matter?

Mr. LIBBY. Yes. I had conversations—the answer is certainly yes. Trying to go all through that list might take me a bit, but, yes.

Mr. WAXMAN. A recent article—you might give it some thought and you might come back to it.

A recent article in the New Yorker discusses several attorneys that Mr. Rich hired to advocate his case. And according to this article, Lenny Garment, former White House counsel in the Nixon administration, said the following about President Clinton's pardon of Marc Rich, "I don't know why he did it, but I think Clinton did the right thing." Mr. Libby, do you believe that Mr. Rich should have been granted a pardon?

Mr. LIBBY. Sir, I have recused myself, as I mentioned, from anything having to do with the Marc Rich case and from my commu-

nication with anybody on the White House staff directly or indirectly about whether it was a good idea or a bad idea. Your question puts me in an odd spot since this is being televised and people from the White House would hear my view of the pardon if I were to give it.

Mr. WAXMAN. Well, you're not in any way involving yourself in the case. I'm only asking your personal views of the result of this case. Did you think it was the right result?

Mr. LIBBY. Sir, I would not give my personal view of the result to anyone on the White House staff directly or have a conversation in their presence about my view of the result, if I believed that would push the envelope a little bit on keeping any recusal. If you wish me to answer the question, I will, but I think you're taking us into areas where the safest ethical position would be just not to speak on it.

Mr. WAXMAN. Well, you've already answered questions on the merits of the argument that the President made for granting this pardon. You seem to agree with the President's views on each of those points. Why would you not agree with this conclusion?

Mr. LIBBY. Those were underlying questions, statements about the merits of the case, not about the wisdom or lack of wisdom of the pardon. If you wish me to answer the question, I will, sir.

Mr. WAXMAN. Well, the determination of the wisdom of a pardon could be a political evaluation as well as one on the merits. But if you separated the political evaluation of whether such a decision should have been reached by this or any other President simply on the merits, do you think the President reached the right conclusion?

Mr. LIBBY. Again, sir, you're asking me a portion of the decision about whether it related, how it relates to the pardon, and I would prefer not to answer that. I would like to answer if you wish me to.

Mr. WAXMAN. I would like you to.

Mr. LIBBY. I would not know. I know the evidence available to the defense team. Based on the evidence available to the defense team, as I expressed before, I believe the correct interpretation of the law and the facts was that there was no tax owed. But I do not know what was in the Barton application. I do not know what information might have been possessed by the government.

Mr. WAXMAN. You were his lawyer for many years. You have a good understanding of the facts, probably a better understanding of the facts than anybody else that has appeared before us. And certainly many people have commented on the issue. It just seems to me that, knowing the facts as you know them, should this man have been held to answer for these charges or should those charges in the indictment be resolved by Presidential action to dismiss them through a pardon?

Mr. LIBBY. Well, I know only the facts available to the defense team. Based on the facts available to the defense team, I believe that the case should have been resolved by the Southern District of New York listening to our approaches, looking at the facts in evidence, and we would have been done with it back at the Southern District of New York.

Mr. WAXMAN. And that would also mean, based on all the information you know and only what you know, and you know quite a bit, would that have led you to the conclusion that either the Southern District of New York should have resolved this issue or, failing that, that a Presidential pardon resolving the issue was justified?

Mr. LIBBY. I believe the Southern District of New York should have resolved that issue with us back at that point. Whether a Presidential pardon is justified would again depend on what evidence the Southern District of New York might have and what other factors the President might consider in the course of a pardon. The Presidential pardon power is virtually unfettered.

Mr. KANJORSKI. Would the gentleman yield?

Mr. Libby, this is a pretty simple question. You were an attorney for Mr. Rich. You helped brief Mr. Quinn. You know all the facts from that side of the case. You are not expected to know the facts from the Southern District of New York. You feel they should have stopped the prosecution because it was unwarranted with the facts you knew, but they didn't. Now as a lawyer and prior to you assuming the Office of the Chief of Staff of the Office of Vice President, are you telling this committee that, with everything you know about the case and nothing more, that you don't know about the pardon. Do you have an opinion as to whether or not the pardon should have been issued?

Mr. LIBBY. Correct, sir.

Mr. KANJORSKI. What is that opinion?

Mr. LIBBY. No, no. Correct, I am telling the committee that I don't know.

Mr. KANJORSKI. You have no opinion.

Mr. LIBBY. I have an opinion—

Mr. KANJORSKI. Do you have an opinion? Let's start there. Do you have an opinion?

Mr. LIBBY. Do I have an opinion as to whether—

Mr. KANJORSKI. Do you have an opinion as to whether this pardon was justified under the facts as you know them?

Mr. KANJORSKI. Sir, I have never seen the application. I do not have the facts available to me.

Mr. KANJORSKI. I'm not asking about the application, Mr. Libby. I'm asking about the facts that you know of your own knowledge. As a lawyer representing Mr. Rich over those several years, do you have an opinion as to whether or not those facts warrant the issue of this pardon? That's a simple question.

Mr. LIBBY. No, sir.

Mr. KANJORSKI. You have no opinion.

Mr. LIBBY. I have no opinion because I would not be able to render an opinion without the full record before me. I do not have that record before me.

Mr. KANJORSKI. So when you worked on this case with Mr. Quinn, you didn't have the facts, or the information as an attorney?

Mr. LIBBY. I did not have the facts available to the government, and I—

Mr. KANJORSKI. Nobody has the facts available to the government. I'm not asking you to render an opinion on what facts the government may have. I'm asking you to render an opinion on

what facts you have, and what facts you had at the time. It's very simple. You have to have an opinion—yes or no. And you're trying to parcel this down.

In fairness as a lawyer and a member of the bar and having worked for this client, did you represent a crook who stole money from the U.S. Government, a fugitive who should never have been granted a pardon by the facts that you know? Is that what we should conclude from your statement?

Mr. LIBBY. No, sir. I believe on all of the evidence I know that there was no tax liability.

Mr. KANJORSKI. Do you believe as a result that the pardon would be warranted insofar as there are no facts that you know of that support the criminal charges against your former client?

Mr. LIBBY. There are no facts that I know of that support the criminality of the client based on the tax returns we've been discussing.

Mr. KANJORSKI. So based on all the facts you know is the pardon issued by the President justified?

Mr. LIBBY. I cannot say whether the pardon is justified because I don't have those facts and that application before me.

Mr. KANJORSKI. Mr. Libby, I'm not asking you to take any other facts than what you have. We're able to understand that as a lawyer for a couple years working for a very wealthy guy, you might come to the same conclusion as Harvard and Georgetown law professors about a lot of things. And we'll accept all of what you know, accept nothing of what anybody else knows because, obviously, you don't know.

We're asking your opinion. I like to see a guy hedge, but this is unreasonable. You either have an opinion or you don't have an opinion. If you don't have an opinion, tell us you don't have an opinion, and therefore your client may or may not have been a crook who should have gone to trial, or may or may not have been a fugitive. Do you have an opinion? Was he a fugitive?

Mr. LIBBY. In every common-sense term of it, yes, he was a fugitive.

Mr. KANJORSKI. Do you think he was a fugitive on justifiable charges or was he a fugitive because there was a mistake in the interpretation of law by the Southern District of New York?

Mr. LIBBY. I believe that the Southern District of New York misconstrued the facts and the law, and looking at all of the evidence of the defense he had not violated the tax laws.

Mr. KANJORSKI. He was not a fugitive.

Mr. LIBBY. In every common-sense term, he was a fugitive.

Mr. WAXMAN. How about in a legal standpoint?

Mr. LIBBY. There is a fugitivity statute which is very complicated. I haven't looked at it in years. It has to do generally with avoiding State process. It wasn't State process. It's very technical matters. I don't recall it. It was so many years ago.

Mr. WAXMAN. Without knowing all the details, it sounds like you would even dispute whether legally he was a fugitive even though by the common definition of the word he was a fugitive.

Mr. LIBBY. I would think you have to say he's a fugitive. But I don't know what the term—when you say legally, the question is, what statute or provision are you talking about? I don't have any

of those in front of me. It's been years since I looked at it. I believe he was a fugitive in any common-sense meaning of the term.

Mr. WAXMAN. Let me, before I yield further—of course, you not only knew the information as a defense lawyer but you knew everything the prosecutors had to say about Mr. Rich and Mr. Green. You've heard their arguments. I assume you also followed the hearing we had 3 weeks ago because we had the two prosecutors in here. I know you're busy, but you might have read in the newspaper their arguments. You disagree with them, don't you?

Mr. LIBBY. From everything I know, yes, sir.

Mr. WAXMAN. At the hearing this committee had several weeks ago, there was a considerable discussion about the merits of the Rich case; and I want to read to you some of the statements that were made and ask you about them. Let me read to you what Representative Shays said at the hearing, "there are some who believe, and I am one of them, that former President Clinton appears to have pardoned two traitors to their country." Do you agree with that statement?

Mr. LIBBY. As I recall from the snippets I have heard, he was referring to a series of trades that they may have made or business engagements they may have had, one of which was with Iran, one of which was with Iraq, if I recall, South Africa maybe, Russia, something like that.

Mr. WAXMAN. Whatever.

Mr. LIBBY. I don't have any knowledge about any of those other items. The only one I've heard about was the transaction with Iran, and that was one of the claims in the indictment.

Mr. WAXMAN. Well, and you thought the indictment was not proper, was not justified.

Mr. LIBBY. Yes, sir. That was not my portion of the case, but I've always understood from the experts who handled that portion of the case that the Rich companies were allowed to trade with the Swiss-based Rich companies.

Mr. WAXMAN. Do you agree with the statement that these gentlemen 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 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.

Mr. WAXMAN. At the first committee hearing on this pardon a few weeks ago, two of the former Federal prosecutors who pursued Mr. Rich, Morris Weinberg and Martin Auerbach, testified. Mr. Auerbach said the merits in the Rich case were unquestionably in the government's favor. Do you agree with that statement?

Mr. LIBBY. Not from what I know, sir.

Mr. WAXMAN. In their joint written testimony to the committee, the prosecutors said that in December 1981, it was apparent that

they had uncovered at that time the biggest tax fraud in history. Do you agree with that statement?

Mr. LIBBY. Not from what I know, sir.

Mr. WAXMAN. I mentioned earlier an analysis done by two distinguished law professors, Bernard Wolfman and Martin Ginsburg, which defended Mr. Rich's companies from charges of tax evasion. Some people have implied this analysis was flawed because it was based on biased information.

At our last hearing, former prosecutor Martin Auerbach said that the professors admitted, "making no independent verification of the facts but accepting the statements thereof made to us by Mr. Rich and Mr. Green's attorneys." Mr. Libby, can you tell me, where did you get the information for the Wolfman/Ginsburg analysis? Where did it come from?

Mr. LIBBY. We got the basic trading documents and summaries of those documents as to how the trades occurred. Some of documents were provided to me from the files of the law firms that have been engaged in defending Mr. Rich during the period when he was under investigation through the criminal indictment. Some of the documents were provided by the prosecution.

Mr. WAXMAN. Do you believe that information was accurate?

Mr. LIBBY. The information provided to me?

Mr. WAXMAN. Provided to Mr. Ginsburg and Mr. Wolfman.

Mr. LIBBY. Yes, sir.

Mr. WAXMAN. Let me yield to Mr. Cummings.

Mr. CUMMINGS. I just have a few questions, and I'll yield back.

Mr. Libby, I'm not going to ask you whether you thought the pardon should be granted, because I think you pretty much answered it already. I mean, I'm just listening to what you've said. But let me ask you these questions. Do you believe that crimes were committed by these two gentlemen?

Mr. LIBBY. Sir, I only know the facts related to this particular indictment.

Mr. CUMMINGS. Yes, I'm talking with regard to this indictment, which is the subject of this pardon.

Mr. LIBBY. I do not believe that these two gentlemen, based on all of the evidence available to me, were guilty of the charges for which they were indicted.

Mr. CUMMINGS. Which would mean that—and I'm just limiting myself to the scope of the indictment—so you don't believe it. And you would have to—I guess you would, as you can tell me you had a pretty good bit of information about these cases, did you not, that is the subject of the indictments?

Mr. LIBBY. I endeavored to get all the information I could, sir.

Mr. CUMMINGS. Now let me ask you this. Do you think that the Southern District of New York treated these gentlemen unfairly?

Mr. LIBBY. I believe that in some aspects, the use of RICO in the Southern District of New York was quite vigorous. I would also say it was largely the fault of the defense. The defense never went to the government and presented their case in that period. They instead chose to play hard ball, if you will, and refuse to cooperate with the government. I believe if they had cooperated with the government, laid out the case, how the transactions worked and what they were, that the Southern District of New York would have

reached the same conclusions about the trades that the Department of Energy reached when the Department of Energy looked at these trades and said that, in fact, the domestic transactions and the foreign transactions were linked and what follows from that is that the no tax obligation was owed thereafter not paid.

Mr. CUMMINGS. Do you believe that—you answered the question with regard to the fugitive status. Let me ask you this: Do you believe if a person is a fugitive that should automatically rule them out of being pardoned? And I'm just talking generally now.

Mr. LIBBY. Sir, I have never studied the pardon power, never look at cases referring to the pardon power. I'm not a student of how it has actually been employed. My general position would be that the Constitution leaves the power to pardon unfettered virtually unfettered by the President, and I would be loath to sit here and second-guess the Founding Fathers.

Mr. CUMMINGS. I yield whatever time I have left.

Mr. WAXMAN. Just to ask one last question on that point. While you're avoiding saying whether the pardon would be appropriate, the fact that they were fugitives and everything you know about this case wouldn't—would it lead you to conclude that if the Southern District Court of New York decided to drop the charges that it would have been appropriate or did you think it would have been appropriate?

Mr. LIBBY. I thought from everything known to me they should have.

Mr. WAXMAN. So you think it's appropriate for the prosecutor to drop the charges, but you're not sure whether it was appropriate for the President to use the power to resolve a prosecution by dismissing it?

Mr. LIBBY. It would be appropriate if the President knew what the Southern District knew and looked at the entire case and made a decision on it.

Mr. WAXMAN. If he knew what you do could he reach that conclusion, that the case ought to be dismissed—

Mr. LIBBY. Well, the President can reach any—

Mr. WAXMAN [continuing]. And pursue it as a civil matter, not a criminal matter?

Mr. LIBBY. Well, the President can conclude anything he wants to on a pardon.

Mr. WAXMAN. If he called you up and asked you, what would you have said?

Mr. LIBBY. I would have recused myself.

Mr. BURTON. The gentleman's time has expired.

Mr. WAXMAN. Mr. Chairman, Mr. Kadzik has to catch a flight. Do we know if there are any questions to pursue of him?

Mr. BURTON. Let's stop the clock here. While we're checking on that, let me ask some questions of Mr. Libby. I'll start the clock.

Mr. Libby, did you talk to or have access to the witnesses in the case for the prosecution?

Mr. LIBBY. I do not know who all the witnesses for the prosecution were, sir. I had access to some witnesses whom the prosecution had interviewed.

Mr. BURTON. OK. But the fact of the matter is you only saw the defense side of the equation; isn't that correct?

Mr. LIBBY. That is correct, sir. I only had the information available to defense counsel.

Mr. BURTON. Now the Marc Rich companies paid \$200 million in fines and penalties when they pled guilty, and they pled guilty in open court, and their attorneys were Peter Fleming, Maurice Castellanos, Peter Zimroth and John Tighe. I think those are pretty prominent attorneys nationwide, are they not?

Mr. LIBBY. Yes, sir.

Mr. BURTON. Do you think they would plead guilty and pay a \$200 million fine if they thought they didn't have a problem with the case?

Mr. LIBBY. I think they would plead down, sir, if their clients told them they should plead guilty. I assume their clients at that point wanted to plead guilty.

Mr. BURTON. And pay \$200 million?

Mr. LIBBY. And pay \$200 million rather than continue the case.

Mr. BURTON. So what you're saying is the judgment that you have here that these gentlemen didn't break any laws is your judgment. It might not be any of the judgment of others who had more knowledge of the case than maybe you did when they had all prosecuting witnesses before them.

Mr. LIBBY. That is correct.

Mr. BURTON. I think that's very important. Because my colleagues on the Democrat side who have said that they condemned the President for this pardon have been making the case that the President should have pardoned him. But the fact of the matter is the gentleman fled the country, was a fugitive for 17 years, paid a \$200 million fine, dealt with every enemy of the United States, including those who were holding our Americans hostage with the threat of death hanging over their heads. He tried to smuggle documents out of the country that were relevant to the case. And Mr. Fink, one of the interns or peoples associated with one of the firms with which you were working was involved in trying to help get those out of the country on a Swiss airplane. Am I correct on that?

Mr. FINK. You are correct, but your description is not.

Mr. BURTON. Were they trying to get the documents out of the country?

Mr. FINK. The documents were on an airplane that was going to Switzerland, but they weren't being smuggled.

Mr. BURTON. Were they being taken out of the country, and were they documents that the government wanted?

Mr. FINK. Yes.

Mr. BURTON. That's all I need to know.

But the fact of the matter is this, my colleagues can't have it both ways. They can't condemn President Clinton, as they have roundly, for pardoning Marc Rich and then have you as the Vice-President's chief counsel here and try to make you justify the pardon. The fact of the matter is that Mr. Rich was a fugitive from justice. He renounced his citizenship and for 17 years has been trying every way he could to get pardoned.

Now you may disagree with the outcome, Mr. Libby. You were a defense attorney, and you were working on this, and I understand that, just like Jack Quinn was working on that as well. But the fact of the matter is those who knew the case very well, promi-

ment attorneys advised Mr. Rich, a billionaire, that he probably ought to pay \$200 million and get this thing behind him, and they did. All of his companies pled. And then when he thought he was going to face criminal charges he fled the country. He took off. He went to Switzerland.

Now most people, if they think they're not guilty and there's an indictment against them, they will come back; and they will stand trial. And they even offered—our Justice Department offered to drop or at least consider dropping the RICO charges against him, and he still didn't want to come back. They offered to give him take bail, just take his passport so he would stand trial; and he still wouldn't come back.

So for those who try to say Mr. Rich was not guilty and try to make you who were working on the defense side say that he was not guilty and justify that just astounds me. Because they have been condemning, like we have, the pardon of Mr. Rich in the waning hours of this administration.

So I'm disappointed that we've taken this turn today because I don't think it's justified, No. 1; and, No. 2, I don't think it's justified to ask you who were working on the defense side to start making a judgment, to try to put you on the spot simply because you're working for the Vice President of the United States and you may have more credibility in this particular case.

I'll be happy to yield to my—do we have any more questions for Mr. Kadzik? Mr. Kadzik, you can catch your plane if you want.

Mr. KADZIK. Thank you very much.

Mr. BURTON. Do either of you have any response to my remarks?

Mr. LIBBY. No, sir.

Mr. BURTON. OK. Who is next on your side? Mr. Kanjorski.

Mr. WAXMAN. I just want to point out for the record that we were asking Mr. Libby to testify, because he was the defense counsel, who knew more about this case than anybody else. And we're not asking him to testify because he works for the Vice President. We're asking him because he's a knowledgeable person about this whole matter. And I can't understand the chairman's outburst about it because Mr. Quinn was asked these questions over and over again, and I think we're entitled to ask someone who has been the attorney for so many years. Thank you.

Mr. KANJORSKI. All right. Mr. Chairman, I want to reiterate for the record, those of us that know the facts we know would not agree or exercise the judgment as the President has. That's not the questions we're asking Mr. Libby. We have a witness here who not only is an expert but who probably has more information in regard to this case than anybody who has testified before the committee. I think, in fairness, if you want to express an opinion on the pardon I will give you an opportunity. If you decide you don't want to, Mr. Libby, I will not press that. You would rather not go further on that.

Mr. LIBBY. Thank you, sir.

Mr. KANJORSKI. But you did say something else, and I want to go back to it. Let me put this in context. You represented Mr. Rich from what period of time to what period of time?

Mr. LIBBY. Spring of 1985 till fall probably, or end of summer of 1989, not continuously, of course, but periodically. And from 1993

after leaving the government, some period after leaving the government, back, you know, with a matter that was under consideration until about 1995. It was then inactive. And I represented him again in connection with Mr. Quinn's approach with respect to the Southern District and the Department of Justice sometime in 1999, and that effort ended sometime around the spring of 2000.

Mr. KANJORSKI. From 1999 until the end of 2000 approximately. Now what period of time and what information came to your attention that you made the conclusion both legally and otherwise that he was a traitor?

Mr. LIBBY. Sir, what I said is that I can understand someone viewing the evidence that he traded with Iran as a traitor.

Mr. KANJORSKI. The question wasn't put that way. The question was, do you consider Mr. Rich a traitor?

Mr. LIBBY. On that trade I can understand that, yes, sir.

Mr. KANJORSKI. I didn't ask if you can understand.

Mr. LIBBY. I do not condone—

Mr. KANJORSKI. Mr. Libby, do you consider him a traitor or don't you? It's very straightforward. If you don't consider him a traitor, say you don't. If you do, say you do.

Mr. LIBBY. I would not have made that trade. You could apply the traitor to it.

Mr. KANJORSKI. Do you consider him for having made that trade a traitor?

Mr. LIBBY. It's not a word I would use.

Mr. KANJORSKI. You can't be half pregnant, Mr. Libby. He is or isn't. It seems to be very simple. Is he or isn't he? You said before you considered him a traitor. Is that correct, what I heard?

Mr. LIBBY. I would say yes.

Mr. KANJORSKI. What I am interested in is, when did you consider him a traitor? When did you get that information and become aware of that information and draw that conclusion personally?

Mr. LIBBY. The information is in the indictment which was issued in 1983, something like that.

Mr. KANJORSKI. So for this period, the last 17 years, you've considered this client of yours a traitor.

Mr. LIBBY. Sir, my understanding is that the conduct in which he engaged was not illegal, but I agree with the description that you could consider him a traitor for trading with Iran during that period.

Mr. KANJORSKI. Not I consider him. You consider him.

Mr. LIBBY. Yes.

Mr. KANJORSKI. How many traitors to this country do you call up in your official capacity?

Mr. LIBBY. I call none, sir.

Mr. KANJORSKI. You did on January 22 when the new administration took office and you were chief of staff to the Vice President of the United States.

Mr. LIBBY. Not in my official capacity, sir.

Mr. KANJORSKI. But you do call traitors in your unofficial capacity?

Mr. LIBBY. No, sir. I called Mr. Rich to respond to his request.

Mr. KANJORSKI. Why would you call a traitor, somebody you considered a traitor, after he got a pardon that was a hullabaloo in

this country? You can't tell me you didn't know about the reaction to the pardon. You knew there was a hullabaloo in the country about the pardon. You in your own mind consider him a traitor. Why did you call him?

Mr. LIBBY. Mr. Rich is a former client. I believe he was not guilty of those things of which he was charged based on the evidence available to me. He had called Mr. Green to say that he wished to call me and thank me for my services. I had always taken his calls when he was a client of mine. He had been pardoned by the President for those very trades, and so I called him.

Mr. KANJORSKI. Would you call another traitor in the country again?

Mr. LIBBY. I don't believe I know any other traitors, sir.

Mr. KANJORSKI. Stick around this committee long enough. You may learn something.

Mr. BARR [presiding]. The time of the gentleman has expired.

Mr. Fink, drawing your attention please to exhibit 135 we were looking at earlier and the e-mail in the middle of that page from Mr. Azulay to you dated February 10, 2000, the operative phrase there that we're concerned with is "the unconventional approach". What did you take that phrase to mean, "the unconventional approach"?

Mr. FINK. I have no recollection of this particular e-mail. I do not know what Mr. Azulay meant on February 10, 2000. But I do know that I don't believe it was a pardon application.

Mr. BARR. You replied to him, and you don't address it expressly in your reply. You employ some level of detail regarding the backgrounds of the steps that the U.S. Attorneys Office for the Southern District of New York at various times had said they were willing to consider. And then you say, "as for your other question, to the best of my knowledge, other than the negative answer, all other matters remain the same." To what were you referring there and what does that sentence mean?

Mr. FINK. I do not remember.

Mr. BARR. It's a rather unusual e-mail that Mr. Azulay sends. His use of the term "the unconventional approach", did that give you some pause at the time? Did you wonder what he was talking about?

Mr. FINK. I may have actually known what he was talking about at the time. I just do not recall now what he might have been talking about.

Mr. BARR. You have no reason to have any thoughts whatsoever or can't draw any conclusion looking at this e-mail as you sit there.

Mr. FINK. That is correct.

Mr. BARR. And with regard to your e-mail, the one at 10:29 a.m., you don't know as you sit here what you were referring to in that one sentence I read.

Mr. FINK. All of the matters remain the same?

Mr. BARR. To—the whole sentence, to the best of my knowledge, other than the negative answer, all other matters remain the same. Were you replying to his notion of an unconventional approach?

Mr. FINK. I read this e-mail almost as you do. I do not recall it, and I do not recall what Mr. Azulay was talking about. I did volunteer because I thought I should that I have every reason to believe

he was not talking about a pardon. Because I think I would have recalled any serious discussion about a pardon at this time, and I do not.

Mr. BARR. I mean to be honest with you. I have no idea what he's talking about. I don't know that he's necessarily talking about a pardon.

Mr. FINK. I thought that's what you suggested earlier.

Mr. BARR. No, I haven't asked any questions. I was just wondering if you could enlighten us as to what it is he's talking about. He might have had something completely different in mind. I don't know.

Mr. FINK. I do not know.

Mr. BARR. Mr. Libby, there is the very next exhibit, No. 136 from Mr. Fink to Marc Rich, along about the middle of that e-mail it mentions your name. It says that all agree that we should try to approach the DOJ tax lawyers even without the SDNY, Southern District of New York, if necessary. I know that Scooter always felt this was our fall back position.

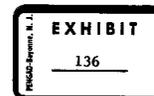
Could you explain briefly what that fall back position was?
[Exhibit 136 follows:]

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

PMR&W 00701



Mr. LIBBY. Sir, as I understand it, the Department of Justice has the right to review any decisions made by a U.S. attorney for any particular district.

Mr. BARR. On tax matters.

Mr. LIBBY. On tax matters. I think on all matters, but you would have to consult someone who does more of this than I do. My feeling was that the Southern District of New York—let me see. I actually don't recognize this sentiment particularly, but I believe that if the Southern District of New York did not give us a satisfactory answer the only resources was the Department of Justice.

Mr. BARR. I don't want to put words in your mouth. Are you basically saying that, given your understanding of the position of the U.S. Attorneys Office for the Southern District of New York, the best approach might be to take the merits of the case and argue them directly to main Justice?

Mr. LIBBY. If we can get main Justice to listen to us, the tax lawyers at main Justice, we would have welcomed the opportunity to, yes, sir.

Mr. BARR. Which was essentially the conclusion Jack Quinn reached.

Mr. LIBBY. Yes, sir.

Mr. BARR. Thank you.

The gentleman from Maryland, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I just want to go back to something that Chairman Burton said a few minutes ago that really disturbed me, and I want to make sure we're very clear there, Mr. Libby, because I want to be very fair to you.

We on this side, Mr. Burton is correct, had major problems with the judgment of the President with regard to these pardons. As to trying to get you to say that the pardons should have been granted, I don't think that's the case. What we're trying to do, though, is get to the truth. The pardons were—I mean, we're—when we're talking about pardons we're basically talking about forgiveness of criminal activity. And we've already had Miss Nolan, Mr. Lindsey, Mr. Podesta come in here and testify that they had a problem with the granting of pardons, and there was no efforts on our part to tear up their testimony. As a matter of fact, we took time out on this side to applaud them for coming in, and I heard Mr. Waxman say it over and over again, applaud them for coming in and making public what had previously been private and being something that was advice given to the President that the President did not adhere to.

And so it's not about trying to get you to say that the President should have pardoned Mr. Rich. However, as Mr. Waxman has said and Mr. Kanjorski has said, you are a person who has spent many years, years dealing with this matter. As a matter of fact, you are without question one of probably the most knowledgeable people about this case. And so it would seem to me, it does not matter to me whether you are the chief of staff for Vice President Cheney or not. To me that's irrelevant.

What is relevant, however, is that you have facts with regard to this case and what the media has sort of zeroed in on is the whole question of what, if any, justification did the President have for

granting these pardons. Was it bad judgment? Was it criminal activity?

And you have come in and you've said something that's interesting—and I'll be very frank with you, I did not expect it, but I'm very pleased to hear it—that you do not believe that these two gentlemen, the subjects of this pardon situation that we're discussing, you do not believe, based upon the information that you have or had, that they have committed any crimes.

I mean that is to me, I mean that to me says a whole lot. And I think it's not about, I mean—and so if you've got a pardon apparatus which is supposed to forgive, be about the business of forgiving criminal activity. But if there are those who are most familiar with the case that have come to the conclusion that there was no criminal activity, then it seems to me that one could make a reasonable argument that perhaps the President at least had some rational basis for doing what he did.

I did hear your testimony with regard to some questions that Mr. Waxman asked you earlier when he went through very carefully the justifications given in the New York Times piece with President Clinton's justification for what he did, and it seems to me, because I was not room at the moment, but as I listened to it, that you agreed with the various points that President Clinton made as the basis for his opinion; I'm not dealing with whether you agree whether she should have pardoned, at least the basis. Was that correct?

Mr. LIBBY. Yes, sir, based on the information available to defense counsel.

Mr. CUMMINGS. Very well. Now you keep saying that and I just want to, you know, be real clear on this. I don't want the public to get the information that defense counsel lacks a whole lot of information about a case. Usually you have a pretty good idea of what the other side is presenting, and that's how you've prepared your defense; is that correct? I mean, most of the time the defense counsel have a pretty good idea of what is going on, what is being offered on the other side. And apparently there's been some talk of negotiation, so you had a pretty good idea, would you guess, about what the prosecution had?

Mr. LIBBY. It's very true in civil litigation, sir, that the defense usually has a very good idea of what the plaintiff has, because civil cases were allowed to discover every bit of relevant evidence. As you may know, in criminal cases the government does not share its cards with the defense. They hold them close to their chest except for certain things that are required by the court to hand over. We didn't reach all of the phases of the case that—where it would have been turned over. So I've been very careful as best I can, sir, to help the committee, to say I do not know what evidence the government may have claimed they had. All I knew was the evidence available to defense counsel and based—

Mr. CUMMINGS. One last question, Mr. Chairman. Just during the course of, you had dealings with the government, did you not?

Mr. LIBBY. I had two meetings with the government in 1987, sir.

Mr. CUMMINGS. And during those times they didn't reveal to you what they had, anything of what they had?

Mr. LIBBY. No, sir, they made some statements. In fact, Mr. Auerbach said to us there was evidence that we didn't know.

Mr. CUMMINGS. Thank you.

Mr. BARR. The gentleman from Connecticut, Mr. Shays, is recognized for 5 minutes.

Mr. SHAYS. Thank you, Mr. Libby, and thank you, Mr. Fink. You have stayed around a while. It's a late night and I appreciate it. And I will confess, Mr. Libby, that this is a little awkward for me, because I consider you a person in a very powerful position, working for someone I have tremendous respect for, who I consider one of the most powerful people in the United States, and you're before the committee and thank you for being here.

But what I wrestle with is just not doing what I have been critical of my colleagues on the other side of the aisle for doing, and that is not asking the questions you really want to ask of maybe your friends. And I consider you and obviously this administration, I hold you up to the highest esteem, but I do want to ask you my questions.

The first thing I do want to say, though, it's my understanding that you in no way were involved in this pardon process.

Mr. LIBBY. Correct, sir.

Mr. SHAYS. And that the purpose for you being invited to this committee was that when you weren't working for the government, you represented Mr. Rich over a period of a number of years.

Mr. LIBBY. Correct, sir.

Mr. SHAYS. It's also my understanding that attorneys can represent people, one, they think are guilty and, two, they may not like, but everybody's entitled to their defense.

Mr. LIBBY. That is correct, sir.

Mr. SHAYS. Now it seems to me that you have some affection for this client that you had and you believed in his cause.

Mr. LIBBY. That is correct, sir. Well, I believed that all the evidence available to me indicated he was not, that his companies were not guilty of the crimes for which they had been indicted.

Mr. SHAYS. They may have been guilty of other crimes but not these crimes.

Mr. LIBBY. I only represented him with respect to these crimes, sir.

Mr. SHAYS. Now Joe diGenova, when he commented about the Marc Rich pardon, said the bottom line is that Mr. Rich, while never subjecting himself to the jurisdiction of the United States, got a pardon under circumstances which are so apparently corrupt by the appearances, large donations by his former wife to the Democratic Party, gifts for the Clinton family, the refusal of the President to talk to the Justice Department about the case. That was said on the Today show, January 30th.

He also said that Rich was indicted and he was a fugitive, which makes him a highly unusual case, in that it is rare for someone who has sought to evade the criminal justice by becoming a fugitive to be pardoned. In fact, I think it is unprecedented. That was said on McLaughlin on January 26th. He said on McLaughlin on the 26th, what is striking about the one pardon that didn't happen was the President did not pardon the American spy, Jonathon Pollard, who spied for Israel. It is clear that Pollard's people did not give

enough money to the DNC or the President and that they had the wrong lawyer, Alan Dershowitz. So there's a lesson there for people seeking a pardon, hopefully from no future President the way this President uses pardons.

Obviously Joe diGenova believes that this was a pretty sad affair, but he's representing Jack Quinn who is entitled to his defense, and he believes that Jack Quinn had every right to lobby the way he did. What I'm interested in knowing is, would you have ever sought to lobby either this administration or the other administration for a pardon for Marc Rich?

Mr. LIBBY. You mean—

Mr. SHAYS. You didn't seek, you didn't try to, but I'm asking you if you had been paid to do so and you were a private sector, would you have sought to get pardon for this man?

Mr. LIBBY. Were I not involved in the government and still in private practice, would I have participated in an attempt to get a pardon for Mr. Rich?

Mr. SHAYS. Right.

Mr. LIBBY. Quite possibly, if the client wished us to get a pardon and I did not see any problem with it. I don't see any technical problem with going for a pardon, if a client wants to.

Mr. SHAYS. Let me ask you this. Would you in your capacity today first advocate that a pardon be granted without making sure that it had been properly vetted?

Mr. LIBBY. No, sir.

Mr. SHAYS. You would, in other words, make sure it was properly vetted.

Mr. LIBBY. If you're asking me—

Mr. SHAYS. Properly vetted.

Mr. LIBBY. Correct. I wouldn't want—

Mr. SHAYS. In your judgment, what would that involve?

Mr. LIBBY. Proper vetting by the White House of a pardon application.

Mr. SHAYS. What would that mean?

Mr. LIBBY. I assume they should gather all relevant information about the person. Let me say that the President's pardon is unfettered, the President's power to pardon is unfettered, so technically it would be proper for him to do it without consulting with anyone and it would be not questioned. I believe that.

Mr. SHAYS. I know my red light's on but when you guys do this to me, it just blows my mind. Having an absolute power, if anything, means, doesn't it, that they should do an even more thorough job to make sure they have vetted it properly?

Mr. LIBBY. Yes, sir. I was about to finish by saying while he has that absolute power, it seems to me he should exercise it by bringing in all the possible information that would be relevant to him and thereby have a process which would be fair and have very high standards.

Mr. SHAYS. Including—

Mr. BARR. The gentleman's time has expired.

Mr. WAXMAN. If I might be recognized.

Mr. BARR. The gentleman from California is recognized for 5 minutes.

Mr. WAXMAN. Mr. Libby, you just answered what you would say if you were advising the administration on how to handle this sort of thing. But you were for many years the counsel for Mr. Rich. Can you tell us how much money you received or your firm received in that capacity?

Mr. LIBBY. I received none. The firm would receive the fees. I don't know offhand how much it would be.

Mr. SHAYS. Over \$100,000, over \$500,000, over a mill?

Mr. LIBBY. Certainly, sir.

Mr. SHAYS. Over \$2 million?

Mr. LIBBY. It is probably in that ballpark, I would guess.

Mr. SHAYS. Now, as a good lawyer—

Mr. LIBBY. At different firms. I was in different firms over this—firm received in total.

Mr. SHAYS. But you had Mr. Rich as your client?

Mr. LIBBY. Yes, yes.

Mr. SHAYS. Now, as the defense counsel for Mr. Rich, you heard what he had to tell you, but wouldn't you make an investigation as to what the case might be on the other side to try to prepare for your client's best interest?

Mr. LIBBY. Certainly, sir.

Mr. SHAYS. And when Mr. Wolfman and Ginsburg had the information before them to make their report, did they get all the documents that they needed to get, in your opinion, to give a sound judgment on their part?

Mr. LIBBY. All the documents available to us were available to them.

Mr. SHAYS. OK. And you think that they had the documents that would have given them the information they needed to reach their conclusions they reached.

Mr. LIBBY. Yes, they had the information that they needed, to the extent we had it, to reach their conclusions.

Mr. SHAYS. Well, a lot of people tried to discredit their analysis by saying they didn't have valuable, they didn't have valuable and accurate analysis of the situation. You're not critical of them, you think that they had valid information.

Mr. LIBBY. Right. I believe they had the best information that they could have.

Mr. SHAYS. And you had the best information you could have, although no one has all the information, but you've told us that based on all the information you had, you didn't think that Mr. Rich was or his companies were guilty of the crimes for which they were charged.

Mr. LIBBY. Based on the information available to us, yes, sir.

Mr. SHAYS. You don't want to say whether the President could give a pardon or not, you don't want to reach the conclusion on that issue. But would the President of the United States have to be corrupt, would the President of the United States have to take a bribe to reach a conclusion in his mind on the merits that perhaps Mr. Rich and Mr. Green were not guilty of the charges brought against them?

Mr. LIBBY. Would he have to take a bribe? No, sir.

Mr. SHAYS. Would somebody have to take a bribe to reach that conclusion, or do you think somebody on their view of the merits

could agree that these charges shouldn't have been brought and that a pardon would resolve the matter, just as the prosecutor dropping the case would resolve the matter?

Mr. LIBBY. I don't know what was going through the President's mind when he made his decision.

Mr. SHAYS. Of course you don't know, and I don't know either. But would a reasonable man reaching the conclusion that he reached only come to that conclusion if he were corrupt, or could he have the view of the merits that you seem to have also had, that the charges weren't justified?

Mr. LIBBY. I believe it would have been more reasonable for the President to have received fuller information, from what I understand.

Mr. SHAYS. I think so, too. I feel very critical that he didn't get more information. But what he had, based on what he had, it's not unthinkable that he could reach this conclusion that he reached? You reached the same conclusion, that the charges brought against Mr. Rich and Mr. Green were not justified.

Mr. LIBBY. Correct, sir; I reached the conclusion that based on the evidence available to us, he was not guilty of the crimes for which he had been indicted.

Mr. SHAYS. I don't want to belabor the point about your view that they might be traitors. I don't know what the legal ethics are for representing people you consider to be traitors for 17 years. It's a little puzzling you would call a traitor up and congratulate him on a pardon. So—and then I think there were technical issues, maybe you weren't involved in them, whether the subsidiaries were foreign subsidiaries, whether they're parent companies or sister companies. Do you think that there's a legal argument that perhaps they weren't traitors to the country of the United States?

Mr. LIBBY. There's a legal argument that the trade that was engaged in was a legal trade, as I understand it.

Mr. SHAYS. And if it were a legal trade, would they be traitors to the country? This country?

Mr. LIBBY. Well, you can take the view that it would be—that what they were doing, while legal, was not in the country's best interest, and that's the final question.

Mr. SHAYS. It may not be in the country's best interest; that doesn't make you a traitor. Traitor's a legal matter. Mr. Fink, do you think Mr. Rich and Mr. Green were traitors to this country? You know a lot about this whole case.

Mr. LIBBY. That was never my perception.

Mr. SHAYS. Thank you.

Mr. BARR. Mr. Libby, in the editorial published by the New York Times that we've discussed earlier today, President Clinton wrote, "The applications were 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."

That was not an accurate statement, that the President made, was it?

Mr. LIBBY. That is correct. It was inaccurate.

Mr. BARR. The fact of the matter is that you've never reviewed the pardon application, have you?

Mr. LIBBY. Even to this day, sir.

Mr. BARR. And you have never advocated on behalf of the pardon application, have you?

Mr. LIBBY. That's correct, sir.

Mr. BARR. Do you know where Mr. Clinton got this wrong information?

Mr. LIBBY. I have no idea, sir.

Mr. BARR. Thank you. I yield to the gentleman from Connecticut, Mr. Shays.

Mr. SHAYS. Thank you. Mr. Libby, I interrupted you when I asked you about absolute power because I anticipated an answer that I had no right to anticipate. It was your testimony that an absolute power, because it's an absolute power, needs to be exercised more carefully.

Mr. LIBBY. I would agree with that statement, sir.

Mr. SHAYS. And the question I now wonder—because one of the issues that this committee does is we look at waste, fraud and abuse, and we don't legislate, we don't appropriate, but what we do is recommend changes. Now obviously, an absolute power can be exercised by this President any way he chooses to, but one of the hopes that I have is that this committee will recommend to this administration that they don't do all the stupid things that we heard happen in today's testimony. And I would make the assumption that your people are looking at what happened in the last few months and are hopefully saying we are not going to do the same thing.

Mr. LIBBY. President Bush has stated, sir, that he believes that the power is a virtually unfettered power but that he would exercise it fairly and with high standards.

Mr. SHAYS. It's also my understanding that we need to look at the revolving door process, and Mr. Kadzik is an individual who was hired, frankly, to lobby Mr. Podesta. He knew him, he was a client. Mr. Podesta was a client. I am not trying to say something, since he's not here to defend himself. That's pretty much factual and I'll leave it at that. We even have Mr.—well, it just strikes me that part of the reason this administration got into trouble was that it allowed certain people to have access, who had significant influence, who only knew part of the story. Frankly, Mr. Libby, you only know part of the story.

Mr. LIBBY. That's correct.

Mr. SHAYS. Unless you have checked with the Intelligence community of the United States to understand all the various activities of this man called Marc Rich. And I make an assumption that when you were in the private sector you did not have that capability.

Mr. LIBBY. Of course not, sir.

Mr. SHAYS. I'm also going to make an assumption, and tell me if I'm wrong, that when you were in the public sector and might have had access to this information, because you were not going to involve yourself with Mr. Rich's activities as a government employee, that you did not seek to get this information.

Mr. LIBBY. That's correct; I recused myself.

Mr. SHAYS. So the bottom line is it's almost irrelevant, with all due respect and with no disrespect, for you to suggest that he should have gotten a pardon or shouldn't have, because you truly don't know facts that this committee knows that may have led you to another conclusion.

Mr. LIBBY. That is the point I've been trying to make, sir.

Mr. SHAYS. And it's also a fact that—I guess, let me ask you this question. Is the administration considering a revolving door process to set a standard to make sure that if someone leaves the employment of the White House or the executive branch, they at least not lobby the executive branch for a period of time like we have in Congress, which is 1 year?

Mr. LIBBY. I do not as a matter of fact know that, sir, and I'm not here the person to testify for the administration on that. I'm not here tonight as an administration witness.

Mr. SHAYS. Well, I would just, since I don't get to speak to you as a general rule, I would make that argument that this is something that would be helpful to the administration, because in my judgment it will prevent the kind of junk that we have seen happen in the last few weeks. It's a protection to the administration and to the American people, and I truly hope that will be considered along with a very clear process of vetting of pardons.

Mr. LIBBY. I agree so, sir, and I welcome the chance to talk to you outside of this informal format to go through that.

Mr. BARR. The time of the gentleman has expired. The gentleman from Maryland, Mr. Cummings, is recognized for 5 minutes.

Mr. CUMMINGS. Thank you very much Mr. Chairman. I really want to followup on some of what Mr. Shays has said, and I think that there is no one who has listened to this who doesn't understand the fact that you don't have every fact of this case, and I think that you've been very clear on that and I really do appreciate the way you have presented it, because I mean we understand that. That's not the issue, though.

Mr. LIBBY. Thank you, sir.

Mr. CUMMINGS. But let me just ask you this. I'm also a lawyer and there's some cases when you take them, you really believe that your client's got a great shot. On the other hand, there are some cases that you take and you almost want to walk in to the prosecutor's office and say let's make a deal. And you may not in either case, you don't have all the facts. You don't have everything that the prosecution has but you do have what your client's telling you. You do have documents that they may have presented to you. You do have access to witnesses that they feel might shed light on their case and might be helpful.

And so I guess what I want to ask you is that this was not one of those cases—you worked on it for so long, but this was not one of those cases that you wanted to walk into the prosecutor's case and say, look, you know my clients are guilty, and let's make a deal as fast as we can. It wasn't that kind of case, was it?

Mr. LIBBY. No, sir.

Mr. CUMMINGS. And it was a case, I take it from just based upon what you've told us, that you felt that you—your client would have had a reasonable shot if he had gone to trial, if they had gone to trial, would have had a reasonable shot because you never can tell

what a jury is going to do, but what he had a reasonable shot at being successful; is that right?

Mr. LIBBY. Based on all the evidence available to the defense, that's right, sir.

Mr. CUMMINGS. So when Mr. Shays talks about you not having all the facts, I mean we understand that. But we also understand that you had quite a bit of information, as you testified to a little bit earlier.

Let me just go back to something that you said that I'm just curious about. You said that Mr. Rich called you and you all had a discussion with regard to the fact that he had been pardoned.

Mr. LIBBY. He called; essentially correct, sir. He called Mr. Green and left a message with Mr. Green in effect that he would like to speak to me.

Mr. CUMMINGS. You did speak to him, then?

Mr. LIBBY. I did speak to him; yes, sir.

Mr. CUMMINGS. Can you tell us about that conversation?

Mr. LIBBY. Sure. I called him from my home very early in the morning. He's in Switzerland and so there's a time difference. It was a very brief conversation. By the time he got on the phone, it might have been only a minute or so, or 2-minute conversation. Was quite brief. He said that he appreciated what I had done for him over the years of working for him, of course, prior to the pardon, and I congratulated him on having reached a goal that he had sought for a long time. Of course, none of these issues had arisen at that point in time. I had no idea what had gone on in the pardon process, even the newspaper reader's idea of what had gone on in the pardon process. This all came up later.

Mr. CUMMINGS. Now, we fully understand that you were not a part of actually trying to get this pardon. We understand that. But when he thanks you, I take it that you can—I mean, if you can shed some light on this I'd appreciate it—that he was thanking you because you basically were the architect over the years for putting again together enough information. And I mean, through your efforts, that's a lot of—you said somewhere in the area of \$2 million worth of work—that's quite a bit of work. But you were the architect for putting together a lot of the information that was probably used in Mr. Quinn's arguments and in the justification that the President gave in the article that has been referenced so much here in the New York Times. Is that correct?

Mr. LIBBY. Well—

Mr. CUMMINGS. I'm not saying that you did it with the pardon intent and effort, but basically a lot of that information was probably used; is that correct?

Mr. LIBBY. The defense team divided up the issue, sir. I worked primarily on the tax issue and I worked some on the energy issue. Mr. Fink's firm had experts in energy law and export controls and things like that, so his firm led that portion of the case. So it was a team effort in which my prime responsibility had to do with the tax side of the case.

Mr. CUMMINGS. Let me just say this and then I'll—I want to—I do agree with Mr. Shays on this, that I think we have all learned a lot from this, and I'm glad that you are where you are in the administration, because I think that there's nothing like going

through a process like this that teaches us more. I mean, a lot of people can tell us, but once we go through this process I think it is a very tough lesson about trying to make sure that, you know, we can see how things can be dealt with in a proper fashion in the future. And I appreciate your comments in response to Mr. Shays' questions about, you know, the administration and President Bush and how he intends to handle these matters, and I do appreciate your testimony.

Mr. LIBBY. Thank you, sir.

Mr. LATOURETTE [presiding]. I thank the gentleman from Maryland for his excellent questions. And, fellows, when they ask me to chair the hearing, it means we're almost done. I can guarantee you that. And it's now time for the counsel on each side to ask questions, and we'll yield to the counsel for the majority, Mr. Wilson.

Mr. SHAYS. Mr. Chairman, if I could just inquire, we should feel free—I don't want to give up my right to ask more questions.

Mr. LATOURETTE. You've surrendered no right.

Mr. SHAYS. I may not have any but—and Mr. Cummings may want to stay as well.

Mr. LATOURETTE. If you have questions, Mr. Shays, just let me know. We'll go to Mr. Wilson. If you want to interrupt him, or if you want time in your own right, just let us know.

Mr. WILSON. I will try and move quickly through this, and I'm glad we are not talking about kidnapping statutes this time either.

Mr. Libby, just for the record, we've had a lot of discussion about what you know and what you didn't know, and you have been very careful, you said, based on evidence available to the defense or based on the evidence available to me. And I wanted to just make sure we have the full understanding of that, because when we had prosecutors testify before us, they spoke of dozens of witnesses that they were prepared to put on at a trial, and it is fair to say that you did not know what those witnesses would have said at trial.

Mr. LIBBY. It would depend which witnesses. Well, it is true I did not have any idea what they would say at trial. Some of the witnesses we had interviewed and some of the witnesses we may have seen previous testimony from. Those people, we had at least some notion of what they might say at trial, but I do not know who their dozens of witnesses would have been. To the extent I know of their witnesses and who they are, then we had some sense of what they would say with almost entirely—almost all of them, we had a good sense of what they would say.

Mr. WILSON. And I think that goes to my point that you knew some of what the government had, but you didn't know everything and you didn't know all of the witnesses that would be made available and you were not aware of everything that would be said; is that correct?

Mr. LIBBY. That's correct, sir.

Mr. WILSON. And for example, I mean this is somewhat hypothetical because we don't know, but if there are witnesses who would have testified that information had been destroyed or documents had disappeared, that would have had an impact on the overall case, would it not?

Mr. LIBBY. Probably not on the tax analysis. It would have had an impact on how the jury might have viewed them. It might have

had an impact on an obstruction of justice charge. The tax analysis has to do with the transactions that occurred and what motivated those transactions. Intent is really not all that important for it and destruction of documents might not be so important for it, but it might well color how a jury perceived what went on.

Mr. WILSON. But in addition, without the full knowledge of what the facts of the case were—and it's entirely possible that there were facts that were unavailable to the tax analysis, indeed this is what the prosecutors told us a few weeks ago, that there was information that was significant for the tax analysis—it is not your position today that there could have been no additional information that would have been germane to the tax analysis, is there?

Mr. LIBBY. Correct. It's my contention that there may have been, although I don't know what it may be.

Mr. WILSON. Fair enough.

Mr. Fink, when Mr. Quinn left Arnold and Porter, and I believe that was the end of 1999, did you—I should back up because we're starting a new subject. When Mr. Quinn was at Arnold and Porter, he had a retainer agreement whereby Mr. Rich paid, I believe, \$55,000 per month to his former law firm, Arnold and Porter. When he left his law firm, did you discuss with him the possibility of signing a new retainer agreement to compensate him for the work that he would do for Mr. Rich?

Mr. FINK. The precise answer, I think, is no. We did have a conversation about the fact that we did not have a fee arrangement, but we didn't talk about a retainer agreement, to the best of my recollection, after he left Arnold and Porter.

Mr. WILSON. Why was there no fee arrangement?

Mr. FINK. The work that had been done while he was at Arnold and Porter ended in early 2000. I think everybody felt there wasn't any need to provide additional compensation for that work, and it did not appear at all certain that there would be additional work in the future.

Mr. WILSON. And that might explain why a retainer wouldn't be signed; but as Mr. Quinn did additional work, was it ever contemplated that you would be compensated for the work he was doing?

Mr. FINK. It was contemplated by me.

Mr. WILSON. And what were you thinking about Mr. Quinn's compensation?

Mr. FINK. I personally thought that we should try and come up with a retainer agreement for Mr. Quinn going forward. But we did not.

Mr. WILSON. And was there a reason for not coming to some type of arrangement? The general perception of lawyer is they're not benevolent societies and they do need to pay their bills, and we're just wondering why there was not an arrangement agreed to.

Mr. FINK. It was not an issue that was pursued by anybody. There was very little activity from the spring of 2000 to the fall of 2000.

Mr. WILSON. 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.

Mr. WILSON. And if you could, tell us what you were thinking.

Mr. FINK. Actually, 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 fee arrangements.

Mr. WILSON. Did you discuss with Mr. Rich compensating Mr. Quinn?

Mr. FINK. Could you excuse me just one moment?

Mr. WILSON. Certainly.

Mr. FINK. The answer is yes, I did. I communicated thoughts I had to Mr. Rich, with which he did not disagree.

Mr. WILSON. And what did you communicate to him?

Mr. FINK. I actually communicated to him what I told to Mr. Quinn.

Mr. WILSON. And what was that?

Mr. FINK. That we would come to a fair fee arrangement that was consistent with his normal fee arrangements.

Mr. WILSON. So you had communicated to Mr. Quinn that you would come to an arrangement with him to compensate him?

Mr. FINK. Yes.

Mr. WILSON. And when was that?

Mr. FINK. The precise date I do not know, but it was most likely early November 2000.

Mr. WILSON. 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.

Mr. WILSON. When I was asking Mr. Quinn about his compensation?

Mr. FINK. I believe you were the questioner.

Mr. WILSON. 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.

Mr. WILSON. And it was also his expectation, correct?

Mr. FINK. I can't speak for his expectation. I can only tell you that we had this very brief—honestly, very brief—it wasn't even a conversation, it was my comment to him. I do not remember his response to me. And that was the entire exchange on fees.

Mr. WILSON. Did you ever hire an individual named Neil Katyal?

Mr. SHAYS. Before the gentleman proceeds on that question, I'd like to interrupt and ask, would it have been unethical for Mr. Rich or you to have Jack Quinn get a contingency based on whether or not a pardon was approved or not?

Mr. FINK. I do not know, but I would have been leery of such a proposal.

Mr. SHAYS. Because you would have thought it was unethical?

Mr. FINK. I do not know if it is unethical. I just would have been leery of a proposal like that. I was leery. I would not have agreed to that.

Mr. SHAYS. And you would not have done that.

Mr. FINK. I would not have.

Mr. SHAYS. And you can testify before this committee that Mr. Quinn will not get some payment in this near future or the distant future because of the pardon?

Mr. FINK. I cannot testify to that. I can just tell you that there was no contingency fee agreement with Mr. Quinn in which I participated or of which I know.

Mr. SHAYS. But the bottom line is now that there's a pardon granted, Mr. Rich is free to travel throughout Europe, where before he couldn't, and evidently can come into the United States; is that correct?

Mr. FINK. That calls for a legal conclusion, the answer of which—well, I'm not qualified to answer that, but I would have the same assumption you do.

Mr. SHAYS. And so the bottom line is you—the work that Mr. Quinn did is huge. I mean he spent, he spent literally millions hiring other attorneys, and in the end he's got a pardon in large measure because of what Mr. Quinn has done; isn't that true?

Mr. FINK. I credit Mr. Quinn for a lot of the success.

Mr. SHAYS. Thank you. Thank you.

Mr. WILSON. Congressman Shays calling me a gentleman is the first nice thing that has been said to me this month. Thank you very much.

Mr. Fink, did you ever hire at any point an individual named Neil Katyal who I believe worked in the Deputy Attorney General's Office to work on the Rich matter?

Mr. FINK. No.

Mr. WILSON. No, OK. Do you know where Mr. Katyal works now?

Mr. FINK. No.

Mr. WILSON. What was Michael Steinhardt's role in the pardon process, if there was any role?

Mr. FINK. I hesitate only because the word "role" can have many meanings to many different people. He wrote a letter. He may have encouraged others to do so. That's all I can recall.

Mr. WILSON. What is Mr. Steinhardt's relationship to Marc Rich?

Mr. FINK. My perception is that they're friends.

Mr. WILSON. Fair enough. If you could take a look at exhibit 69, please, which should be in the book in front of you.

[Exhibit 69 follows:]

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



PMR&W 00180

Mr. FINK. 69?

Mr. WILSON. 69, correct. This is an e-mail from you apparently to Mr. Azulay, Mr. Green and Ms. Behan, and the text—it's an e-mail, and it says: 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.

Was it, in your opinion, a bad thing for the Securities and Exchange Commission to know about the Rich pardon application?

Mr. FINK. Not in and of itself.

Mr. WILSON. But that was not a concern of yours that the SEC would—

Mr. FINK. I never was concerned that the SEC would learn about it.

Mr. WILSON. But there was a concern?

Mr. FINK. No no.

Mr. WILSON. OK.

Mr. FINK. The concern, the concern that I had was one I enunciated earlier. I was always concerned that the pardon application would become a matter of public record and create a press reaction such as that I had seen in the early eighties, and I felt that would not be helpful for a thoughtful review of the pardon application.

Mr. WILSON. Fair enough. I'd like to just return for one moment to the fees question. If you could take a look at exhibit 70, which fortunately should be the very next one in your exhibit book.

[Exhibit 70 follows:]

Fink, Robert - NY

From: Jack Quinn [JQuinn@redacted]
Sent: Monday, January 22, 2001 1:12 PM
To: 'Fink, Robert - NY'
Subject: RE: Pardon document

re press calls, the question of fee might come up. as i think you know, marc is not obligated to pay me anything. whether he will or not, i do not know and have never discussed it with him. anything he might later choose to pay is voluntary. i felt he had paid me well in 99 and that i had an obligation to see this through to the end.

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@redacted]
Sent: Monday, January 22, 2001 10:58 AM
To: 'Jack Quinn'
Subject: RE: Pardon document

screen down if you can. Are you on a real computer?

> -----Original Message-----
> From: Jack Quinn [SMTP:JQuinn@redacted]
> Sent: Monday, January 22, 2001 10:59 AM
> To: 'Green, G. Michael'; 'marc.rich@redacted'
> Cc: Jack Quinn; 'robert.fink@redacted'
> 'kathleen_behan@redacted'
> Subject: RE: Pardon document

> I didn't get any attachment
>
> -----Original Message-----
> From: Green, G. Michael [mailto:GreenM@redacted]
> Sent: Monday, January 22, 2001 10:44 AM
> To: 'marc.rich@redacted'
> Cc: 'jquinn@redacted'; 'robert.fink@redacted'
> 'kathleen_behan@redacted'
> Subject: Pardon document

> Here is the master pardon warrant signed by President Clinton on Saturday.
> According to Roger Adams, the Pardon Attorney with whom I spoke this morning, an individualized pardon for Messrs. Rich and Green will be forthcoming.

>> -----Original Message-----
>> From: FAX Dispatcher
>> Sent: Monday, January 22, 2001 10:09 AM
>> To: Green, G. Michael
>> Subject: FW: Fax Receipt [redacted]

>> -----Original Message-----
>> From: Fax monitor
>> Sent: Monday, January 22, 2001 10:15 AM
>> To: FAX Dispatcher
>> Subject: Fax Receipt [redacted]

>>
>> INBOUND FAX NOTIFICATION
>>

>> You have received an inbound fax.
>>
>> Date: 1/22/01
>> Time: 10:14:00



PMR&W 00185

Mr. FINK. 70?

Mr. WILSON. Correct. This is an e-mail from Mr. Quinn dated January 22nd, 2001. It's to Mr. Fink. Subject, RE: Pardon Document. And the text is: Re press calls, the question of fee might come up. As I think you know, Marc is not obligated to pay me anything. Whether he will or not, I do not know and have never discussed it with him. Anything he might later choose to pay is voluntary. I felt he had paid me well in 1999 and that I had an obligation to see this through to the end.

When you got this e-mail from Mr. Quinn, what were you thinking?

Mr. FINK. I do not remember what I was thinking, precisely. It seemed to me that he was reminding me that we had never agreed on a fee; that he had never suggested one.

Mr. WILSON. Now, did it strike you as odd that the context for this communication was regarding press calls?

Mr. FINK. I do not remember. Is that working still?

On Monday, January 22, this fact that someone was concerned about press inquiry did not strike me as odd. That's what we were dealing with, press inquiry.

Mr. WILSON. Right, but specifically regarding the compensation aspect. I mean, would expect him to have been compensated. That would be a fairly normal arrangement. Here he had not been. So did it strike you as odd in the context of press inquiries there was a concern about compensation?

Mr. FINK. I don't remember, but I don't believe that I was surprised that the press was asking him questions about compensation. I had already been asked questions about compensation by that point, I believe.

Mr. WILSON. Did you follow this e-mail up with any communication, verbal communication? Maybe a better way to ask that is, what happened after you read his e-mail?

Mr. FINK. I don't believe, I don't believe—well, that's not true. I was going to say I don't believe Jack and I talked about fees after that. But I think we did, and the subject was that he had—his fee arrangement had never been fixed and it still wasn't. And I believe I told him that I realized that and that I intended to discuss it with Mr. Rich.

Mr. WILSON. Thank you. Let's move on to the last subject that I'll cover today and it involves Denise Rich. Mr. Fink, how long have you known Denise Rich?

Mr. FINK. My best recollection is that I met Denise Rich circa 1985.

Mr. WILSON. And do you know how much money she received in her divorce settlement with Mr. Rich?

Mr. FINK. Just a moment, please. I apologize for the delay. The answer to your question is, to the best of my recollection, I do know; but the amount would cause me to reveal an attorney confidence, an attorney-client confidence.

Mr. WILSON. OK. Do you know whether Denise Rich has any bank accounts or had at any time in the past year any bank accounts or trust funds to which she and Marc Rich have joint control or access?

Mr. FINK. I do not.

Mr. WILSON. To your knowledge, has Ms. Rich received any money from Marc Rich since her divorce settlement other than anything that was contemplated in the settlement itself?

Mr. FINK. I have no knowledge of any such thing.

Mr. SHAYS. Are you aware of any request for a revision of the settlement or increased funds for her children?

Mr. FINK. No, I am not.

Mr. WILSON. As has been reported recently, Ms. Rich gave over \$1.2 million to the Democratic Party—

Mr. FINK. I'm sorry, I missed what you said.

Mr. WILSON. As has been reported, Ms. Rich gave a little over \$1.2 million to the Democratic Party and gave \$450,000 to the Clinton library. Do you have any knowledge as to whether these contributions were made with her own money or they were not made with her own money?

Mr. FINK. Other than the fact there are press reports about this, I have no knowledge of the contributions at all. That is meant to include your question.

Mr. WILSON. Right. Do you know whether Marc Rich or anyone acting on Marc Rich's behalf suggested that Ms. Rich make any contributions to any political causes?

Mr. FINK. I do not.

Mr. WILSON. To the Clinton library?

Mr. FINK. I do not.

Mr. WILSON. Prior to November 2000, which is the ballpark time for the pardon process commencing, had you ever attempted to involve Denise Rich in any of the strategy that went toward solving Mr. Rich's legal problems?

Mr. FINK. I think the answer to your question is no, I had not.

Mr. WILSON. Were you part of any contemplation to bring her in in any way to play a part in the resolution of Mr. Rich's legal problems?

Mr. FINK. Could you pardon me for one moment. The answer would call for confidential information. My answer to your question would require me to reveal confidential information.

Mr. WILSON. Confidential information. Is there a privilege that's involved in this?

Mr. FINK. There's a privilege that's involved here.

Mr. WILSON. Perhaps you might share with us what the privilege is.

Mr. FINK. Just one moment. It's unfortunate. I mean, I find it hard as a lawyer here to testify. I approach this whole thing with some dread because of this problem. So bear with me for one moment.

Mr. WILSON. Sir, please.

Mr. FINK. I believe and I have been advised that it is both attorney-client and work product privileges are involved here. My opinion is consistent with the advice I'm receiving.

Mr. WILSON. OK. If you could take a look, please, at exhibit 137 in the book that's in front of you there, there appear to be two e-mail communications here. The lower one is dated March 1, 2000. It is from Avner Azulay and it appears to be to you, Mr. Fink. And while you're looking at it I'll just read the text: "I had a long talk with JQ and Michael. I explained why there's no way the MOJ is

going to handle—to initiate a call to EH—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 DR on a ‘personal’ mission to No. 1 with a well prepared script.”

There are a few questions that flow from this, but could you tell us what was contemplated by sending DR on a personal mission to No. 1?

[Exhibit 137 follows:]

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 see 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
Sent: Saturday, March 18, 2000 2:11 AM
To: robert.fink
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 bureaucrat 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 repeat itself. If it doesn't - then probably Gershon's course of action shall be the one left option to start all over again. This is only for your info. Regards-AA

PMR&W 00729



Mr. FINK. I cannot. And it's not because of privilege, it's because I do not know. I may have known, but I certainly do not remember from reading this e-mail.

Mr. WILSON. I know the shorthand that's used in the e-mails, there is a lot of shorthands, and initials are used. But is No. 1 the President?

Mr. FINK. It was not a code that we had but I read it as you do, and I also read it as No. 1, although it could be read differently. I read it as you do.

Mr. WILSON. And DR in the context of the e-mails we've reviewed is Denise Rich.

Mr. FINK. That would be my assumption as well.

Mr. WILSON. And I don't know if I can get more out of this, but here in the text, We have sent send DR on a personal mission to No. 1, and the "personal" is in quotation marks. What does personal mean in this context?

Mr. FINK. I do not know. I would only be speculating entirely. I have no idea.

Mr. WILSON. I mean, this may be more puzzling to us now than it was to you then, but do you recall whether upon receiving this e-mail you contacted Mr. Azulay in any manner to try and figure out what he was talking about?

Mr. FINK. I have no recollection. It looks like I responded by my e-mail above and that does not help refresh my recollection either, candidly. I looked at this e-mail earlier today when you guys were discussing it to see if I could remember it, and I could not.

Mr. WILSON. Now, the date of this e-mail is March 18, which is quite a bit in advance of the pardon process starting in November 2000. Do you recall anything about Denise Rich's involvement in any of the legal problems Mr. Rich had prior to November 2000?

Mr. FINK. That is, not to be critical, a very broad question. The answer, considering it is so broad, would have to be yes. I'm sorry, the answer is yes. I'll let you ask your next question.

Mr. WILSON. It was purposefully broad. I'll try to narrow it a little bit. Just staying within the bounds of the year 2000, if you could tell us anything you know, anything you know about, involving Denise Rich.

Mr. FINK. I have no recollection of any involvement with Ms. Denise Rich during this period of time in 2000. I do know that there was involvement later in 2000. I actually participated in some of that.

Mr. WILSON. But in response to my very broad question, is it fair to characterize there was involvement; you just don't remember what it was?

Mr. FINK. No, no. 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.

Mr. WILSON. The conclusion to the e-mail I read, almost all of it, I didn't read the conclusion of the e-mail. The last couple of sentences are "if it doesn't work"—this is the "personal mission to No. 1 with a well prepared script." Then it follows: "If it works we didn't lose the present opportunity—until Nov—which I assume to be November—which shall not repeat itself. If it doesn't, then prob-

ably Gershon's course of action that be the one left—and it says one left option to start all over again. This is only for your info. Regards, A.A.”

Do you recall at what Gershon—this refers to Gershon Kekst, a publicist in New York—do you know what Gershon's course of action was?

Mr. FINK. Well I do not know what Mr. Azulay was trying to say in this sentence.

Mr. WILSON. Do you, just based on your knowledge of who was doing what at the time, do you have any sense of what he was trying to communicate or what is attempted to be communicated here?

Mr. FINK. Could you give me 1 second, please? As you can tell, this is not written as well as people might like for clear discourse. But I suspect that he's talking about an application for a pardon here.

Mr. WILSON. OK. Thank you very much. Thank you, Mr. Libby.

Mr. LATOURETTE [presiding]. Counsel's time has expired. It is now time for counsel for the minority to ask whatever questions you choose to. You have 30 minutes.

Mr. BARNETT. Thank you. I'm Phil Barnett. Good evening. I'm counsel for the minority.

Mr. FINK. Good evening.

Mr. BARNETT. Good evening. It definitely is well into the evening. Mr. Libby, I have a few questions for you.

Mr. LIBBY. Yes, sir.

Mr. BARNETT. Yes, sir?

Mr. SHAYS. Mr. Libby, could you move your mic down for us? We will hear you better.

Mr. BARNETT. I think you said earlier that you were asked by Mr. Green in November 2000, did you want to work on the pardon application. And you said, if I remember right, you were tied up in the transition and you didn't have time and you didn't think it was appropriate for you to do; is that right?

Mr. LIBBY. Without being ironic, could you move your mic closer to your mouth, because I'm having—

Mr. BARNETT. I'm sorry. You didn't participate in the pardon application because you were busy with the transition. My understanding is that was your testimony.

Mr. LIBBY. Just for the record, I did not hear the first part of your question. I'm not sure where you picked it up at.

Mr. BARNETT. I was trying to recall your testimony earlier this evening, I was beginning with a call you received from Mr. Green who had asked whether you wanted to participate in the pardon application, whether you wanted to represent Mr. Rich in the pardon process. And my recollection was your answer was you didn't have time to do it, you were wrapped up in the transition, you had those duties, and you didn't have time and it wouldn't have been appropriate for you to represent Mr. Rich in the pardon.

Mr. LIBBY. Correct.

Mr. BARNETT. It wasn't because you had a view that it would be inappropriate being a lawyer seeking a pardon for Mr. Rich.

Mr. LIBBY. That is correct. A pardon is a legitimate activity for a lawyer to engage in.

Mr. BARNETT. In fact, I think Mr. Shays actually asked you that question: Would you have, if you had a client who wanted a pardon, would you file a pardon application? And your answer was if your client wanted that, you would do that.

Mr. LIBBY. Assuming all the circumstances were such that I was comfortable with it, yes.

Mr. BARNETT. That's what Mr. Quinn, Jack Quinn, did in this case. He came in the case, I understand, in 1999, spent a considerable amount of time with you understanding the merits of the case. And he tried first at the Justice Department to have a meeting and to get the case dismissed on the merits. When that failed and there was a decision to seek a pardon, he took that on. He testified in front of our committee for many, many hours; and boiling down his position as I understood it, he said people might disagree about the pardon but he thought it was defensible on the merits. And he was comfortable arguing for the pardon because he thought it was defensible on the merits.

If you were taking this case on, would you make the same argument as Mr. Quinn did?

Mr. LIBBY. I don't know. I don't know the details of what Mr. Quinn argued.

Mr. BARNETT. You know the details of Mr. Rich's case probably better than Mr. Quinn. If you were Mr. Rich's pardon attorney seeking a pardon, what kind of argument would you make?

Mr. LIBBY. I assume I would argue that and I might argue other aspects of the case as well. It's pretty hard to say what kind of arguments I would make in an abstract pardon application not before me, for a client I'm not aware of.

Mr. BARNETT. If we made it more concrete with Mr. Rich as the client and the facts as you know them, the facts as they were available to the defense counsel, what argument would you make?

Mr. LIBBY. Generally, I would argue the facts of the case, as I assume Mr. Quinn did. I would argue other good deeds that may have been done by the witness or by the accused, as I assume Mr. Quinn would have done. You might also talk about activities of government, if there were any.

Mr. BARNETT. Would you make any argument that you thought was not defensible?

Mr. LIBBY. No.

Mr. BARNETT. So these arguments you would make in this case are arguments that you would think would be defensible arguments and a defensible basis for the pardon.

Mr. LIBBY. If I were engaged in a pardon, I would only make defensible arguments.

Mr. BARNETT. I guess what the question I'm trying to ask is, was the pardon defensible on its merits?

Mr. LIBBY. I have no idea, sir. You have asked me if Mr. Quinn would make defensible arguments. I assume he would make defensible arguments. That's different from the decision to grant the pardon. I don't know about the decision to grant the pardon. I don't have the evidence that was before the President when he made his decision.

Mr. BARNETT. I don't know if you watched much of the hearing we had today, this afternoon. It was a long hearing. You probably

have lots of other responsibilities. The scenario or the picture that came across, as I understood it, was that it was a broken-down process, particularly as it regards Mr. Rich's pardon. It had come up, I think, on January 16 at a meeting the President had with Mr. Podesta, Mr. Lindsey, Ms. Nolan, and they had come away with the impression that the pardon wasn't going to go anyplace. They viewed it was inappropriate and they have didn't think the President was going to pursue it. As a result, they didn't seek out information from the CIA and the National Security Agency and others. They had a lot of things going on at the time.

They thought it was a dead issue, so they didn't pursue it. Then they come to the evening before the transition and the President has gotten a call from Prime Minister Barak, and all of sudden he wants to revisit it. And there's really no time at that point to get additional information at that point. Essentially all that is presented there is the evidence that's understood to the defense. In that situation, is the granting of the pardon unreasonable?

Mr. LIBBY. I don't know, sir. I don't know what evidence the President had before him or could have had before him.

Mr. BARNETT. Well there's one option he would have, the President, which I think, if I understood what many members have said, they might have preferred; which is to say he doesn't have all of information, so he shouldn't go forward. He doesn't really have an opportunity to get more information because he won't have the power to issue a pardon after noon the next day. So that would have been one option, presumably a reasonable option.

The other option he has is to make a decision. And if he had the information that you have, information that is available to the defense, is it unreasonable for him to make the decision that this case warrants a pardon?

Mr. LIBBY. I didn't hear all of the testimony the way you probably did today and other days, but I thought I heard some questioning of witnesses which said if you had time to make one phone call, why didn't you make another phone call? So it seems to me there's a third logical possibility, which is what you're saying, which is to pick up the phone to call other people to get other information. I don't know what was done or what could have been done, but in what you have described, there's a third possibility which would have allowed the President to get more information.

Mr. BARNETT. In law school they have the reasonable man test, if I remember law school. And I guess my question is going somewhat to that concept. There's a third option, and I hadn't thought of the third option. That might have been the best option. Was it unreasonable to do the pardon option?

Mr. LIBBY. To me it would be more reasonable to take the third option and call for more information, but I wasn't there at 2 a.m., or whatever it was.

Mr. BARNETT. But you have testified earlier today that the charges weren't justified. You looked at them and Congressman Waxman read through the different elements of the charges in the President's rationale. You agreed with those, so the charges aren't justified. It was an indictment brought on what you think isn't a sound foundation. That's based on the information you know.

Mr. LIBBY. Based on the information available to me and to the defense team, the charges were—there was a compelling defense to the charges for which they had been indicted; that's right. But it seems to me that the President doesn't have to rely on that. He can ask for more information. So if you're asking me what the reasonable man would do, I presume the reasonable man would ask for more information.

Mr. BARNETT. I know that lots of Members on both sides, if I have listened over the days, we've held the hearings, would say that would have been the best thing to do. But I'm asking you, was it unreasonable, was it indefensible for him at that time, believing as he did, that the indictment was improper, to issue the pardon?

Mr. LIBBY. Maybe it's just late. Maybe it's that we've been here for 5 hours, but I did not have any participation in this pardon. I'm not quite sure what I can bring to your own judgment of what's reasonable or unreasonable. You know more about it than I know about it. I didn't participate in it so I just—I'm unclear what it is you think I bring to this discussion. As I have said, I believe if it were me, I would have made the calls or recommended the calls rather than just acting in the way it was acted.

Mr. BARNETT. The reason I'm asking the question is that I think the reason we've been holding the hearings is that there have been allegations that this was illegal conduct or corrupt conduct or quid pro quos. And that has to be the explanation. There is not an explanation that this was just simply bad judgment. It's not an explanation that the President could have reasonably reached a wrong judgment. Because of your expertise and experience in the matter, I was asking the questions to help make the assessment, whether as the only option here was that former President Clinton was acting in an illegal manner, for illegal or improper motives.

Mr. LIBBY. I have no firsthand knowledge of whether he acted for illegal motives or legal motives. As I said, the information available to the defense team was sufficient to create a compelling defense that Mr. Rich and Mr. Green's companies had not committed the crimes for which they were indicted.

Mr. BARNETT. Mr. Chairman, Mr. Schiliro, who is the minority staff director, would like to ask questions for about another 5 minutes or so, if that is permissible.

Mr. SHAYS. I have absolutely no problem with you gentlemen having your 30 minutes. I just want to ask a question or two, not many, when you are done. And I will respect the fact that you do not have a Member on your side to counter.

Mr. SCHILIRO. I will be happy to give you my time because I won't use it all.

Mr. LATOURETTE. You have 18 minutes. Knock yourself out.

Mr. SCHILIRO. Mr. Libby, let me do this as quickly as we can so we can get out of here. I think part of the problem is we're seeking something, and you're trying to avoid, for good reason, giving us what we're seeking. Maybe it's because we disagree or maybe it's because we're not communicating. The reason we're interested in what you think is because you're one of the smartest lawyers in Washington. You're probably one of the smartest people in Washington. This is a complicated case. You understand the case—

Mr. LIBBY. That's the first thing said tonight that I take strong disagreement.

Mr. SCHILIRO. I mean it sincerely. I don't know you personally but you have a terrific reputation. You made a lot of money on this case. I think you said earlier it was more than \$2 million which means to me, because you're a terrific lawyer, you learned the details of the case, you learned the intricacies of the case. You know more about this case than probably anybody else in the world.

The threshold question for this committee in our first hearing was, as Mr. Barnett was saying, is there any plausible explanation for this pardon on a legal case? And the answer from a lot of members on the committee was there wasn't. So you become very relevant because you have expertise in this matter.

If you were handling the case, and I know you don't want to deal with hypotheticals, but let's assume for a second that you were continuing with Mr. Rich as a client. If you were handling the case, knowing everything you know about the case, do you think you could have put together a good legal argument for a pardon?

Mr. LIBBY. If I were handling the case, I probably would not have asked for a pardon.

Mr. SCHILIRO. You would not have?

Mr. LIBBY. Probably not.

Mr. SCHILIRO. Even when you had a dead end with the U.S. Attorney's Office.

Mr. LIBBY. That is correct.

Mr. SCHILIRO. Explain why you wouldn't have asked for a pardon.

Mr. LIBBY. I would seek to have the Justice Department reopen the case and look at the merits of the case.

Mr. SCHILIRO. I think when you did your transition with Mr. Quinn, you fully apprised him of the details of the case.

Mr. LIBBY. Correct.

Mr. SCHILIRO. On both the legal arguments and the situation surrounding the case?

Mr. LIBBY. This was in fall of 1999 and a little bit into 2000, yes.

Mr. SCHILIRO. And they tried to make headway with the U.S. Attorney's Office in New York and got nowhere.

Mr. LIBBY. Correct.

Mr. SCHILIRO. You stayed on the case, maybe not in as active of a way as you had been previously, but Mr. Quinn joined you and other people working on this. The lawyers reached the conclusion they were making no headway. There was no alternative but to seek a pardon.

Mr. LIBBY. I was not—

Mr. SCHILIRO. You were not part of that, but that's my understanding of what the lawyers decided, and I assume you'll agree with that based on the facts as we know them. That's the testimony we've received from the lawyers.

Mr. LIBBY. I'll accept that.

Mr. SCHILIRO. So when we asked you before about November 2000 when you were approached, it didn't sound to me at that point that you declined because you thought it was an inappropriate act to seek a pardon in this case. It sounded as if you declined because of circumstances.

Mr. LIBBY. That's correct.

Mr. SCHILIRO. Let me make sure I don't misunderstand it. If you hadn't been in those circumstances, would you have entertained a pardon in this case?

Mr. LIBBY. I would have considered asking for a pardon, yes.

Mr. SCHILIRO. And so if we're in that situation, it doesn't sound to me that's exactly what you said before when you wouldn't have sought a pardon in this case.

Mr. LIBBY. It is fully consistent with what I said before. I would have considered a pardon. I would have considered other routes. And I think in the end, the course I think that would have best served the client was not to go for a pardon but to get the Department of Justice to look at the merits of the case.

Mr. SCHILIRO. Right. But your client has paid you more than \$2 million. Your client has received no relief, wants to come back to the United States, and feels the indictment was flawed. You know the case, and your client is saying to you this is my only alternative. At that point you have entertained it. Is your testimony that you would have said no to your client at that point?

Mr. LIBBY. At that point, I would have presented to the client the options. What I'm saying is there is another option besides going to the pardon. There is an option to try to get the Department of Justice to look at the merits of the case.

Mr. SCHILIRO. And that's failed, so now—

Mr. LIBBY. No—

Mr. SCHILIRO. I think that's the conclusion the other attorneys on the case reached in 2000.

Mr. LIBBY. The Department of Justice never looked, in the post-indictment stage, never looked at the merits of the case.

Mr. SCHILIRO. I think the conclusion of the lawyers who were working on this case was that the Justice Department was not going to do that. That's why they sought a pardon.

Mr. LIBBY. I was not present when they made that conclusion. I understand that was their conclusion.

Mr. SCHILIRO. Let me try it one last way, and I think I'm not going to get any further but I'll try one last time. If you were in a position where the decision had been made, and you were part of the team, and it was decided that a pardon was going to be pursued—so it wasn't a question of different options, a pardon was going to be pursued—knowing everything you know about this case, do you think you could put together a good legal case for a pardon? I am not asking you if it's the best option.

Mr. LIBBY. Yes.

Mr. SCHILIRO. And if you did that and you brought it to the President, do you think that would have been a defensible case? I'm not asking from the other side, the prosecution side. I'm talking about the defense side.

Mr. LIBBY. Yes.

Mr. SCHILIRO. The last question I have on that, again because you know this case much better than I do, you've evaluated I think all the arguments the U.S. attorney made through the years because you had to know your case—in doing that, I assume the conclusion you reached was your case was stronger than their case, which is why you think the case should have been dismissed.

Mr. LIBBY. Yes. And I believe everyone on this panel could now repeat what I'm about to say. Based on all the evidence available to the defense, that is correct.

Mr. SCHILIRO. But just on that phrase—and we all can repeat that phrase—because you're a terrific lawyer, I think you probably tried the prosecution case 20 times in your head. You went through, you tried to figure out every piece of evidence the prosecution had, you examined every legal theory the prosecution had, and I think you reached the conclusion, because you're acting honorably, and because I think it's your testimony that case didn't hold up.

Mr. LIBBY. Yes. I'm afraid that you did misspeak, though, in the course of your question. I examined every argument that we knew of that the prosecution had. There's a saying in the intelligence world, you don't know what you don't know. We knew only what we knew. We knew that the prosecutor had said we had evidence for which we were not aware. I will take him at his word. I'm not convinced that evidence would have persuaded me, but there were things—we were told there were things we did not know.

Mr. SCHILIRO. Did you see any of our first hearing on the pardon? Did you see when the prosecutors testified?

Mr. LIBBY. I have seen some of the transcript. I did not watch the testimony.

Mr. SCHILIRO. Was there anything in their testimony that was new to you?

Mr. LIBBY. No, sir. But, of course, their testimony was somewhat abbreviated. There were allusions in their testimony, so that I could guess what they meant, but I don't know for sure. I have been convinced if I sat down with them and they laid their cards out and we laid our cards out, that we would win. But I don't know.

Mr. SCHILIRO. But so I understand, had you been in the position where you were pursuing the pardon, based on everything you know in this case, you think you could put together a good strong case for a pardon, and a defensible case, if the President so issued, based on what you know?

Mr. LIBBY. Yes.

Mr. SCHILIRO. Thank you. I apologize for using more than the 5 minutes.

Mr. LATOURETTE. Do you want to yield back the rest of your time?

I thank you very much. And before yielding to Mr. Shays to wrap things up, I just remember when I practiced law and we would try a case and I would go first, I always thought, man, am I doing good, until the other side showed up and all of a sudden we had to rethink some things.

Mr. Shays, I'll be happy to yield to you for 5 minutes.

Mr. SHAYS. I don't know if I'm getting a second wind, but I actually enjoyed the questions our attorneys asked on both sides of the aisle and I appreciate the responses.

Mr. LATOURETTE. I don't know if that is a second wind, or vapors, Mr. Shays.

Mr. SHAYS. I do think it is fairly clear, if you are a lawyer you are an advocate for one side, and you are going to emphasize the

strength of your case and obviously minimize the weaknesses that may involve your case. I meant no real disrespect to Jack Quinn in pointing out that I said he couldn't adequately serve both his client and the President properly, because I think in the process of serving his client well, he didn't serve his President well, someone he had worked for.

And I look at you, Mr. Libby, and I say why are you here? You should be here, and I appreciate you being here, and I appreciate you not complaining about being here. You represented Marc Rich with the prosecution. You developed and brought in people with tax expertise to determine, in your judgment, that he did not owe taxes. And I would tend to believe that you could find experts to take any position, and you found two that made persuasive arguments to you.

But you didn't lobby the White House for the pardons, and that's really what we're looking at. In my judgment, we got a pretty disappointing view of why these pardons were granted. There was a rush to complete them. There wasn't the proper vetting and so on.

But you're here as now a government official, and I just want to ask you this question and I hope I like the answer, but I may not. I want to know if you left the administration, would you come back to lobby your boss, Dick Cheney, or the President of the United States, on behalf of a client, given the unique relationship that you have as a chief of staff of the Vice President?

Mr. LIBBY. I doubt it. But I can't be sure, but I doubt it.

Mr. SHAYS. Would you concur that if you were looking to lobby the White House and you were hired to represent a certain interest, that your position would be to present that interest as forcefully as you could, even if it meant not disclosing information that might be helpful for the person making that judgment?

Mr. LIBBY. If I understood your question properly, I think I missed part of it, I do not believe I would ever appear before Vice President Cheney or President Bush under terms in which I would withhold any information from them.

Mr. SHAYS. Thank you. Thank you very much.

Mr. LATOURETTE. Thank you. Mr. Shays and I think that that exhausts any questions that anybody could possibly have. I want to thank you, Mr. Libby and Mr. Fink, for your patience and forthrightness with the committee. You were both excellent representatives. Mr. Vice President Cheney is lucky, Mr. Rich is lucky, and we thank you very much. This hearing is adjourned.

Mr. LIBBY. Thank you, sir.

[Whereupon, at 10:35 p.m., the committee was adjourned.]

[The pardon petition and the complete set of exhibits follow:]

TO THE PRESIDENT OF THE UNITED STATES

PETITION FOR PARDON FOR
MARC RICH
AND
PINCUS GREEN

Indicted September 19, 1983
by the United States Attorney for the
Southern District of New York
For Alleged Crimes Arising Out of
The Department of Energy's Price Control Program

PETITIONERS' APPLICATION FOR PARDON

For Petitioners:

Jack Quinn, Esq.
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1251 Avenue of the Americas
New York, NY 10020
(212) 835-6090

December 11, 2000

PETITION FOR PARDON

To the President of the United States:

Petitioners Marc Rich and Pincus Green pray for a pardon and in support thereof state as follows:

MARC RICH – PERSONAL INFORMATION

1. Full name: Marc Rich

Address: Villa Rose, Kleinnaumatt No. 9, 6045 Meggen, Switzerland

Telephone Number: The attorneys pressing Marc Rich's case may be reached at the following numbers:

John M. Quinn, Esq.: (202) 457-1110
Kathleen A. Behan, Esq.: (202) 942-5533
Robert F. Fink, Esq.: (212) 835-6090

Social Security Number: 496-34-3075

Date and Place of Birth: December 18, 1934; Antwerp, Belgium

Physical Characteristics:

Sex: Male Height: 5'10"
Weight: 176 Hair Color: Brown
Eye Color: Brown

Citizenship: Israel, Spain

Offense for Which Pardon Is Sought

2. Petitioner's Conviction: Mr. Rich has not been convicted of any offenses. Mr. Rich has been under indictment in the Southern District of New York for more than 17 years. A copy of the indictment is attached as Exhibit A.
3. Petitioner's Sentence: Not applicable.

BACKGROUND

4. Prior and Subsequent Criminal Record: None.

Biographical Information

5. Current marital status: Mr. Rich is married to Gisela Rossi Rich.
6. Children: Mr. Rich has two children, Ilona and Danielle. Gabrielle, a child from his first marriage to Denise Rich, died at the age of 27 in 1996.
7. Schools attended since alleged offenses: None.
8. Residences: Mr. Rich has residences in Switzerland and Spain.
9. Employment History: See Accompanying Memorandum.
10. Substance Abuse and Mental Health Information:
- (a) Mr. Rich is very moderate in alcohol use and has used no drugs at all.
 - (b) Mr. Rich has not engaged in the illegal sale or distribution of drugs.
 - (c) Mr. Rich has not sought or participated in counseling, treatment, or a rehabilitation program for drug use or alcohol abuse.
 - (d) Mr. Rich has not consulted with a mental health professional or with another health care provider concerning a mental health-related condition.
11. Civil and Financial Information:
- (a) Mr. Rich is not in default or delinquent in any way in the performance or discharge or any debt or obligation to the United States or any other person or entity.
 - (b) Mr. Rich has not ever filed for a discharge of his debts in bankruptcy.
 - (c) Mr. Rich is not involved in any judicial or administrative proceedings pending with federal, state, or local governments.
12. Military Record: None.
13. Civil Rights and Occupational Licensing: None.
14. Firearms Disabilities: None.
15. Business, professional or occupational license: None.
16. Reasons for Seeking Pardon: See accompanying Memorandum.

9. Employment History: *See* Accompanying Memorandum.
10. Substance Abuse and Mental Health Information:
 - (a) Mr. Green is very moderate in alcohol use and has used no drugs at all.
 - (b) Mr. Green has not engaged in the illegal sale or distribution of drugs.
 - (c) Mr. Green has not sought or participated in counseling, treatment, or a rehabilitation program for drug use or alcohol abuse.
 - (d) Mr. Green has not consulted with a mental health professional or with another health care provider concerning a mental health-related condition.
11. Civil and Financial Information
 - (a) Mr. Green is not in default or delinquent in any way in the performance or discharge or any debt or obligation to the United States or any other person or entity.
 - (b) Mr. Green has not ever filed for a discharge of his debts in bankruptcy.
 - (c) Mr. Green is not involved in any judicial or administrative proceedings pending with federal, state, or local governments.
12. Military Record: Drafted in the U.S. Army 1955, he was honorably discharged in January 1957.
13. Civil Rights and Occupational Licensing: None.
14. Firearms Disabilities: None.
15. Business, professional or occupational license: None.
16. Reasons for Seeking Pardon: *See* accompanying Memorandum.

TO THE PRESIDENT OF THE UNITED STATES

PETITION FOR PARDON FOR
MARC RICH
AND
PINCUS GREEN

Indicted September 19, 1983
by the United States Attorney for the
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For Alleged Crimes Arising Out of
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**MEMORANDUM IN SUPPORT OF
PETITIONERS' APPLICATION FOR PARDON**

For Petitioners:

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December 11, 2000

EXECUTIVE SUMMARY

This petition sets forth the request of Mr. Marc Rich and Mr. Pincus Green for a Presidential Pardon. Mr. Rich and Mr. Green are internationally recognized businessmen and philanthropists who have contributed over \$200,000,000 to charity in the past twenty years, and who have donated countless hours to humanitarian causes around the world. Supporters of the pardon petition include Ehud Barak, Prime Minister of Israel, Nobel Peace Prize Winner Shimon Peres, Abraham Foxman, National Director of the Anti-Defamation League, Rabbi Irvin Greenberg, Chairman of the Holocaust Memorial, Shlomo Ben-Ami, Minister of Foreign Affairs of Israel, Nobel Laureates, and many friends and family members. The supporters attest to the extraordinary lives of Mr. Rich and Mr. Green.

Mr. Rich and Mr. Green seek a pardon even though they never have been convicted of a criminal offense in the United States or any other country. However, they and two of their companies were wrongfully indicted nearly twenty years ago, primarily on tax and energy charges stemming from their participation in oil transactions under then-existing Department of Energy oil regulations and controls. Those controls, deemed to be unworkable, incomprehensible and counterproductive, were abolished by President Reagan in one of his first official acts in January, 1981, and now are seen as a relic of the era of excessive economic regulation of the oil industry.

Mr. Rich and Mr. Green have complete defenses to the indictment. While the indictment makes many accusations, the prosecution admits that tax-related charges were the core of the case. Yet two of the country's leading tax professors have analyzed the tax treatment of the transactions at issue, and concluded that they were correctly reported. Nevertheless, Mr. Rich and Mr. Green remain under indictment and in effective exile from the United States. This is so

even though their companies have resolved all charges, and all others who engaged in similar transactions were pursued civilly, or not at all.

This Petition for a Pardon on behalf of Mr. Rich and Mr. Green seeks to put an end to that exile by resolving an otherwise intractable situation between Mr. Rich, Mr. Green and the United States government, and by righting an injustice that has persisted for nearly two decades. Mr. Rich and Mr. Green are now in their late sixties. They have not traveled to the United States in over seventeen years. Without a Presidential Pardon, there is little if any chance that this matter will be resolved. The current situation is the unfortunate result of unfair and unwarranted treatment of two men against whom no criminal charges should have been brought. A Presidential Pardon will promote the interests of justice, will rectify a wrong, and will finally put this matter to rest.

REASONS FOR GRANTING A PARDON

I. MR. RICH AND MR. GREEN ARE EXTRAORDINARY BUSINESSMEN AND PHILANTHROPISTS WHO HAVE LIVED EXEMPLARY LIVES SINCE THE ALLEGED OFFENSES.

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.

Everyone knows that Mr. Rich is a successful international business leader. What is not well known is that Mr. Rich has contributed enormously in the philanthropic arena. He and the Marc Rich Foundation and others he created and funded have given away over 100 million dollars to charitable, cultural and civic organizations.

Mr. Green similarly has lived an extraordinary life since the alleged offenses, donating magnanimously to educational and charitable causes. Mr. Green's foundation has provided over 120 million dollars to charities the world over. He, too, has suffered enormously on the personal front from his inability to travel to the United States, or to most places in the world.

Individuals from around the world have written to express support for a pardon for Mr. Rich and Mr. Green. *See* Exhibit B. Many of these supporters know Mr. Rich and Mr. Green well, and have written striking letters of support and appreciation, documenting some of their humanitarian contributions. Set forth below is a brief history of their lives, including their rise from immigrant Jewish families to international businessmen and world class philanthropists, and excerpts from a few of the many letters of supporters attesting to the great kindness and generosity of these men.

A. MARC RICH

Marc Rich was born in Antwerp, Belgium in 1934. Facing the prospect of religious persecution, his family began moving when he was a small boy and settled for a while in Vicchy, France before successfully emigrating to the United States in 1941. The family first moved to New York City and lived with a relative, then moved to Philadelphia, then to Kansas City and then returned to the New York City area, living first in Forest Hills, then Crestwood, and then Manhattan. As a result of the travels, Mr. Rich attended a different school virtually every year through primary and secondary schools.

Mr. Rich was very affected by his father, a talented businessman with an uncompromising work ethic and a knack for success in a variety of business ventures. Fascinated with business matters, he spent much of his childhood helping his father in several of his companies. After high school, Mr. Rich started to attend New York University, but at the age of 19, he obtained a position in the mailroom with Philipp Brothers. (Philipp Brothers was then a highly regarded, if not the best regarded, physical trading company here in the United States.) Working his way up, Mr. Rich was transferred to the shipping department that was responsible for the control of all of the Philipp Brothers' physical commodities movements. Mr. Rich soon began traveling to different Philipp Brothers offices around the world, including Bolivia, Amsterdam, India, Spain and Switzerland.

While working principally with metals, Mr. Rich increasingly became convinced that Philipp Brothers could extend its trading activities to crude oil and oil products. In this, he was considered to be visionary. Indeed, Mr. Rich is credited with creating the market for the active trading of crude oil (now known as the crude oil "spot market"). Previously, crude oil sales had been handled by the major oil companies without the benefits of an international market.

Mr. Rich's business acumen was quickly recognized, and he was groomed for the role of president of Philipp Brothers. But in 1974, determined to set out on their own, Mr. Rich and Mr. Green, another former mailroom worker who had become a senior member of the Philipp's group, and a handful of other Philipp Brothers traders, started their own company, Marc Rich + Co AG ("MRAG"). It was created and headquartered in Switzerland with additional offices initially located in both London and Madrid. By 1978, a Swiss subsidiary was operating in New York, and the business was well on its way towards tremendous success. It quickly was placed in the very top ranks of international trading companies throughout the world. Despite legal difficulties with the United States in the early 1980s, MRAG became one of the world's major players in arranging for the successful transfer of raw products from producer countries to developed nations. 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.

By 1993, when Mr. Rich sold his interest in MRAG to the senior traders of the Company, the trading entity was doing over 30 billion worth of business a year and operated in over 125 countries with 40 offices worldwide and 1200 employees.

In 1996, Mr. Rich began to build a new, smaller trading company that trades in oils and metals and has a staff of about 300 people worldwide, principally in London and Switzerland. In addition to the commodities business, Mr. Rich oversees a considerably larger business dealing with investment and trading in financial instruments. Mr. Rich also oversees a real estate group which invests in the creation of new, or the refurbishing of existing, commercial and residential sites in Switzerland, Spain, Portugal, Czech Republic and Russia. In the process, Mr. Rich and

his business deal directly with some of the world's best known banks, brokerage houses, oil and metal companies.

Over the years, Mr. Rich's activities increasingly have involved philanthropy. Mr. Rich's philanthropy started four decades ago. In the last two decades, he has donated over 100 million dollars to various charitable causes. He has created five foundations, including one for the purpose of finding a cure to leukemia, established after his daughter Gabrielle died of the disease in 1996.¹ That foundation has made significant contributions to medical institutions around the world, including the Memorial Sloan-Kettering Cancer Center, the Yale University School of Medicine, and the Dana Farber Cancer Institute.

The vast majority of Mr. Rich's philanthropic activities have been through his foundations where the gifts, often anonymous, are made to charities throughout much of the world. Mr. Rich currently is in the process of reducing his business activities and increasing his charitable activities, but he always has taken an active role in deciding where the foundations' monies are directed. Many of Mr. Rich's gifts are made through partnership arrangements to ensure that the funds are used entirely for charitable purposes. A description of the activities of Mr. Rich's foundations accompanies this memorandum in a separate binder.

Mr. Rich, who will be 66 on December 18, 2000, has two daughters, Ilona and Danielle, both of whom live in New York City, as do his three grandchildren and his former wife, Denise Rich. Three years ago, Mr. Rich married Gisela Rossi Rich. He has lived in the Zug, Switzerland area since 1983, and he and Mrs. Rich currently live in Meggen, Switzerland.

¹ 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.

Mr. Rich is a multi-talented, multilingual businessman and a philanthropist. He has used these talents for the public good, including repeated efforts to support projects that promote peace in the Middle East. Mr. Rich anonymously provided (through a United States intermediary) \$400,000 to cover the shortfall necessary to achieve a settlement in the dispute between Egypt and Israel relating to the killing of Israeli civilians at Ras Burka.

Many friends and family members have written letters which support a pardon for Mr. Rich. These letters not only explain the hardships that Mr. Rich has suffered, but also describe his many social contributions. Some of those letters have been excerpted below:

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 States 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.

Denise Rich

* * *

Were [our sister Gabrielle] here today, we could not have stopped her from seeking you out in person to ask for help in pardoning our father. She loved him, stood by him and would be in the vanguard of the effort to obtain a pardon for him if she could. Like us, she suffered from the fact that for many years our family could

not live in this country, and from the fear that our father would not be safe, or would be taken from us.

Hona and Danielle Rich

* * *

Although I am not acquainted with the legal intricacies of his case, I do have concrete knowledge of Marc Rich's philanthropic activities in Spain, Israel and Diaspora communities and in fostering humanitarian projects as well as the cause of peace in the Middle East and elsewhere. His foundation was among the first private entities to support the Oslo Accords by sponsoring education and health programs in Gaza and the West Bank in cooperation with the Palestinian Authority. Many of the projects of people to people between Israelis and Palestinians would not have been possible without Marc Rich's generous involvement.

I would like to add my voice in support for any solution that can solve this Kafkaesque situation Mr. Rich has been in for so many years. So far no realistic solution was possible. Your clemency is almost a last resort.

I am sure that Marc Rich shall continue contributing to humanitarian causes, as well as to the cause of peace. He will be a friend of noble endeavors whatever his personal situation may be. But, a touch of clemency will serve as a token of recognition to the commitment of this unique man for his service to the community.

Shlomo Ben-Ami, Minister of Foreign Affairs, Israel

* * *

I was recently informed of Marc Rich's request for executive clemency. Knowing Marc Rich and his partners for over two decades since my years as Director General of the Finance Ministry, I am aware of the legal difficulties they have faced from the beginning.

Marc Rich has been one of our most important private individuals involved in the leading issues of our times, not only in Israel and the Jewish world, but also in supporting interfaith and coexistence work throughout the region.

Marc Rich's ability to help so many others throughout his personal, medical and legal trials has earned him the respect and admiration of all those with whom he comes into close association.

Hopefully, Marc Rich will have the opportunity to reunite with his daughters and grandchildren and enjoy many healthy years with them. I strongly support his request for executive clemency.

Yaakov Neeman, Former Minister of Justice, Israel

* * *

My relationship with Marc Rich goes back many years and his discretion and generosity has made him one of the main benefactors of Israel and the Jewish people.

The city of Jerusalem has benefited in particular from his support over the years. His efforts include a new wing at the Israel Museum, new trauma departments at the Shaare Zedek and Hadassah Medical Centers, a new wing at the Hebrew University as well as a long list of donations to associations dealing with the improvements of the quality of life in our country.

In short I have witnessed his long years of endurance and suffering as a result of the legal impasse of his case. I believe that the time has come to end his exile and allow him to rejoin his family in New York – his children and grandchildren.

**Ehud Olmert
Mayor of Jerusalem**

* * *

I came to know Mr. Rich in the last few years in my capacity as the newly elected President of Tel Aviv University. The two foundations established by Mr. Rich have been particularly generous to scientific, cultural and social institutions in Israel and elsewhere, and it is in this context that I first met Mr. Rich. My relationship with Mr. Rich is thus quite recent, but within a short span of time I came to know him quite well and to regard him highly. Not only is he immensely generous, but also quite exceptional, being as a rule an anonymous donor, one who does not seek recognition and publicity.

**Prof. Itamar Rabinovich, President,
Tel Aviv University**

* * *

I have known Mr. Rich for many years now and found him to be a fine and generous individual willing to help good causes when asked. As Head of the Mossad, (1989-1996) we requested his

assistance in looking for MIA's and help in the rescue and evacuation of Jews from enemy countries. Mr. Rich always agreed and used his extensive network of contacts in these countries to produce results sometimes beyond the expected. Israel and the Jewish People are grateful for these unselfish actions which sometimes had the potential of jeopardizing his own personal interests and business relations in these countries.

Shabtai Shavit
Former Director of Mossad

* * *

[A]s the rabbi of Efrat I have endeavored to foster positive relationships with our neighboring Palestinian villages. These Palestinians have neither health insurance nor the ability to train medical personnel of their own. Marc Rich paid hundreds of thousands of dollars to enable the Palestinians to receive proper medical help and to even send their brightest young people to medical school. He was also instrumental in building a center for early childhood education and physical training – a project which did much to foster good relations – beginning with the sports field used by Palestinians and Israelis which incidentally kept Hamas out of the villages. He did all of this without any fanfare or publicity seeking.

Shlomo Riskin, Chief Rabbi City of Efrat
Chancellor, Ohr Torah Stone

* * *

The CEIM Foundation of the Madrid Business Confederation has worked closely for many years with the Rich Foundation on a wide range of programs for the promotion of art, culture and education, especially aimed at the most underprivileged in society.

Mr. Marc Rich has always supported the initiatives our Foundation has proposed; indeed, without his backing, they could not have come to fruition. He has an abiding commitment to seeking solutions to the problems of society and to creating better conditions for the development of the individual, conscious as he is of his responsibility in this regard. In his work as a citizen, his attitude has always been proper, thus earning him significant respect in Spain, where he has lived for many years.

Fernando Fernández-Tapias
Presidente, Confederacion Empresarial DOE Madrid-CEOE

* * *

I met Mr. Rich in a totally different setting. There I saw him in action as a philanthropist. He brought vision, generosity, a desire to do good, a willingness to take a leadership role; most of all, I saw that he did good in a situation where he would not get recognition. The good deed itself and not the publicity or the possible future use evoked his commitment. I saw then that he really cares.

***Rabbi Irving Greenberg, Chairman
United States Holocaust Memorial Council***

* * *

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.

...

Mr. Rich has made possible a large part of the Birthright Israel program.

...

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.

***Marlene E. Post
Immediate Past International President, Hadassah Chairperson,
Birthright Israel, North America***

* * *

All of these letters are attached as part of Exhibit B.

B. PINCUS GREEN

Pincus Green, the seventh of eight children, was born in Brooklyn, New York in 1934 in the midst of the Great Depression. Eleven years earlier his parents, Sadie and Israel, had emigrated from Communist Russia (now the Ukraine).

When the Green family arrived in the United States, Mr. Green's father opened a grocery store in Brooklyn, which became a successful business. However, before Mr. Green was born, the family savings were lost when the family's bank failed. His father then became a jack-of-all-trades, learning new skills frequently in order to find and hold a job, an effort that was made more difficult as the result of his refusal to work on Saturday, the Jewish Sabbath. To supplement his meager income, all four sons (including Mr. Green, who was the youngest son) took turns helping their father at night and on Sundays by walking around various parts of Brooklyn with a pushcart selling confectioneries to "Mom and Pop" candy stores. It was especially during these "walks" that the elder Mr. Green would tell his sons about his past and instill in them his positive attitude about the importance of hard work and perseverance. His father also instilled in Mr. Green strong religious and community values.

Mr. Green went to Jewish parochial schools, primarily in Brooklyn. He left high school at the age of sixteen to augment the family income. He first worked as a stock boy in the garment district of Manhattan. Then, in July 1951, he was employed by Philipp Brothers to work in the mailroom. Soon thereafter, he was promoted to the Traffic Department and was quite successful. In late 1954, he was again promoted, this time to Assistant Trader.

His career was interrupted by the draft in 1955. After serving in the U.S. Army, he was honorably discharged in January 1957. He returned to Philipp Brothers and, a year later, he was asked to go to the Philipp Brothers office in Istanbul, Turkey. About 18 months later, he was transferred to the European headquarters of Philipp Brothers, which was then in Amsterdam, Holland. In March 1965, the Director of Europe decided to relocate headquarters to Switzerland and asked Mr. Green to join as his assistant, which he did, and Mr. Green stayed with Philipp Brothers in Switzerland until 1974.

During his last two years with Philipp Brothers, Mr. Green worked very closely with Mr. Rich -- who was then manager of Philipp Brothers' Madrid office and who was engaged in developing the international trade of petroleum and petroleum products. Mr. Green developed an expertise in the shipping industry, especially in the tanker trade, a vital factor in moving large quantities of oil around the world.

Like Mr. Rich, Mr. Green was a founder of MRAG in 1974. Mr. Green remained headquartered in Switzerland until he and Mr. Rich relocated to the United States to help develop the company further.

In 1990, following a heart bypass operation in 1989, Mr. Green retired from his business ventures. Since that time, he has concentrated his attention on his four children and many grandchildren, the pursuit of Jewish studies and his charitable foundation, The Darchey Noam Foundation.² Mr. Green has been active in charitable affairs since he began working.

The Darchey Noam Foundation supports educational, charitable and social welfare projects as well as scientific and cultural activities. The foundation has donated almost 120 million dollars since its inception. The grants of the Darchey Noam Foundation (as well as many interest-free loans) have covered a vast cross-section of life and many different countries and cultures. They include efforts to help develop or expand social and welfare assistance for needy individuals and families, the provision of medical and surgical expenses, mostly to individuals, cultural activities, and support for Jewish education, including construction of buildings. These efforts have been and are being made in many countries including the United States, Israel, Switzerland, England, France, former Soviet Union, Ukraine, and South Africa.

² Darchey Noam is "Pleasant Paths" in Hebrew.

Mr. Green's foundation also helps both educational institutions and their students. It gives grants to schools and gives fellowships or interest-free loans to students and also focuses on ways to support the moral, spiritual and physical advancement of individuals. This is the foundation's biggest commitment. The foundation's work for needy individuals extends to people who are at risk socially, families with a large number of children, persons rescued or imprisoned for religious, racial or political reasons, and charities which provide support to needy people and families. Finally, Mr. Green's foundation supports institutions and gives grants and awards to individuals who have excelled and rendered outstanding services in the fields of art, culture and science.

Mr. Green turned 66 on March 11, 2000. He married his wife Libby in December of 1957 in Cleveland, Ohio. They have four children. Their oldest son, Alan, was born in Istanbul, Turkey, and now lives in Zurich, Switzerland. His second oldest son, Robert, and his third child and oldest daughter, Sandra, were both born in Amsterdam, Holland, and both now live in London, England. His second daughter, Sarah, was born in Zurich, Switzerland and now lives near Tel Aviv in Israel. All of the children are married and each has five or more children. All are active in their local communities. Besides their own charitable activities, they assist from time to time in their father's foundation work. Pincus and Libby Green have lived in and around Zug, Switzerland since 1983.

Many friends and family members also have written letters which support a pardon for Mr. Green. Those letters portray Mr. Green as a bright, outgoing, thoughtful, wise, good humored and extremely modest person. Some of those letters have been excerpted below:

I have known Mr. Pincus Green for almost two decades in connection with my work. He has, with abundant generosity and sensitivity, helped support our organization continuously during

that period. Whenever approached, he has responded with alacrity and enthusiasm. One of the areas in which he has made a pioneering contribution is his revival of Jewish life in the Former Soviet Union, where he has demonstrated resolute purpose and vision.

In his philanthropic activity, he has achieved a well deserved international reputation for his kindness, dedication, sensitivity, and modesty.

His generosity has made a difference in this world, for which all who know him are deeply grateful. He is truly a philanthropic saint.

***Dr. Jerry Hochbaum, Executive Vice President
Memorial Foundation of Jewish Culture***

* * *

I have known Mr. Green, whom we have always referred to as "Pinky" since I was a youngster in my pre teens. Pinky is slightly older than I am and he served as a youth leader in youth groups that our synagogue provided on Saturday afternoons. The memories that I have from the times that he was my leader are still vivid and fond. All wanted to be in his group.

My next relationship with Pinky that has been going on now for about 25 years was that of fundraiser, first for the Mattersdorf school and then for Pachad Yitzchok. And, for literally hundreds of other cases for which I have turned and appealed to Pinky for. A poor bride and groom. A large family that did not have the funds necessary to provide for the upcoming Holiday. A sick parent or child. Loans for completely unknown persons. Never was I turned down and almost as soon as the request arrived at his office, the check was on the way. All requests were treated the same.

I can go on and on, but all of the stories will lead to the same conclusion. Pinky Green is one of the finest, most scrupulous and caring people that anyone could know.

Rabbi Aaron Lasker

* * *

I have encountered countless numbers of individuals trying to better the world and make their contribution to the Jewish nation as a whole and Israeli society in particular. I have never known

anyone as generous, unassuming, and respectful of the recipients of his grants as Pincus Green.

To name just a few, he has contributed funds to individuals in need of surgery, clothes and shoes to abused children in an institution, to poor families drowning in debt and to a broad spectrum of medical, educational and social organizations. Even more extraordinary, anytime I have ever known him to make a donation of funds, he has done so anonymously. Mr. Green does not seek recognition. His generosity derives from true compassion and moral commitment.

Dr. Daniel Tropper

* * *

Eight years ago I was diagnosed with a rare malady that greatly limited the use of my hand. My new limitation was particularly disturbing because it prevented me from being able to write – the very lifeblood of the life of the scholar. I was referred by an acquaintance, Mr. Pincus Green, to the Schulthess Clinic in Zurich that performs a surgical procedure, which could restore the functioning of my hand.

Mr. Green's involvement just began here. Mr. Green met me at the airport and took me to my hotel. Each day he personally came to the hotel to drive me to the clinic, await the examination and drive me back to the hotel. And in the days that I was hospitalized he visited me each day to be certain that all my needs were being taken care of. And it was he – when I had recovered sufficiently to return home – who took me back to the airport. He even offered to cover all medical costs, which I was fortunately able to turn down.

I shall never forget the kindness that Mr. Green bestowed on me during that time.

Rabbi Yehuda Amital

* * *

Throughout his life my father has been concerned for the welfare of others and for what is right. My father could never say "No" to someone in need, and he always stood on principles and always was fair. He could never do something knowing it might be wrong. Honesty and trust are principles he believed in and stood for.

My father and his principles have had a strong impact on my life. It is a privilege to be his daughter. If his character and

contributions to the welfare of other are important, he satisfies any standard. He is a man deserving of a pardon.

Sandra Mirriam (Green) Kohn

* * *

Through his philanthropy, Mr. Green has been instrumental in instilling democratic and American values throughout the former Soviet Union, via numerous educational projects. By sending food and other humanitarian aid to large populations of needs individuals in Eastern Europe, often in cooperation with such governmental agencies as USAID, Mr. Green has quite literally helped save thousands of lives.

Shlomo N. Mandel, Ph.D

* * *

Mr. Green has been known to me for approximately 18 years, as a patient and friend of the family. I confirm that he is a honest, upright and very charitable person. He has been helpful and has financially assisted the community with donations for the needy and patients, as well as hospital donations, and is very respected within and without the community.

Dr. Harry Trost

* * *

I know Mr. Green and his family for more than 30 years, having worked together in the same organization.

Alongside his remarkable and outstandingly successful business career, Mr. Green is very active in communal, social, educational and cultural areas. His activity in these fields, both in Switzerland and abroad, is exemplary and has caused his name to be a synonym for compassion and charity.

Dr. D. Jeselsohn

* * *

I am writing to you on behalf of Mr. Pincus Green, who I have known for 25 years and have also worked closely together with him for many years.

During the many years he has lived here in Switzerland he has lived an exemplary life and has made many voluntary contributions on a large scale to the society. I can recommend him to all people and institutions.

Josef Guggenheim

* * *

As his Rabbi Mr. Green has consulted with me concerning many personal as well as communal issues. His concern for the pain of others and the community at large was paramount. He is also a very modest person who would insist that his charity would not be disclosed.

I know of many instances where he helped variegated institutions involved in social welfare, education and religious needs of the entire spectrum of the community.

Rabbi David Cohen

* * *

I am pleased to be recognized as the older brother of Pincus Green. He is a person of generosity and integrity whose devoted attention to individual and communal causes has been the pride of our family.

We have a deep respect for his intellectual acumen and for his concern for the welfare of our community and of our family. His caring, his insight and his generosity assured our parents the respect and caring they enjoyed in their later years. His knowledge of the world has been a source of help to his siblings as they confronted economic and physical hardships.

Solomon H. Green

* * *

As President on Ner Israel Rabbinical College, I have known Pincus Green for over twenty years. Although his son Aaron was only in our school for a very short period of time, Mr. Green has recognized the importance of our institution as one of the foremost citadels of higher Jewish learning in the world. In almost seventy years of existence, Ner Israel has trained and continues to graduate rabbinic, educational, communal and knowledgeable

laymen who occupy positions of leadership throughout the Jewish world.

Rabbi Herman N. Neiberger

All of these letters are attached as part of Exhibit B.

* * *

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.

In short, individuals and institutions around the world have benefited tremendously from the generosity and goodness of Mr. Rich and Mr. Green. These acts of kindness alone would be sufficient to warrant a pardon, but when combined with the other grounds set forth herein, provide more than ample reason for the issuance of a Presidential Pardon.

II. MR. RICH AND MR. GREEN WERE SUBJECTED TO AN UNPRECEDENTED CRIMINAL INVESTIGATION, A UNIQUE INDICTMENT BASED ON NOW-DISCARDED AND REJECTED THEORIES, AND AN AGGRESSIVE PROSECUTION FOR ALLEGED REGULATORY VIOLATIONS THAT DID NOT OCCUR.

The investigation, indictment and prosecution of Mr. Rich and Mr. Green for alleged crimes arising out of the Department of Energy's oil regulatory program was unprecedented, unique, and fundamentally unfair. It was, in short, an unbearable experience in which Mr. Rich and Mr. Green felt the full weight of the United States government's prosecutorial powers.

A. The Oil Price Control Program.

The criminal case began as an energy investigation that had its roots in the federal oil price control program instituted in the 1970's in response to the energy crisis and high inflation.

An elaborate array of statutes and regulations empowered the Department of Energy ("DOE") to limit the prices and profits on crude oil sales in the United States. Oil and oil-trading companies in the United States and around the world, including Marc Rich + Co. International Ltd. ("MRI," a Swiss subsidiary of MRAG that operated in the United States), were affected by these laws and regulations. These rules soon proved to be unworkable, however, and were ended in January 1981 by President Reagan's first executive order.

While it was in effect, the price control regime established an extremely complicated pricing structure for producers' first sale of domestic oil, differentiating between three different classifications of crude oil that were otherwise identical, and even could have originated from the same well. In addition to imposing limits on the prices producers were allowed to charge on their sales of crude oil, the DOE regulations limited the profits that were allowed to be earned by oil trading companies, such as MRI, which purchased crude oil and then resold it to others in the distribution chain. The DOE regulations limited existing resellers' average monthly profits by assigning to each reseller a DOE-calculated "permissible average markup" or "markup" on regulated crude oil transactions, derived from the firm's own historical profit margins. Companies which were new to the resale business, like MRI, were free of these limits until DOE could determine an allowable markup. After a lengthy study that was finally completed in the summer of 1980, only months before decontrol occurred, DOE established a fixed allowable markup for all new resellers like MRI on transactions covered by the regulations.

B. The Prosecution of Marc Rich and Pincus Green.

In September 1983, a criminal indictment of MRAG, MRI, Mr. Rich, Mr. Green (and an individual who had worked for a company with which MRI did business) was filed by Mr. Rudolph Giuliani, the U.S. Attorney for the Southern District of New York. A superseding

indictment was filed in March 1984 against the same parties. The superseding indictment, together with a summary, is attached as Exhibit A. Both versions of the indictment include allegations of tax evasion, conspiracy, mail fraud, wire fraud, racketeering, and violations of regulations restricting purchases of oil from Iran during the hostage crisis.

The indictment -- in addition to unfairly singling out these individuals and these companies for criminal enforcement when all others engaging in similar activity were pursued, if at all, in civil regulatory actions -- is fatally flawed. This was the first use of the RICO statute in a business transaction context. Following 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. See USAM ¶ 6-4.211(1), adopted July 14, 1989. The mail fraud claims became defective as a result of the United States Supreme Court's decision in *McNally v. United States*, 483 U.S. 350 (1987). The Iranian counts were added to the indictment to incite public opinion against the defendants. In essence, the prosecutors accuse Mr. Rich and Mr. Green of causing the companies to trade with Iran when, under the applicable regulations, the companies *were permitted* to trade with Iran. The prosecutors quietly dropped the Iranian claims against the companies, but never dealt with the claims against the individuals.

The alleged tax evasion was the core of the indictment. The indictment contended that MRI, a Swiss corporation, had evaded more than 48 million dollars in United States income taxes on its oil trading activity. Essentially, the United States Attorney's Office in New York alleged that regulated oil was sold at profits exceeding the permitted maximum level, and the reporting of the excess profits was evaded by secretly diverting them offshore.

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. Under the controlling treaty at the time, income from a sale by a Swiss company is attributed to the location where title to the property passed, and if a revenue-generating sale occurred outside the borders of the United States, as it did here, it would not be subject to U.S. taxes. The transactions in issue were consistently reported in accordance with the tax treaty.

The propriety of this tax treatment has been confirmed by the independent analyses of two of the nation's leading tax experts -- Professors Bernard Wolfman of Harvard Law School and Martin D. Ginsburg of Georgetown University Law Center -- who have concluded that the United States government should not prevail even in a civil tax case. Professors Wolfman and Ginsburg submitted their conclusions in writing to the U.S. Attorney's Office over ten years ago, but their offer, renewed on several occasions, to discuss their submission with the Office was repeatedly denied. A copy of the thoughtful and thorough submission by Professors Wolfman and Ginsburg is attached as Exhibit C.

Following the indictment, the United States Attorney's Office, led by Mr. Giuliani, pursued the companies and individuals aggressively both in Court and in the press, and put extreme pressure on Mr. Rich and Mr. Green, who were residing in Switzerland at the time, to come to the United States to stand trial. Not only did Mr. Giuliani and other prosecutors from his office speak frequently to the media in off and on the record conversations, the office held formal press conferences where purported "evidence" against Mr. Rich and Mr. Green was showcased to the press.

Mr. Rich and Mr. Green, not surprisingly, refused to leave Switzerland 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. (Indeed, the case received almost daily coverage on the front pages of the business section of the New York Times.) Undeterred, the U.S. Attorney's Office requested the extradition of Mr. Rich and Mr. Green from Switzerland despite knowing that Switzerland did not view these alleged offenses as extraditable crimes. In short order, the Swiss government refused the request as incompatible with Swiss law and the terms of the U.S.-Swiss extradition treaty.

Meanwhile, the United States had frozen the assets of MRI, which had been renamed Clarendon during this period, thereby making it virtually impossible for Clarendon to do business in the United States. A fine of \$50,000 a day also was levied on MRAG by the District Court in connection with discovery disputes; this fine continued to run even after the Swiss authorities enjoined the companies from producing a handful of documents that remained in Switzerland. Huge RICO forfeitures also were pursued. Clarendon's ongoing business was completely disrupted and most U.S. employees lost their jobs. MRAG's business was also severely interrupted and its U.S. bank relationships shattered. Under the circumstances, a settlement seemed to be the only way for both sides to bring the matter to conclusion while still preserving the company.

C. Settlement with the Corporations.

In October 1984, to save the ongoing business entities, MRAG and Clarendon entered into a plea agreement that fully settled the case against these companies. Under the terms of the plea agreement, MRAG and Clarendon pleaded guilty to several charges of making false statements and Clarendon, in addition, pleaded guilty to two counts of tax evasion. Altogether, they 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. In return, the United States government lifted the freeze placed on company assets and removed all other restrictions on MRAG's and Clarendon's ability to do business. In addition, the settlement allowed the payment of 130 million dollars to fourteen banks in repayment of money borrowed by Clarendon prior to the freezing of its assets.

The surrender by the companies was as unfair as it was inevitable. The Department of Justice, finally recognizing the coercive effect of overdrawn forfeitures, adopted rules in 1989 prohibiting prosecutors from seeking forfeitures or pretrial restraints that are disproportionate or disrupt normal, legitimate business activities. *See* USAM ¶ 9-110.415. This leveling of the playing field, however, came too late for the companies.

D. Post-Settlement Discussions with the Department of Justice.

Despite the settlement with the companies, the criminal indictment against Mr. Rich and Mr. Green remains in effect. While counsel for Mr. Rich and Mr. Green have pursued efforts to engage in settlement discussions with the Southern District of New York periodically over the past 16 years, these discussions have not come to fruition. Indeed, the Office 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. In fact, however, the Southern District has negotiated with numerous other absent defendants over the years, and the Department of Justice has no such policy against such negotiations.

As a result of arrest warrants submitted by the United States to the governments of a number of countries, the freedom of movement of Mr. Rich and Mr. Green has been severely restricted. The United States also has sought to extradite Mr. Rich and Mr. Green from Israel, but like Switzerland, it refused to grant this request. As a result, Mr. Rich and Mr. Green cannot

be forced to come to the United States, but they cannot freely travel. A continuing stalemate is in place, which not only has hurt Mr. Rich and Mr. Green, but their families as well.

As recently as this year, Mr. Rich and Mr. Green, through counsel, sought once again to reach a negotiated resolution of Mr. Rich's and Mr. Green's status, and offered to begin a dialogue by having Professors Wolfman and Ginsburg meet with tax experts in the Department of Justice. This proposal, however, was vetoed by the Southern District.

III. THE OFFENSES ALLEGED AGAINST MR. RICH AND MR. GREEN NEVER HAVE BEEN CHARGED AGAINST SIMILARLY SITUATED INDIVIDUALS OR CORPORATIONS.

In many regards, Mr. Rich's and Mr. Green's case is *sui generis*. The transactions that are the subject of the indictment were heavily counseled and lawyered by major U.S. accounting and law firms, and they were conducted with major U.S. oil companies. Nevertheless, Mr. Rich and Mr. Green³ were the only individual targets and the Swiss companies MRAG and Clarendon were the only corporate entities pursued criminally for activities that were widely engaged in by the oil industry at the time. In contrast, an extensive investigation by DOE resulted only in an administrative sanction against ARCO, the primary beneficiary of a major group of the transactions charged in the indictment.

DOE found that ARCO had orchestrated linked foreign and domestic transactions, all at prices which were calculated by ARCO, and that the Swiss companies had properly accounted for the transactions on their books.⁴

³ One other individual, whom the government sought as a witness, was charged after he declined to cooperate, and pled to a crime for which he had not otherwise been charged and received probation.

⁴ United States Department of Energy Economic Regulatory Administration Proposed Remedial Order Issued to ARCO on October 4, 1985, at 17-19.

The unique manner in which Mr. Rich and Mr. Green have been treated over the past twenty years provides yet a further reason for a pardon. We are unaware of any basis -- and certainly the Department of Justice has asserted none -- for treating Mr. Rich and Mr. Green in a fundamentally different manner than others who commonly engaged in similar transactions or, in ARCO's case, actually participated in many of the same transactions covered by the indictment. This is particularly troubling because DOE's evaluation of these transactions indicated that the Swiss companies (and not ARCO) properly had accounted for the transactions. This evaluation by DOE -- the agency of the United States government responsible for administering the energy laws -- plainly contradicts the Southern District of New York's indictment.

IV. A PRE-CONVICTION PARDON IS A CONTEMPLATED AND APPROPRIATE USE OF THE PRESIDENTIAL PARDON POWER.

The Pardon Power exists as a recognition of the fact that in some situations -- like the one Mr. Rich and Mr. Green have faced for nearly 20 years -- the President may be called upon to deliver justice that cannot reasonably be obtained in any other manner. As former President and then-Chief Justice Taft wrote for the Supreme Court in *Ex parte Grossman*, 267 U.S. 87, 120-21 (1925):

Executive clemency exists to afford relief from undue harshness or evident mistakes in the operation or enforcement of the criminal law. The administration of justice by the courts is not necessarily always wise or certainly considerate of circumstances which may properly mitigate guilt. To afford a remedy, it has always been thought essential in popular governments, as well as in monarchies, to vest in some other authority than the courts power to ameliorate or avoid particular criminal judgments.

In the present case, the normal operation of the enforcement of the criminal laws has failed Mr. Rich and Mr. Green, and we believe that it has failed the United States as well. There should be no doubt that the nearly 20 year-old indictment against Mr. Rich and Mr. Green should

never be successfully prosecuted because of changes in both the law and DOJ policy, and, as Professors Ginsburg and Wolfman have concluded, there was no underreporting of tax. Mr. Rich and Mr. Green repeatedly have sought to resolve the situation by having their counsel meet with the United States Attorney's Office for the Southern District of New York. Their efforts to persuade that Office of Mr. Rich's and Mr. Green's innocence have failed. This failure, however, has not been based upon the Office's careful review of the merits of its case but because the Office has refused to reconsider its position.

On June 3, 1994, counsel Lawrence Urgenson wrote to Assistant United States Attorney Patrick Fitzgerald of the Southern District a thought-provoking nine page letter detailing why a discussion was appropriate and why the matter had not been fairly aired. (*See* Exhibit D.) Subsequently, in 1999, counsel Jack Quinn and Kathleen Behan wrote to United States Attorney Mary Jo White that "[w]e believe that there are very real and important legal policy issues raised by the indictment. . . . We are hopeful that you will agree that the time for a constructive dialogue with the Government is now." (*See* Exhibit E.) In each case, the Southern District sent a short note in response, refusing to consider the matter while Mr. Rich and Mr. Green were abroad. (*See* Exhibits F and G.) Evidence of an earlier attempt to open a dialogue is found in Exhibit H, an overview and analysis of the matter provided by counsel to the Southern District in 1990.

This refusal by the United States government even to engage in a discussion of the merits of the case leaves Mr. Rich and Mr. Green in an untenable position: the only way for them to exonerate themselves is to come to the United States, face immediate incarceration and a certain media circus, and stand trial. However, as a practical matter, this option is illusory. The corporations were forced to plead guilty to save themselves, and that will forever stain the hopes

of a fair trial. And the U.S. Attorney's Office has refused to even consider Mr. Rich's and Mr. Green's position that they, in fact, are not guilty of the criminal charges. As a result, a negotiated resolution seems impossible.

Under the circumstances, then, this case will not be resolved through trial, settlement or the withdrawal of the indictment. The only process that will resolve the controversy and allow Mr. Rich and Mr. Green the full opportunity to pursue their humanitarian efforts (without requiring the United States Attorney's Office to confess any error), is for the President of the United States to pardon Mr. Rich and Mr. Green.

The grant of such a pardon plainly is within the President's authority. The Presidential Pardon Power "extends to every offense known to the law and may be exercised at any time after its commission, either before legal proceedings are taken, or during their pendency, or after conviction or judgment. . . ." *Ex parte Garland*, 71 U.S. 333, 380 (1866). Indeed, the Presidential prerogative to issue pre-conviction pardons was established at the Constitutional Convention, when the Founding Fathers considered and rejected a proposal to limit the Pardon Power until "after conviction." *IV The Debates in the Several State Conventions on the Adoption of the Constitution 480* (Jonathan Elliot ed. 1836). As former Assistant Attorney General Walter Dellinger has advised this Administration: "Throughout this nation's history, Presidents have asserted the power to issue pardons prior to conviction, and the consistent view of the Attorney General has been that such pardons have as full an effect as pardons issued after conviction." *Effects of A Presidential Pardon*, 19 U.S. Op. O.L.C. No. J, 1995 WL 861618 (June 19, 1995).

From this country's very inception, Presidents have issued pardons to persons before trial. In advising President Harrison that a "pardon may be granted before or after conviction," then-Solicitor General William Henry Taft described the use of pardons by Presidents

Washington, Adams and Madison to persons before trial. 20 U.S. Op. Atty. Gen. 330 (1892) (See Exhibit I). Such pardons also were issued to those who evaded the draft in World War I by President Wilson and the Vietnam War by President Carter. Other recent and notable uses of the pardon power prior to trial include President Ford's pardon of former President Nixon and President Bush's Christmas Eve pardon of Casper Weinberger and others associated with what has come to be known as the Iran-Contra Affair. See *Proclamation 6518 – Grant of Executive Clemency*, 57 Fed. Reg. 62145 (Dec. 24, 1992) (pardoning six individuals involved in the Iran-Contra Affair). (See Exhibit J.)

* * * * *

Finality, fundamental fairness and justice -- these three principles motivate and inform the Presidential Pardon request of Mr. Rich and Mr. Green. Given the length of time that this matter has been pending -- and the absence of any potential for a negotiated resolution, a pardon is not only in the best interests of Mr. Rich and Mr. Green, but also of the United States.

These two men, who are now in their late sixties, indisputably have made careful, considered and effective contributions to the public good on a truly extraordinary scale in the twenty years since their exile from the United States. The recalcitrant and unreasonable refusal of the Southern District of New York to even engage in a meaningful discussion toward a resolution of this matter with Mr. Rich and Mr. Green has caused them both extensive harm. A Presidential Pardon will bring closure to this matter. It will "afford relief from [the] undue harshness or evident mistake in the operation or enforcement of the criminal law" that has so affected this case. *Ex Parte Grossman*, 267 U.S. 87, 120 (1925). And finally, it will allow Mr. Rich and Mr. Green to be with their families to devote the remaining years of their lives to the continuation and extension of their philanthropic activities both in the United States and

throughout the world. Accordingly, for the reasons stated herein and the accompanying Appendix, we respectfully submit that Mr. Rich and Mr. Green's petition for a Presidential Pardon should be granted.

Respectfully submitted,

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Summary of U.S. Criminal Case Against Marc Rich and Pincus Green

In 1980 and 1981, two Swiss companies associated with Marc Rich and Pincus Green engaged in a series of linked transactions involving foreign and domestic oil. These transactions, which also involved major U.S. oil companies, occurred during the period when the United States was still regulating energy prices and were not unlike many other transactions widely engaged in during this period. In accordance with the law and following the advice of competent counsel, payments attributable to the offshore aspects of the linked transactions were properly treated as exempt from U.S. taxes as well as U.S. energy price controls, which were shortly thereafter repealed.

The U.S. Attorney investigating the matter, Rudolph Giuliani, ambitiously turned the proper reporting treatment of these complex corporate transactions – essentially a routine civil allocation dispute – into a highly politicized criminal tax and energy fraud case alleging that domestic oil revenues were improperly diverted offshore. None of the major U.S. oil producers, however, which actually were the ones who insisted on linking their domestic oil sales with offshore foreign oil transactions, was ever criminally prosecuted.

The indictment also includes charges brought under RICO, a punitive and much-criticized statute designed to combat organized crime, leading to the imposition of restraints and a severe disruption of business activity. This was the first use of RICO in a tax case, a practice which the U.S. Government itself has since recognized to be inappropriate and has abandoned. As part of a destructive publicity campaign, inflammatory accusations of illegally trading with Iran were further leveled, but this charge was challenged by the companies and dropped against them.

The case achieved particular notoriety in 1983, when the U.S. Government demanded, in contravention of Swiss law, copies of documents located in Switzerland. Even though the United States and Switzerland had recently agreed to procedures for such international requests, the United States refused repeated pleas by the Swiss Government to follow these procedures and imposed heavy fines on the companies.

Threatened with the collapse of the entire company, even before trial, and overwhelmed by ruinous publicity, the companies were forced to plead guilty in order to survive. Fines totalling nearly \$200 million were paid, and an enormous amount of business was lost as a result of being improperly accused of racketeering.

Shortly after the conclusion of the case against the companies in 1984, the Department of Energy itself reached conclusions supporting the manner in which the challenged transactions were originally reported. Moreover, two of the country's leading tax experts have independently confirmed the correctness of the tax reporting of the transactions. Nevertheless, counsel for Messrs. Rich and Green have repeatedly been denied the opportunity to demonstrate conclusively to the prosecutors that none of the charges have merit. In light of this impasse and the serious consequences already suffered, a Presidential pardon of these two men is requested in the interests of justice and finally to bring this nearly twenty-year old case to a close.



MJA:jcj

U.S. Department of Justice

 United States Attorney
 Southern District of New York

 One Saint Andrew's Place
 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

MJA:jcj

Honorable Shirley Wohl Kram

-2-

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

MJA:jcj

Honorable Shirley Wohl Kram

-3-

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(1) of the superseding Indictment which are the same as those in Paragraphs 25(d) and 25(1) 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.

MJA:jcj

Honorable Shirley Wohl Kram

-4-

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. MUERBACH
Assistant United States Attorney
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cc: Peter Zimroth, Esq.
Peter Fleming, Esq.
Andrew Lawler, Esq.

(u)

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x

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. :

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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.

MJA:mj
MC-0013/1B

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

MJA:mj
MC-0013/1B

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

MJA:mj
MC-0013/1B

through the defendants' violations of federal energy laws and regulations. This scheme, and pattern of racketeering activity, enabled the 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.

MJA:mj
MC-0013/1B

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.

MJA:mj
MC-0013/1B

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 than 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."

MJA:mj
MC-0013/1B

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

MJA:mj
MC-0013/1B

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 stripper 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

MJA:mj
MC-0013/1B

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.

MJA:mj
MC-0013/1B

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 INTERNATIONAL 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

MJA:mj
MC-0013/1B

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

MJA:mj
MC-0013/1B

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,

MJA:mj
MC-0013/1B

telexes, 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".

MJA:mj
MC-0013/1B

(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

MJA:mj
MC-0013/1B

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

MJA:mj
MC-0013/1B

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

MJA:mj
MC-0013/1B

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 \$2,716,510.00. This invoice concerned a non-existent contract

MJA:mj
MC-0013/1B

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.

MJA:mj
MC-0013/1B

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:

<u>COUNT</u>	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE COMMUNICATION</u>	<u>DEFENDANT</u>
		<u>WIM "pot"</u>	
1	wire transfer to AG of \$12,507,818.40 (including \$1,786,831.00 from the pot) by WIM: "Arctic Star"	October 21, 1980	Rich, Green, AG and International
2	wire transfer to AG of \$4,050,000.00 by WIM from the "pot": "Norse King"	October 23, 1980	Rich, Green, AG and International
3	wire transfer to AG of \$5,384,217.00 by WIM from the "pot": "Olympic Bond"	January 5, 1981	Rich, Green, AG and International
4	wire transfer to AG of \$5,000,000.00 by WIM 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 WIM from the "pot": "Okinoshima Maru"	February 9, 1981	Rich, Green, AG and International

MJA:mj
MC-0013/1B

<u>COUNT</u>	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE COMMUNICATION</u>	<u>DEFENDANT</u>
6	wire transfer to AG of \$5,141,709.00 by WIM from the "pot": "Reno Maarak"	February 23, 1981	Rich, Green, AG and International
7	telexes of handwritten notes re WIM pot from International to WIM	February 1, 1981	Rich, Green AG and International
8	telex of typewritten summary re WIM pot from WIM to International	February 9, 1981	Rich, Green, AG and International
9	telex of typewritten summary re WIM pot from International to WIM	February 10, 1981	Rich, Green, AG and International
<u>Listo "Pot"</u>			
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

MJA:mj
MC-0013/1B

<u>COUNT</u>	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE COMMUNICATION</u>	<u>DEFENDANT</u>
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
<u>Charter False Deductions</u>			
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

MJA:mj
MC-0013/1B

<u>COURT</u>	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE COMMUNICATION</u>	<u>DEFENDANT</u>
	<u>Arco False Deduction</u>		
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.

MJA:mj
MC-0013/1B

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(1) above.

MJA:mj
MC-0013/1B

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:

<u>COUNT</u>	<u>MAIL COMMUNICATION</u>	<u>APPROXIMATE DATE OF MAILING</u>	<u>DEFENDANT</u>
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 WIM 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 WIM 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 WIM for 71,300 barrels at \$2,374,290.00	November 6, 1980	Rich, Green, AG and International

MJA:mj
MC-0013/1B

<u>COUNT</u>	<u>MAIL COMMUNICATION</u>	<u>APPROXIMATE DATE OF MAILING</u>	<u>DEFENDANT</u>
31	Invoice No. S11-051 mailed to International by WIM 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.)

MJA:mj
MC-0013/1B

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

MJA:mj
MC-0013/1B

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:

MJA:mj
MC-0013/1B

(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 .

MJA:mj
MC-0013/1B

I. THE SCHEME TO DEFRAUD THE IRS

<u>RACKETEERING ACT</u>	<u>APPROXIMATE DATE</u>	<u>VIOLATION</u>	<u>DEFENDANTS</u>
<u>WIM "Pot"</u>			
(1) wire transfer to AG of \$12,507,818.40 (including \$1,786,831.00 from the "pot") by WIM: "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 WIM 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 WIM 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 WIM 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 WIM 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 WIM 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 WIM from the "pot": "Philip of Macedon"	May 4, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(8) telefax of handwritten notes re WIM pot from International to WIM	February 1, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(9) telefax of typewritten summary re WIM pot from WIM to International	February 9, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International

MJA:mj
MC-0013/1B

<u>RACKETEERING ACT</u>	<u>APPROXIMATE DATE</u>	<u>VIOLATION</u>	<u>DEFENDANTS</u>
(10) telefax of typewritten summary re WIM pot from International to WIM	February 10, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
<u>Listo "Pot"</u>			
(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

MJA:mj
MC-0013/1B

<u>RACKETEERING ACT</u>	<u>APPROXIMATE DATE</u>	<u>VIOLATION</u>	<u>DEFENDANTS</u>
(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: "Santarar"	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
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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

MJA:mj
MC-0013/1B

<u>RACKETEERING ACT</u>	<u>APPROXIMATE DATE</u>	<u>VIOLATION</u>	<u>DEFENDANTS</u>
(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 WIM for 69,000 barrels 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 WIM 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 WIM 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 WIM 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

MJA:mj
MC-0013/1B

<u>RACKETEERING ACT</u>	<u>APPROXIMATE DATE</u>	<u>VIOLATION</u>	<u>DEFENDANTS</u>
(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,

MJA:mj
MC-0013/1B

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).)

MJA:mj
MC-0013/1B

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 INTERNATIONAL, 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.

MJA:mj
MC-0013/1B

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.

MJA:mj
MC-0013/1B

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:

MJA:mj
MC-0013/1B

(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

MJA:mj
MC-0013/1B

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

MJA:mj
MC-0013/1B

(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

MJA:mj
MC-0013/1B

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.)

MJA:mj
MC-0013/1B

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.)

MJA:mj
MC-0013/1B

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.

MJA:mj
MC-0013/1B

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

MJA:mj
MC-0013/1B

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.

MJA:mj
MC-0013/1B

(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.

MJA:mj
MC-0013/1B

(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 transfers of monies, all as more particularly as set forth in Counts 43 through 57 herein below:

<u>COUNT</u>	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE COMMUNICATION</u>	<u>DEFENDANT</u>
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

MJA:mj
MC-0013/1B

<u>COUNT</u>	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE COMMUNICATION</u>	<u>DEFENDANT</u>
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.

MJA:mj
MC-0013/1B

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:

<u>Count</u>	<u>Quantity of Iranian Crude Oil or Fuel Oil Purchased and Sold</u>	<u>Third Party Purchaser</u>	<u>Description of Payment to NIOC</u>	<u>Date of Payment to NIOC</u>
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

MJA:mj
MC-0013/1B

<u>Count</u>	<u>Quantity of Iranian Crude Oil or Fuel Oil Purchased and Sold</u>	<u>Third Party Purchaser</u>	<u>Description of Payment to NIOC</u>	<u>Date of Payment to NIOC</u>
59	1,531,658 barrels of crude oil and 5990 metric tons of fuel 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	1,568,430 barrels of crude oil and 3158 metric tons of fuel 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	370,418 barrels of fuel oil	TransWorld Oil	US \$8,134.40500 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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 MC-0013/1B

<u>Count</u>	<u>Quantity of Iranian Crude Oil or Fuel Oil Purchased and Sold</u>	<u>Third Party Purchaser</u>	<u>Description of Payment to NIOC</u>	<u>Date of Payment to NIOC</u>
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

 RUDOLPH W. GIULIANI
 United States Attorney

Letters Addressed to the Honorable
President William J. Clinton
Expressing Support for the Pardon of
Mr. Marc Rich

**Letters Addressed to the Honorable President William J. Clinton
Expressing Support for the Pardon of Mr. Marc Rich**

Denise Rich	Former Spouse of Mr. Marc Rich
Ilona Rich & Danielle Rich	Daughters of Mr. Marc Rich New York
Prof. Shlomo Ben-Ami	Minister of Foreign Affairs & Minister of Public Security Former Israeli Ambassador to Spain
Prof. Itamar Rabinovich	President Tel Aviv University Former Israeli Ambassador to the United States of America
Prof. Yaakov Neeman	Former Minister of Justice Former Minister of Finance
Ehud Olmert	Mayor of Jerusalem Former Minister of Health
Abraham Foxman	National Director of the Anti-Defamation League USA
Michael Steinhardt	Chairman and CEO Steinhardt Associates & Co. New York
Shabtai Shavit	CEO Maccabi Healthcare Services (HMO) Former Director of the Mossad
Camilio Jose Cela	Author (Marquis de Ina Flavia) <i>Nobel Prize Laureate</i>
Rabbi Irving Greenberg	Chairman of the Board United States Holocaust Memorial Council Washington DC
Marlene E. Post	Immediate Past International President, Hadassa Chairperson, Birthright Israel, North America

**Letters Addressed to the Honorable President William J. Clinton
Expressing Support for the Pardon of Mr. Marc Rich**

Rabbi Shlomo Riskin	Chief Rabbi of Efrat Chancellor & Dean, Ohr Torah Stone
Chief Rabbi Rene-Samuel Sirat	Chief Rabbi of France Vice President of the Conference of European Rabbis
Isaac Querub Caro	President Jewish Community of Madrid
Josef Estermann	Mayor City of Zurich, Switzerland
Fernando Fernandez-Tapias	President Association of Spanish Business Enterprises
Ernst Beyeler	Founder & President of the Beyeler Foundation
Kurt Bollinger	President Karl Popper Stiftung Foundation Swiss Air Rescue Organization
Pierre de Weck	Member of the Group Executive Board UBS A.G. Switzerland
Prof. Verena Meyer	Prof. of Physics and Director Zurich University President of the Swiss Science Council Switzerland

619

DENISE RICH
785 FIFTH AVENUE
NEW YORK, NEW YORK 10022

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 States 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.

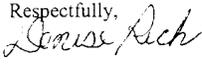
What was this exile for? The charges all relate to old energy regulations, where all of the other people and companies involved in the same kinds of transactions were never charged with a crime. Only my husband was treated differently. He was wrongly charged with "trading with the enemy" and being a "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

621

ILONA RICH
DANIELLE RICH
163 CHARLES STREET
NEW YORK, NEW YORK 10014

December 8, 2000

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Dear Mr. President:

I am writing on behalf of my sister, Danielle, and myself. We cannot thank you enough for the moral support and inspiration you have given our family which has encouraged us to write you.

As you heard, our sister Gabrielle truly was an extraordinary person. We watched her fight for her life to the last moment. She wanted very much to live.

And she wanted very much, probably only second to living, to see our father relieved of the agony of the "case," as we call it. Were she here today, we could not have stopped her from seeking you out in person to ask for help in pardoning our father. She loved him, stood by him and would be in the vanguard of the effort to obtain a pardon for him if she could. Like us, she suffered from the fact that for many years our family could not live in this country, and from the fear that our father would not be safe, or would be taken from us.

We know our mother is writing to you too, but we also wanted to tell you we know our father is a good man who has suffered too long. Please allow him to maximize his remaining life and his ability to do good. Please pardon him.

Very respectfully yours,

Ilona Rich



Faint, illegible text at the bottom of the page, possibly a scan artifact or bleed-through from the reverse side.

Jerusalem, 26 November, 2000

Dear Mr. President,

I was informed that Marc Rich is seeking presidential clemency as the only solution to extricate from a legal impasse in which his case has been lingering for the past 18 years.

Although I am not acquainted with the legal intricacies of his case, I do have concrete knowledge of Marc Rich's philanthropic activities in Spain, Israel and Diaspora communities and in fostering humanitarian projects as well as the cause of peace in the Middle East and elsewhere. His foundation was among the first private entities to support the Oslo Accords by sponsoring education and health programs in Gaza and the West Bank in cooperation with the Palestinian Authority. Many of the projects of people to people between Israelis and Palestinians would not have been possible without Marc Rich's generous involvement.

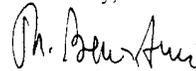
I have come to know personally Marc Rich since I was Ambassador in Spain and I found him to be an excellent private citizen. Indeed, he was considered as such by the highest levels in Spanish Society.

The circumstances have made his suffering cruel at times. He was not permitted to visit his daughter Gabrielle when she was dying of leukemia, or assist her funeral nor that of his father who died while in exile. His daughters and grandchildren are far from him in New York, which only adds to this cruel situation.

I would like to add my voice in support for any solution that can solve this Kafkaesque situation Mr. Rich has been in for so many years. So far realistic solution was possible. Your clemency is almost a last resort

I am sure that Marc Rich shall continue contributing to humanitarian causes, as well as to the cause of peace. He will be a friend of noble endeavours whatever his personal situation may be. But, a touch of clemency will serve as a token of recognition to the commitment of this unique man for his service to the community.

Yours Sincerely,



Shlomo Ben-Ami

His Excellency
William Jefferson Clinton
President of the United States of America
The White House
Washington, D.C.

23 November 2000

President William Jefferson Clinton
The White House
Washington
USA

Dear President Clinton,

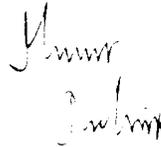
I take the liberty of writing to you in connection with the initiative undertaken in the USA, to ask for presidential clemency for Mr. Marc Rich.

I came to know Mr. Rich in the last few years in my capacity as the newly elected President of Tel Aviv University. The two foundations established by Mr. Rich have been particularly generous to scientific, cultural and social institutions in Israel and elsewhere, and it is in this context that I first met Mr. Rich. My relationship with Mr. Rich is thus quite recent, but within a short span of time I came to know him quite well and to regard him highly. Not only is he immensely generous, but also quite exceptional, being as a rule an anonymous donor, one who does not seek recognition and publicity.

As a person who has clearly sought to do good, he has been remarkably generous, consistent and effective. Personally, he is a creative, smart and attractive person. We share a large group of mutual friends, many of them leading businessmen, and I know that he is highly regarded by his peers.

If clemency is given to individuals who seek to rebuild their relationship with society, it seems to me that he has clearly earned it and I feel full warranted in endorsing this initiative and recommending clemency.

Sincerely,

A handwritten signature in black ink, appearing to read "Yehuda Avineri". The signature is written in a cursive style with some loops and flourishes.

HERZOG, FOX & NEEMAN

MICHAEL FOX	BOAZ TAL	ASIA HOUSE, 4 WEIZMANN ST
YAAKOV NEEMAN	SHLOMIT SPINDEL	64 239 TEL-AVIV, ISRAEL
TUVIA ERLICH	MARK PHILLIPS	TEL (972-3)692-2020
MEIR LINZEN	LIAT SHAKED-KATZ	FAX (972-3)696-6464
ALAN SACKS	YARON KUPFER	E.M.A.I.L hfn@hfn.co.il
YAAKOV BRANDT	SHARON HARLEV-SEGEV	
EHLID SOL	LIMOR HODIR	
ANER BERGER	ARIEL ASSA	
DANIEL CHINN	ELDAD CHAMAM	
DANET LEVY PAHIMA	RAN TAL	
ELDAR BEN-RLBY	YFAT GINSBURG	
AMIR SERAYA	RONI LIBSTER	
YAEI (NEEMAN) BAR-SHAJ	KARYN S SCHILLER	
EDITH ROTH	GALIA LEVY	
YAAKOV SHARVIT	NURIT DAGAN	
ELIOT SACKS	SHIMRIT HANEIN BAR-YOSEPH	
BARUCH KATZMAN	YANIV IZARDEL	
PAUL RUBENSTEIN	AMNON EPSTEIN	
DAVID ZAILER	MENACHEM NEEMAN	
ANAT SHAVIT	ODELIA OFFER	
ORLY MERON-SHAKED	SHARON PETEL	
ADAM EYTAN	MORIA TAM-HARSHOSHANIM	
ORLY GERBI	EYAL MIZRAHI	
MOSHE HARDI	SHIRA FRENKEL	
GILAD WEKSELMAN		

29 November, 2000

File No. 9999

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 was recently informed of Marc Rich's request for executive clemency. Knowing Marc Rich and his partners for over two decades since my years as Director General of the Finance Ministry, I am aware of the legal difficulties they have faced from the beginning.

It remains difficult to understand the rigidity of the legal system vis-a-vis his case, particularly since others facing similar problems were dealt more flexibly. As Minister of Justice in the previous government, I was instrumental in arranging clemency for cases where there was no other just solution. I intimately know the feelings of citizens who face a stone wall that doesn't hear and has no feelings.

Marc Rich has been one of our most important private individuals involved in the leading issues of our times, not only in Israel and the Jewish world, but also in supporting interfaith and coexistence work throughout the region.

As a religious person, I appreciate the generosity shown by this man who has suffered numerous injustices. It is difficult to comprehend the denial of a last visit to his daughter Gabrielle during her fatal battle with leukemia – a legal system must also be humane. I call your attention to the fact that Israel has granted pardons in more serious cases for humanitarian causes and in order to advance the peace process.

Marc Rich's ability to help so many others throughout his personal, medical and legal trials has earned him the respect and admiration of all those with whom he comes into close association. He has already paid his social debt to society and will be a tremendous resource for America as he winds down his businesses and devotes himself increasingly to philanthropy.

Hopefully, Marc Rich will have the opportunity to reunite with his daughters and grandchildren and enjoy many healthy years with them. I strongly support his request for executive clemency.

Sincerely

A handwritten signature in black ink, appearing to read "Yaakov Neeman". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Yaakov Neeman



ראש העיר
Mayor of
Jerusalem
رئيس البلدية

עיריית ירושלים
Municipality of Jerusalem
بلدية أورشليم - القدس

Jerusalem, November 27, 2000
29 Heshvan 5761

H. E. William Jefferson Clinton
President of the United States
The White House
Washington, D.C.

Dear President Clinton,

I write to you today on behalf of my good friend Mr. Marc Rich in support of his request for presidential clemency.

My relationship with Marc Rich goes back many years and his discretion and generosity has made him one of the main benefactors of Israel and the Jewish people.

The city of Jerusalem has benefited in particular from his support over the years. His efforts include a new wing at the Israel Museum, new trauma departments at the Shaare Zedek and Hadassah Medical Centers, a new wing at the Hebrew University as well as a long list of donations to associations dealing with the improvement of the quality of life in our country.

In short I have witnessed his long years of endurance and suffering as a result of the legal impasse of his case. I believe that the time has come to end his exile and allow him to rejoin his family in New York - his children and grandchildren. Any wrongdoing, if any, has been largely surpassed by his voluntary contributions to society as a whole, and I believe that he will continue to devote his philanthropic generosity to the welfare of the needy in the United States as well.

Yours sincerely,

Ehud Olmert

מכתב מס' א. ת.י. 775, ירושלים 91001, מלשוח, 02-6297997, 02-6296014

1 Safra Square, 2018 775, Jerusalem, 91001, Israel, Tel: 02-6297997

מیدאן ספרא 1, מ.ב. 775, אורשלימ - אלقدس 91001, האנפ 02-6297997, פאקס 02-6296014

כ' חשוון ה'תשס"א, 29/11/2000



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ARNOLD FORSTER

December 7, 2000

The President
The White House
Washington, DC 20500

Dear Mr. President:

I write in support of Marc Rich's request for executive clemency.

I have known Marc Rich for years, as both a personal friend and through his generous support of the Jewish community in the United States and abroad. He is a profoundly generous man who despite his misfortunes has worked tirelessly for the good of others. In addition to losing his home in the United States, he lost his daughter Gabrielle to leukemia. His response to the loss of his daughter was to set up a foundation for leukemia research, taking on himself the burden of preventing, insofar as is in his power, the tragedy that struck his family from striking others.

Marc Rich has made amends. Over the past twenty years through his foundations he has donated over \$100,000,000 to educational, cultural and social welfare programs. These programs have included resettlement aid for Ethiopian immigrants in Israel, medical facilities and training for Palestinian communities in Israel, and emergency relief in Kosovo and Turkey. In addition to his institutional support, as long as I have known him, he has been unstinting in his generosity to the individuals around him.

Marc Rich would now like to be reunited with his family in the United States, as he could not be while his daughter was dying. I believe that now is the time for the compassion Marc Rich has shown to the world to be shown to him and his family.

The extent of Marc Rich's suffering has become disproportionate to his mistakes. His life has been committed to making the world a better place. Nevertheless, he has been singled out among the transgressors of old, short lived energy regulations for criminal treatment. The prosecutor's office has been unwilling to enter into any discussions about the charges, even when his daughter was dying in New York.

We are a country that was founded on the belief in second chances. I have known you to be a generous and compassionate man. Marc Rich and his family are deserving of that generosity and compassion.

Sincerely,


Abraham H. Foxman
National Director

MICHAEL H. STEINHARDT
650 MADISON AVENUE, NEW YORK, NEW YORK 10022
TELEPHONE (212) 371-7300 FAX (212) 371-3241

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 than 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

MACCABI HEALTHCARE SERVICES 

November 28, 2000

The Honorable William Jefferson Clinton
President of the United States of America
The White House,
Washington, D.C

Dear President,

I take the liberty to join the list of supporters requesting presidential clemency for Mr. Marc Rich.

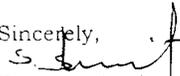
I have known Mr. Rich for many years now and found him to be a fine and generous individual willing to help good causes when asked. As Head of the Mossad, (1989-1996) we requested his assistance in looking for MIA'S and help in the rescue and evacuation of Jews from enemy countries. Mr. Rich always agreed and used his extensive network of contacts in these countries to produce results sometimes beyond the expected. Israel and the Jewish People are grateful for these unselfish actions which sometimes had the potential of jeopardizing his own personal interests and business relations in these countries.

Since my move to civilian life and as CEO of the second largest HMO in Israel, Maccabi Health Services I have become aware of his philanthropic contribution to hospitals, medical and scientific research and sick persons. In many cases these donations were anonymous. Although, the Rich Foundation due to inadequacy with its policies did not accept applications from our HMO, I recognize that his contribution in the medical field was and still is meaningful.

We did have success in recruiting his support of the "International Center for Research and Anti Terrorism Policy", a private non profit think tank of which I am the Chairman of its board and executive committee.

I wish him well and hope there is a way to bring to an end his legal difficulties in the USA. I strongly recommend offering a chance to this fine man to reintegrate with his family life in the United States of America where I am sure he will use his energy and creativeness to do additional good to society.

Sincerely,


Shabtai Shavit



24th November, 2000

The Honorable William Clinton
President of the United States of America

The White House, Pennsylvania Avenue
Washington, District of Columbia

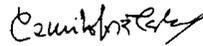
Dear President Clinton,

I am pleased to acknowledge the important work of the Marc Rich Foundation in Spain. Since its establishment in 1988, the Marc Rich Foundation has contributed significant resources to the benefit of nearly every sector of society. Health, Social Welfare, Science, the Humanities, and most visibly in Art and Culture.

As Chairman of the Foundation Board for almost 10 years, I can confirm that Marc Rich has played an important role in furthering these areas. All of this was done with the highest ideals of generosity and humanitarian concern in collaboration with many of Spain's leading public institutions. He is an upright citizen and highly respected in Spain where he has lived for many years.

I wish him well and hope that the problems he faces will be resolved soon.

Sincerely,



Camilo José Cela
Marqués de Iria Flavia



HADASSAH
THE WOMEN'S
ZIONIST
ORGANIZATION
OF AMERICA, INC.

50 WEST 58 STREET
NEW YORK CITY
NEW YORK
10019-2500

TEL. 212.355.7900
FAX 212.303.8282
TTY 212.303.4549
[HTTP://WWW.HADASSAH.ORG](http://www.hadassah.org)

FOUNDED BY
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,

A handwritten signature in cursive script, appearing to read "Marlene Post".

Marlene E. Post
Immediate Past International President, Hadassah
Chairperson, Birthright Israel, North America

הרב שלמה ריסקין

Rabbi Shlomo Riskin

אגודת

רב העיר אפרת
ראש מוסדות אור תורה סטון מכללות ומכונים
Chief Rabbi of Efrat
Chancellor & Dean,
Ohr Torah Stone Colleges & Graduate Programs

November 28, 2000

To the Honorable William J. Clinton
President of the United States

Dear Mr. President,

Needless to say I have been very much impressed and even inspired by your many activities as the most powerful leader in the world and have heard only superlatives about you from two friends I believe we have in common, Rabbi Menachem Genack and Lou Weisbach. However the personality trait which has most impressed me is your very deep humanity, which was so much in evidence when I had the honor of observing your personal contact with each child you met in the residence of the President of Israel last Hanukka. It is because of your humanity that I wish to add my voice to the request that you bestow a pardon upon Marc Rich and enable him to visit and perhaps even live in the United States.

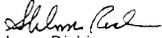
I have known Marc Rich for several decades. He has always given employ to worthy students of mine in need of occupation and in several instances has been extremely generous to their families when tragedies have struck. (In each case these have been American citizens who studied with me while I taught and administered as a rabbi in Manhattan). His philanthropy is well known: he dedicated a wing in the Israel Museum and he has subsidized many projects for American student – leadership-training in Israel as well as for immigrant rehabilitation and acculturation. Most importantly, as the rabbi of Efrat I have endeavored to foster positive relationships with our neighboring Palestinian villages. These Palestinians have neither health insurance nor the ability to train medical personnel of their own. Marc Rich paid hundreds of thousands of dollars to enable the Palestinians to receive proper medical help and to even send their brightest young people to medical school. He was also instrumental in building a center for early childhood education and physical training – a project which did much to foster good relations – beginning with the sports field used by Palestinians and Israelis which incidentally kept Hamas out of the villages. He did all of this without any fanfare or publicity seeking.

All those who know Marc Rich personally are impressed by his warm personality and his willingness to help every individual, whatever his/her social or economic standing may be. He enjoys a good reputation both as a fair businessman and an honorable human being.

Obviously, I have no way of estimating the nature or the extent of whatever his misdeeds may have been. I can only tell you that I was a witness to his personal suffering and anguish as a result of his having been exiled from the United States. His very beautiful and accomplished young daughter Gabriella – who was one of the most beautiful, sensitive and accomplished people I have ever known – was felled by Leukemia. She was sick for a number of years, but during the last months of her illness she suffered unendurable pain and agony. Marc Rich, always a very devoted and loving father endured unimaginable anguish not to have been able to visit his daughter during those trying months at the end of her life. I myself visited her at the Hutchinson in Seattle where she was hospitalized. Her father's name was always on her lips and he could think of nothing else but his daughter day and night during this period. Whatever his crimes may have been he has already more than paid his debt.

I am deeply grateful that you have taken time to read this letter.
With profound respect and gratitude in advance,

I remain sincerely,


Shlomo Riskin
Chief Rabbi City of Efrat
Chancellor, Ohr Torah Stone
High Schools, Colleges and Graduate programs

RENÉ-SAMUEL SIRAT
VICE-PRÉSIDENT DE LA CONFÉRENCE DES RABBINS EUROPÉENS

Paris, le 23 novembre 2000

Monsieur Bill Clinton
Président des Etats-Unis d'Amérique
Maison Blanche

WASHINGTON – U.S.A.

Monsieur le Président,

J'ai l'honneur d'intervenir auprès de Votre Excellence en faveur de M. Mark Rich.

Je tiens à attester de sa générosité et de son dévouement dans de nombreuses causes humanitaires, en particulier dans des programmes de formation en vue d'éradiquer la violence, d'enseigner et de promouvoir la paix.

Depuis trois ans, j'assume la direction d'une chaire que j'ai fondée sous l'égide de l'UNESCO et qui s'intitule *Connaissance réciproque des religions du Livre et enseignement de la Paix*. Nous avons pu bénéficier de subventions émanant du fonds philanthropique créé par M. Mark Rich. Notre but est de développer l'éducation sous toutes ses formes dans la vie communautaire et d'amener à une meilleure connaissance de l'Autre. C'est ainsi que nous avons pu organiser à l'Université Al Akhawayn d'Ifrane (Maroc) une Faculté itinérante des religions du Livre avec la participation d'éminentes personnalités comme par exemple M. Claude Cohen Tannoudji, Prix Nobel de Physique et Professeur au Collège de France.

Par ailleurs, je fais partie du comité *Une âme pour l'Europe* qui a été créé à l'initiative de la Commission Européenne. Nos projets de formation de cadres spirituels ont largement été soutenus par M. Rich.

Je considère de mon devoir d'apporter mon témoignage sur l'action de ce bienfaiteur et j'ose espérer que vous voudrez bien excuser, Monsieur le Président, la liberté que je prends en intervenant auprès de vous.

Je vous prie d'agréer, Monsieur le Président, les assurances de ma très haute considération.

René-Samuel SIRAT
Grand Rabbín du Consistoire Central
de France

TRANSLATION

Chief Rabbi René Samuel SIRAT
Vice President Conference of European Rabbis

Paris, November 23, 2000

Mr. Bill Clinton
President of the United States of America
White House
Washington - United States of America

Mr. President,

I have the honor to address myself to your Excellence in favor of Mr. Marc Rich.

I would like to testify on his generosity and his devotion to a large number of humanitarian causes, in particular dealing with programs aimed against violence and the teaching of Peace.

For the last three years, I am the Chair which I founded under the auspices of UNESCO, the title being "Knowledge of the Religion of the Book and Education for Peace." We have benefited from grants of the Marc Rich Foundation. Our goal is to develop all forms of education or community life to achieve a better understanding of the other. This is how we managed to organize at the University of France (Maroco) a roaming faculty of the Religion of the Book with the participation of high personalities such as Nobel Laureate Claude Cohen Tanouji, Professor of the French Academy.

I am also a member of the committee "The Soul of Europe" which was created by the European union. Our projects of spiritual leadership have been largely supported by Mr. Rich.

I consider it my duty to testify on behalf of this good man and I apologize for the liberty I have taken to intervene on his behalf.

Please accept, Mr. President, the assurance of my highest respect.

/s/
René Samuel SIRAT
Grand Rabbi of the Communities of France



הקהילה היהודית במדריד
Comunidad Israelita de Madrid

November 27, 2000

The Honorable William Jefferson Clinton
President of the United States of America
The White House
Pennsylvania Avenue
Washington, District of Columbia

Dear Mr. President,

I am honored to confirm to you that Mr. Marc Rich is a long-time registered member of the Jewish Community of Madrid, whose person is much-loved and respected.

Mr. Rich has generously contributed to the moral and economic well-being of the less fortunate in our community and to the maintenance of our school, the only Jewish school in Madrid, on a personal basis or through the Foundation which he heads.

To our knowledge, Mr. Rich is an honest, hardworking and law-abiding citizen who successfully ran his international company during 25 years. His dedication and contribution in the fields of social welfare, education as well as in Art and Culture has gained him the admiration and high esteem of Spanish society.

As we know him to be a truly upright man, we wish him all the best in his endeavors.

Sincerely yours,

Isaac Querub Caro



Comunidad Israelita de Madrid
קהילה יהודית במדריד

THE MAYOR OF THE CITY OF ZURICH

The President William Jefferson Clinton
The Whitehouse
Washington DC
USA

Zurich, december 4, 2000

Dear President Clinton

I am writing you on behalf of Mr. Marc Rich to support his request for a pardon

I have known Mr. Rich for some time and can confirm to you that he is an honest, upright citizen who also has been very charitable for many years, therefore helpful to the communities and the country in general. Of course this is quite apart from the fact that he is a very capable and successful international businessman.

Any wrong-doing that he has been accused of must have been largely surpassed by his voluntary contributions to society as a whole over the almost 20 years that he has been out of the country.

Thanking you in advance.

I remain



Josef Estermann, Mayor of Zurich, Stadthausquai 17, CH-8022 Zürich, Switzerland

Fernando Fernández-Tapias
PRESIDENTE

CONFEDERACION EMPRESARIAL
DE MADRID CECE

Madrid 29th November 2000

The Honorable William Clinton
President of the United States of America
The White House, Pennsylvania Avenue
Washington, District of Columbia

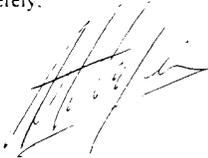
Dear President Clinton,

The CEIM Foundation of the Madrid Business Confederation has worked closely for many years with the Rich Foundation on a wide range of programs for the promotion of art, culture and education, especially aimed at the most underprivileged in society.

Mr. Marc Rich has always supported the initiatives our Foundation has proposed; indeed, without his backing, they could not have come to fruition. He has an abiding commitment to seeking solutions to the problems of society and to creating better conditions for the development of the individual, conscious as he is of his responsibility in this regard. In his work as a citizen, his attitude has always been proper, thus earning him significant respect in Spain, where he has lived for many years.

I wish him the best, hoping that the difficulties he is facing can be overcome soon, and in a satisfactory manner.

Sincerely,



641

FOUNDATION
BEYELER

The President
William Jefferson Clinton
The Whitehouse
Washington DC

December 1st, 2000

Dear President Clinton,

I am Ernst Beyeler, the founder of the internationally renowned cultural Beyeler Foundation.

I am writing you on behalf of Mr. Marc Rich to support his request for a pardon.

I have known Mr. Rich for some time and can confirm to you that he is a honest, upright citizen who also has been very charitable for many years, therefore helpful to the communities and the country in general. Of course this is quite apart from the fact that he is a very capable and successful international businessman.

Any wrong-doing that he has been accused of must have been largely surpassed by his voluntary contributions to society as a whole over the almost 20 years that he has been out of the country.

Thanking you in advance.

I remain


Ernst Beyeler

KARL POPPER STIFTUNG

Baarerstrasse 12, 6300 Zug

The President
William Jefferson Clinton
The White House
Washington DC

3067 Boll, 3rd December 2000

Dear President Clinton,

I am Kurt R Bolliger, Graduate from USAF Command and Staff College (Maxwell, Ala) 1959. CO of the Swiss Air Force (Lt General) from 1973 - 1980 (retired), President of the Swiss Red Cross 1982 - 1988, ex officio Vice President of the Federation of Red Cross and Red Crescent Societies. President of the World Red Cross Conference, Geneva 1986 [USA Chief Delegate Admiral Elmo R Zumwalt]. Since 1991 President of the Karl Popper Foundation (Zug) and the Swiss Air Rescue Organisation "REGA".

I am writing you on behalf of Mr Marc Rich to support his request for a pardon.

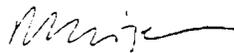
I have known Mr Rich for more than twelve years and can confirm to you that he is an honest, upright citizen who also has been very charitable for many years, therefore helpful to the communities and the country in general. Of course this is quite apart from the fact that he is a very capable and successful international businessman.

Any wrongdoing he has been accused of must have been largely surpassed by his voluntary contribution to society as a whole over the almost 20 years that he has been out of the country.

Thanking you in advance.

I remain.

Yours sincerely



Kurt R Bolliger



Bahnhofstrasse 45
CH-8021 Zurich
Switzerland
Tel +41-1-234-4590
Fax +41-1-234-4447

Pierre de Weck
Member of the Group Executive Board
pierre.deweck@ubscapital.com

www.ubscapital.com

The President William Jefferson Clinton
The Whitehouse
Washington DC
United States of America

December 4, 2000

Dear President Clinton,

I am Pierre de Weck, Member of the Group Executive Board of UBS A G

I am writing to you on behalf of Mr. Marc Rich to support his request for a pardon

I have known Mr. Rich since 1985 and can confirm to you that he is an honest, upright citizen who has also been very charitable for many years, thereby helping the communities and the country in general. Of course, this is quite apart from the fact that he is a very capable and successful international businessman.

In considering his request, please take into account Mr. Marc Rich's voluntary contributions to society as a whole, over the almost twenty years that he has been out of the United States of America.

Thanking you in advance

I remain,

Yours sincerely,

A handwritten signature in black ink that reads 'P. de Weck'.

Pierre de Weck
Member of the Group Executive Board

UBS A G

Prof. Dr. Verena Meyer
Oetlisbergstr. 48
8053 Zürich
Switzerland

The President
William Jefferson Clinton
The Whitehouse
Washington DC
USA

Zürich, Dezember 5, 2000

Dear Mr. President

As a retired professor of physics at Zurich University, formerly Rector of the University and President of the Swiss Science Council, I am writing to you on behalf of Mr. Marc Rich and herewith should like to support his request for a pardon.

I have known Mr. Rich for many years as an honest and upright citizen and a most generous sponsor of science, culture and charity both in his community and in the whole of Switzerland. Of course this is quite apart from the fact that he is a very capable and successful businessman.

Any wrong-doing that he has been accused of must have been largely surpassed by his voluntary contributions to society as a whole over the almost 20 years that he has been out of your country.

Thanking you in advance I remain respectfully

A handwritten signature in cursive script that reads "Verena Meyer".

Verena Meyer



UNION BANCAIRE PRIVÉE
GENÈVE

MICHAEL D. DE PICCIOTTO
Managing Director
Member of the Directorate

The President
William Jefferson Clinton
The Whitehouse
Washington DC

10 December, 2000

Dear President Clinton,

I am writing you on behalf of Mr Marc Rich to support his request for a pardon.

I have known Mr Rich for a number of years now and I can confirm to you that he has built a good and honest reputation in this country. Apart from being a very respected and successful businessman, he has also proven to be a highly generous man towards communities in Switzerland and abroad contributing to causes such as, "Médecins sans Frontières", homes for rehabilitation of drug addicts, health preventive education for the children in Gaza and the Society for the minorities in Switzerland, amongst many others.

Thanking you in advance for your consideration.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Michael D. de Picciotto', written in a cursive style.

Michael D. de Picciotto

Letters Expressing Support for the
Pardon of Mr. Marc Rich

**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

**Letters Expressing Support for the
Pardon of Mr. Marc Rich**

Prof. Yair Reisner	Head, Gabrielle Rich Center for Transplantation Biology Weizmann Institute of Science, Rehovot
Yaacov Agmon	Chief Executive, Habima National Theatre of Israel
Prof. Mordechai Omer	CEO & Chief Curator, Tel Aviv Museum of Art
Dr. David Alexander	CEO & Chief Curator, Museum of the Jewish Diaspora, Tel Aviv
Gila Almagor	Tel Aviv City Council Member, Chairperson, Committee of Culture and Arts
Noam Semel	Director, Cameri Theatre of Tel Aviv
Yonit Weiss	Director of Development, The New Israeli Opera, Tel Aviv
Tzipi Pines	Director, Beit Lessin Theatre, Tel Aviv
Shmuel Atzmon	Artistic and General Manager, The Yiddish Theatre in Israel
Yoav Dagon	Director and Chief Curator, Gutman Museum, Tel Aviv
Misha Gross	Managing Director, The Israel Sinfonietta, Beer-Sheva
Dalia Levin	Director & Chief Curator, Herzliya Museum of Art
Lena Makarova	Holocaust Historian (Theresienstadt)

**Letters Expressing Support for the
Pardon of Mr. Marc Rich**

James S. Snyder	CEO & Chief Curator, The Israel Museum, Jerusalem & Former Deputy Director, Museum of Modern Art, New York
Raya Zomer	Director, Ein Hod Dada Museum
Haim Ben-Ami, Esq.	CEO, ORT Colleges for Advanced Technologies & Sciences
Prof. Avishay Braverman	President, Ben-Gurion University of the Negev
Prof. Uriel Reichman	President, The Herzliya Interdisciplinary Center
Dr. Avi Pazner	World Chairman, United Jewish Fund & Former Ambassador to France and Italy
Aura Herzog	International President, The Council for a Beautiful Israel <i>Wife of Israel's Sixth President, the late Chaim Herzog</i>
Erez T. Yanuv	Founder, Aid Without Borders – Israeli-International Volunteer Organization
Gilles Darmon	Chairman of the Board of "LATET" – Israeli Humanitarian Aid
Dr. Anthony J. Cernera	President, Sacred Heart University & Center for Christian-Jewish Understanding, Philadelphia, USA
Irene, Princess of Greece	President, Mundo en Armonia, Spain

**Letters Expressing Support for the
Pardon of Mr. Marc Rich**

Prof. Peter Oppenheimer	President, Oxford Centre for Hebrew & Jewish Studies
Leo Pavlát	Director Jewish Museum, Prague
Lady Beatrice Rosenberg of Rothchild	Chairman, École Ganénu Paris
Eyal Sela	Counselor for Cultural Affairs, Embassy of Israel, Spain
Dr. Maurice L. Slevin, MD FRCP	Consultant, Medical Oncologist and Chairman, CancerBACUP, United Kingdom
Miri Ziv	CEO, The Israel Cancer Association Ramat Gan, Israel
Dr. Paul A. Marks	President, Memorial Sloan-Kettering Cancer Center, New York
Robert G. Wilkens, Jr.	Vice President of Development Memorial Sloan-Kettering Cancer Center, New York
Cliff Sanderlin	Director of Foundation Relations, Fred Hutchinson Cancer Research, Seattle, WA
Dr. John Mendelsohn	President, The University of Texas M.D. Anderson Cancer Center
Michael Schneider	Executive Vice President The American Jewish Joint Distribution Committee, Inc.

**Letters Expressing Support for the
Pardon of Mr. Marc Rich**

Francine K. Hazan	Director, Minerva Center for Human Rights The Hebrew University of Jerusalem
Prof. Ady Steg	President Alliance Israélite Universelle
Gilad Sheba	Managing Director Keshet Eilon



MINISTER OF HEALTH

03 December 2000

Mr. Marc Rich
 Chairman of the Board
 The Rich Foundation for Education, Culture & Welfare
 Lucerne
 Switzerland

Dear Mr. Rich,

As Minister of Health and previous Mayor of Tel Aviv-Jafo, I wish to acknowledge the significant work done by the Rich and Doron foundations under your direction as Chairman.

The dynamic and varied cultural landscape we enjoy is inconceivable without your contribution. The Tel Aviv Doron cinema center is our leading film center, home to Israel's most prestigious documentary festivals.

The Gabrielle Rich Wing of the Tel Aviv Museum of Art is the newest addition with its spectacular beauty and natural lighting allowing the highlight of the museum's collection to shine.

The Geshet Theatre of Russian immigrants, the international jazz series at the Tel Aviv Performing Arts Center, The New Israeli Opera's neighborhood production in a disadvantaged area of the city are all gems that bring culture to a very diverse Tel Aviv population.

As an art lover myself, I greatly appreciate your generosity in this area, particularly as you have focussed on educating the next generation through youth wings and art appreciation programs.

As Minister of Health, the intensive care units and emergency wings are permanent testimonies to your concern for improving care for the most needy. The medical information centers have given many citizens access to key information in understanding and preventing illness. Many new immigrants, doctors and nurses alike, were assisted by the Foundation to update their skills to the medical system in their new country.

The support for leukemia researchers and the new leukemia research center established by the Gabrielle Rich Leukemia Research Foundation will continue allowing world-renown scientists to find a cure.

We wish you a life of good health, and wish you and your philanthropic efforts continued success.

Sincerely,



Ronit Milo

26 November 2000

מדינת ישראל
STATE OF ISRAEL

DEPUTY MINISTER OF DEFENSE

סגן שר הביטחון

Mr. Marc Rich
Chairman of the Board
The Rich Foundation for Education, Culture and Welfare
Lucerne
Switzerland

Dear Marc,

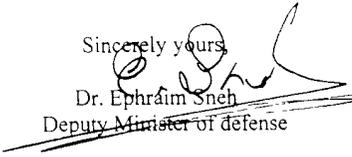
It is with pleasure that I write to express my appreciation to the support given by you and the Foundations you head to humanitarian causes both in Israel and in disaster struck areas abroad.

Much important work has been done in the past years by both the Doron and Rich Foundations, under your guidance, for the improvement of the quality of life in Israel. As the former Minister of Health I can point out particularly the vast work supported in the field of medical care through support of new immigrant doctors in their integration in the Israeli medical system, the support and establishment of special medical units in hospitals all over Israel - especially in medical centers which cater to needy populations.

I was especially impressed with the immediate assistance given by you which enabled the establishment of an emergency ward in Eritrea and the support offered to the Israeli medical team which was sent to give medical assistance in this disaster struck part of the world.

I am confident that your generous and thoughtful contribution to humanitarian causes will continue and I take this opportunity to wish you all the best and much success.

Sincerely yours,



Dr. Ephraim Sneh
Deputy Minister of defense

Tel Aviv's Theatre

The Cameri

101 Dizengoff Street
Tel Aviv 61030
Tel. 03-7252500

27 November 2000

Mr. Avner Azulay
Managing Director
The Rich Foundation

Shalom,

Re: "Requiem" 's Tour to Hungary

The play **Requiem**, written and directed by Hanoch Levin, has just returned from a successful tour to the Europe Festival, which was held this year in Budapest, Hungary. Ten of Europe's best theaters were invited to take part in this prestigious festival, and the Cameri Theatre had the honor to be among the leading ones. The Cameri's performance and Hanoch Levin's play received raving reviews and captured the attention of the European audience. The tickets to the two performances were sold out almost two months before the show, and hundreds of people were disappointed they were not able to attend the performances.

On behalf of the Cameri Theatre and the Mayor of Tel Aviv – Yafo, we thank you for your continued support of the strengthening of the ties between the Cameri Theatre and Europe's Theaters. If it were not for your blessed financial support of the tours to Greece and Hungary, we would not have been able to represent the State of Israel and the City of Tel Aviv in these important European festivals.

We are confident that the Cameri Theatre and its delegation brought Israel its due honor in the European Festival, and we hope to continue doing so in the future.

With warm regards,

Ron Huldai
Mayor of Tel-Aviv-Yafo
and Chairman of the Board of
Trustees of the Cameri Theatre

Noam Semel
Director General

Shulamit Aloni

November 19 2000

Avner Azulay
Managing Director,
The Rich Foundation
Asia House, 4 Weizman Str.
Tel Aviv

Dear Avner,

I am happy to inform you that the International Conference " Women, Equality and Democracy", which took place at the Ben Gurion University in the Negev from November 13 -15, 2000, was an outstanding success, over and above all expectations. I again wish to thank you and the Rich Foundation for your generous contribution to this even, you can be proud of yourselves.

I wish to use this opportunity to praise and commend the work of the Rich Foundation in the fields of education,culture, science,social solidarity and the strengthening of humanism in Israel,immigrant absorption and co existence between the various communities in Israel.

I can afford to give praise without being suspected of paying lip-service, as I am aware of the scope of your activities in all its aspects, both as my being a Minister of Education and Culture and Minister of Science and deeply involved in the social and cultural life in Israel.

You deserve to be congratulated for your extensive activities up to now, and I hope and believe that you will continue along this path. Unfortunately, there are many fields in which people and society need your assistance, and, regrettfully, the government doesn't address these problems sufficiently, if at all.

I once again thank you for your contribution, your work and contribution of the Foundation you head to the successful conference in Beer Sheva and in particular for your extensive activities over the years in many fields.

Sincerely,

Signed-Shulamit Aloni

PALESTINIAN NATIONAL AUTHORITY
 MINISTRY OF HEALTH
 INTERNATIONAL COOPERATION DEPARTMENT



السلطة الوطنية الفلسطينية
 وزارة الصحة
 إدارة التعاون الدولي

Ref. 1053 / 98

Date: 12/08/98

Ms. Tamara Barnea
 Director
 JDC- Special Programs
 In the Middle East

Dear Ms. Barnea,

Subject: HED-PAL-ADOL Grant from Rich Foundation.

Reference is made to your letter dated 26 July 1998 regarding the above mentioned subject.

We would like to thank you very much and the Rich Foundation for all good efforts made to help the Palestinian children appreciating your assistance to develop the HED-PAL-ADOL.

Kindly be informed that we strongly support the project and we are proceeding with all our available resources.

We remain sincerely yours,


Riyad Zanoun
 Minister of Health

- c.c. Dr. Munzer Sharif, Deputy Minister
- Dr. Zahera Habash
- Dr. Mohammad Afifi

658

THE GOVERNMENT SECRETARY
Jerusalem, Israel



מזכיר הממשלה
ירושלים

November 28, 2000
א' כסלו, תשס"א

Mr. Marc Rich
Baarerstrasse 53
CH-6304 Zug
Switzerland

Dear Marc,

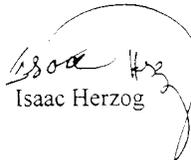
I was very happy to hear from you recently. I was sorry not to have been able to see you during my recent visit to Switzerland.

I take this opportunity to once again express my deep appreciation of your endeavors and generosity. Your charitable work in Israel and elsewhere, especially in the Jewish world is extremely impressive. I personally believe that not many people can attest to have had such input in the upgrading of social and medical services in Israel as you have through the dedicated work of your Foundations over the past 20 years.

Many people in Israel are grateful to you and to your Foundations and you should take very great pride in your "Gmilot Hasadim" (Charitable Deeds).

I look forward to being able to meet you soon. In the meantime, I wish you a happy and healthy 2001!

Sincerely,


Isaac Herzog



29 November 2000

Mr. Marc Rich
Chairman of the Board
The Rich Foundation for Education, Culture and Welfare
Lucerne
Switzerland

Dear Marc,

I'm happy to affirm that the Jerusalem Foundation considers you and the foundations you head as allies and friends in the mission to improve the quality of life for Jerusalem's citizens, to enrich the city's cultural life and to bridge the gaps between the various ethnic groups which make life in the city so complicated.

Over the years, your assistance to the Jerusalem Foundation's work has expressed itself in many important projects. Just to name a few: assistance to the establishment of the center for the prevention of family violence, the purchase of therapeutic equipment for the emergency center for children, the sponsorship of Jerusalem's international puppet theater festival, the support of young artists and joint workshops for religious and non-religious children and youth.

Your generosity and support of the city of Jerusalem over the years has helped us in our endeavor to upgrade the services offered to the city's residents and to advance the city's cultural life.

I deeply appreciate your commitment to Jerusalem, and I am confident that your collaboration with us will continue improving the lives of all of Jerusalem's residents.

I wish you every success in the future.

With warmest regards,

Yours gratefully
Teddy

Teddy Kollek
International Chairman of the Jerusalem Foundation

11 Rivka Street POB 10185
Jerusalem 91101 Israel
Tel. 972-2-675 1711

شارع ريفكا 11 ص.ب. 10185
اورشليم القدس 91101
تلفون: 972-2-6751711

10185 ת.ד. 11 ריבקה
91101 ירושלים
טל 972-675 1711

660

Shlomo Lahat

15 Hamitnadev St. Afeka, Tel-Aviv, 69690, Israel
Tel. 972-3-6422656 Fax. 972-3-6426873

26 11 2000

Mr. Marc Rich
Chairman of the Board
The Rich Foundation for Education, Culture and Welfare
Zug
Switzerland

Dear Marc,

Thank you again for the air-conditioner for the blind couple. You have no idea how this eased their lives during the long hot summer we had.

As former mayor of Tel-Aviv for over 20 years, I remain deeply appreciative of your efforts to ease the life of the needy, the culturally deprived in Tel-Aviv and in Israel.

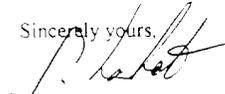
From the Art Appreciation classes for children in deprived neighborhoods, The Workers Rights Center and Hotline for Tel-Aviv's thousands immigrants workers, and the many efforts to encourage peaceful coexistence with our Arab neighbours, you have left no stone unturned in trying to help us improve our daily lives.

The museums, the philharmonic and jazz concerts, operas, the Cinematheque Film Center, immigrants and veteran theaters, all receive your support and enable thousands to attend performances they would otherwise be unable to afford.

Most of all Marc, I know that your heart is with us, your address always known should I need a partner.

I wish you success in your efforts to return to the States and reunite with your daughters and grandchildren.

Sincerely yours,



Shlomo (Chich) Lahat
Former Mayor of Tel-Aviv Yafo

THE ISRAEL
PHILHARMONIC
ORCHESTRA

Founded by Bronislaw Huberman
Music Director: Zubin Mehta



התזמורת
הפילהרמונית
הישראלית

נוסדה בידי ברניסלב הוברמן
מוזיק מנצח: זובין מהטה

20 November, 2000

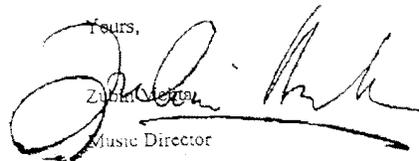
Mr. Marc Rich
Chairman of the Board
Rich Foundation
Switzerland

Dear Marc,

For the past two decades, the Israel Philharmonic Orchestra has been privileged to enjoy a close and special friendship with the Rich Foundation.

The Foundation's love and support of music has been a great asset to our Orchestra, enabling us to give concerts in remote and under-privileged towns and expand and enhance the Orchestra's musical programs for Israeli youth. Moreover, the Rich Foundation's on-going assistance has helped the Orchestra to maintain its standards of musical excellence as well as its position at the forefront of cultural diplomacy.

I would like to take this opportunity to thank the Rich Foundation and express my heart-felt appreciation for its exceptional support of the Israel Philharmonic Orchestra.

Yours,

Zubin Mehta
Music Director

hadassah medical organization
central administration

Kiryat Hadassah
P.O. Box 2000
131120 Jerusalem - Israel
Telephone: 02-5172111
Faxes: 02-5172111
02-5172111



http://www.hadassah.org.il

הסתדרות מדיעונית הדסה
הנהלת המרכזיות

רחוב
המלך דוד
2000
ירושלים
טל: 02-5172111
פקס: 02-5172111
02-5172111

November 26, 2000

Mr. Marc Rich
The Rich Foundation
Beit Asia
4 Weizman st.
Tel Aviv 62439

Dear Mr. Rich,

As the Rich Foundation marks twenty years of activities, we at Hadassah think it is appropriate to express our gratitude for the on going support and wonderful cooperation between the Foundation and Hadassah.

Over the years the Rich Foundation has left a lasting imprint on Hadassah. To name only some of your contributions, there is the Gabrielle Rich Leukemia Research Center and generous contribution to the absorption of newcomer nurses in Israel. A most special and important contribution was our Trauma Center you donated. This donation involved a lot of vision in addition to the financial support. You believed in us when it was only an idea. The result was that other hospitals in Israel followed us and established similar Trauma Units.

On behalf of the so many patients who, thanks to your vision and generosity, could received much better state-of-the-art medical treatment, I wish to express the gratitude of all of us in Hadassah.

I hope we will continue to enjoy your support in more visionary project as we have been privileged so far.

Sincerely,

Prof. Avi Israeli
Director General





המרכז הרפואי האוניברסיטאי סורוקה
SOROKA UNIVERSITY MEDICAL CENTER
ת.ד. 151 באר שבע 84101 • http://soroka.bgu.ac.il • 84101 • www.claif.co.il



P.O. BOX 151, Beer-Sheva 84101 Israel
fax: 07-6277364 phone: 07-6403408

Mr. Marc Rich
Chairman of the Board
The Rich Foundation for Education, Culture and Welfare
Lucerne
Switzerland

Dear Mr. Rich,

Soroka Medical Center is the only hospital in the southern Negev region of Israel and serves a very heterogeneous population, many of whom are Bedouins and immigrants from the former Soviet Union and Ethiopia.

Your Foundation has always identified itself with the growing needs of our medical center and has played a cardinal role in upgrading our medical services to the extent that the Soroka University Medical Center is now considered to be one of the leading and busiest hospital in Israel.

Such special contributions as a medical information center for patients (in Hebrew, Arabic, Russian and Amharic), modernizing of operating theatres and the establishment of a new general intensive care unit have made a significant change in the services and quality of treatment we can offer our patients.

In view of the unfortunate recent increase in violence in our area, the trauma center and the intensive care unit in Soroka are sometimes overwhelmed with casualties. Thanks to your generous and important support we are enabled to provide high standard medical care.

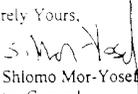
On behalf of the Soroka Medical Center and the people of the Negev, I am honored and pleased to express our deep appreciation of your support over the years, and look forward to our continued cooperation for the benefit of the whole Negev region.

We look forward with great anticipation and excitement to your visit at our center at your earliest convenience.

Thank you again for your wonderful humanitarian help.

Best wishes.

Sincerely Yours,


Prof. Shlomo Mor-Yosef
Director General

שומרים על בריאות כללית



Mr. Marc Rich
Chairman of the Board
Rich Foundation for Education, Culture and Welfare

November 28, 2000

Dear Mr. Rich,

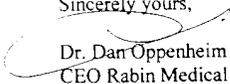
As a sponsor of a number of important projects at the Rabin Medical Center over the past few years, I am pleased to report to you on their progress and development.

Your donation in 1995-96 was applied to the acquisition of state-of-the-art equipment for the catheterization laboratory of the Department of Cardiology at RMC, enabling the development of a very successful Catheterization Unit. This unit, with its well-trained staff, performs more than 4000 diagnostic and interventional catheterization procedures annually, and is considered one of the top units in the country. Dr. Ran Kornowski, a leading figure in cardiac catheterization, joined the department a few months ago and leads both the clinical and research aspects of this unit.

Your donation in 1999 was an important component in the establishment of The Women's Health Education and Resource Center, a unique service in Israel. The Center offers women a means to obtain information regarding health issues, enabling them to make informed decisions along with their physicians. Many prominent guests, including the First Lady of the United States, Mrs. Hillary Rodham Clinton, and the First Lady of the Republic of Germany, Mrs. Christina Rau, have visited and been impressed by the Center.

We are most appreciative of the importance you have given to the development of medical services at our hospital. We hope to be able to continue this relationship, and we invite you to visit us here so that we can show you both our research and clinical treatment centers.

Sincerely yours,


Dr. Dan Oppenheim
CEO Rabin Medical Center

Committed to Excellence !

מחוייבים לאיכות !

November 30, 2000

Mr. Mark Rich
c/o Mr. Avner Azoulai
Doron Foundation
Beit Assia
Weizmann 4
Tel Aviv

Dear Mr. Rich,

Shaare Zedek acknowledges with deep gratitude the support we received from the Doron Foundation between the years 1981 and 1994.

During those years, the Doron Foundation provided regular, steadfast assistance to the hospital totaling almost \$1.9 million, representing an average annual contribution of \$135,600.

The Foundation's support was of great help as we outfitted our departments and clinics with state-of-the-art equipment, following our 1979 move to our present modern facilities near Mount Herzl.

Among the many purposes to which these funds were used was the equipping of the Mammography Room in our Department of Radiology. As you know, early detection of breast tumors is the decisive factor in saving the lives of women who are struck by breast cancer, and mammography is a key component of early detection.

The hospital has, regretfully, received no further support from the Foundation since 1994.

Shaare Zedek is appreciative of the 14 years of support we received from the Doron Foundation, which helped us to provide superior medical care to the people of Jerusalem and to develop into one of Israel's premier centers of medicine.

Sincerely,


Prof. Jonathan Halevy, M.D.
Director-General

המרכז הרפואי

שיערי צדק

ירושלים

המרכז הרפואי
שיערי צדק
ירושלים



shaare zedek
medical center
jerusalem

a university
affiliated
teaching
hospital

פרופ' יונתן הליבי
המנהל הכללי

ת"ד 2035
ירושלים 91031
טל 02-6555493
פקס 02-6510976

Prof. Jonathan Halevy
M.D.

office of the
director-general

ת"ד 2035
ירושלים 91031
טל 02-6555493
פקס 02-6510976



המחלקה לאימונולוגיה
Department of Immunology

מכון ויצמן Weizmann Institute
למדע of Science
רחובות 76100 תל אביב-יפו
סלמון 934 4012, 934 4013 Phone 972 8 934 4012, 934 4013
פסק 934 4141 Fax 972 8 934 4141

30 November, 2000

Mr Marc Rich
Chairman of the Board
The Rich Foundation for Education, Culture and Welfare
Lucerne
Switzerland

Dear Mr Rich:

I would like to extend my sincere thanks and greatest appreciation for your strong support of our scientific activities during the past three years, as well as for your generous donation for the establishment of the Gabriella Rich Center for Transplantation Biology.

Your understanding of the importance of our work has been of the utmost help in enabling us to extend and refine a new approach which we developed recently, allowing bone marrow transplantation for leukemia patients who do not have a matched donor in the family. This approach is largely based on our finding that mouse and human stem cells can effectively suppress and overcome the rejection mechanism mediated by residual immune cells remaining in the host after the supralethal radiochemotherapy applied prior to transplantation. It is hoped that our studies will not only lead to improved results in this area, but also shed light on the obscure mechanism by which the bone marrow stem cells are capable of paralyzing the cells which come to attack them.

In addition, the establishment of the Gabriella Rich Center for Transplantation Biology will further aid two additional excellent groups at the Weizmann Institute investigating other aspects of stem cell biology. The group of Prof. Dov Zipori, who made seminal contributions to the understanding of the interaction between the microenvironment of the bone marrow and the hematopoietic stem cells and the group of Dr Tsvee Lapidot, who, in recent years, has



המחלקה לאימונוλογία
Department of Immunology

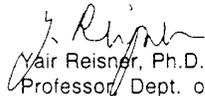
מכון ויצמן
למדע
רחובות 76100
טלפון 08 934 4011 934 4013
פקס 08 934 4141

Weizmann Institute
of Science
76100 Rehovot, Israel
Phone 972 8 934 4011 934 4013
Fax 972 8 934 4141

made important discoveries on the mechanism by which stem cells travel and seed the bone marrow and other hematopoietic tissues.

It is hoped that the collaboration between our scientific groups, with your encouragement and interest, will lead to further important achievements in the general area of transplantation biology and specifically in the advancement of bone marrow transplantation.

Sincerely,


Yair Reisner, Ph.D.

Professor, Dept. of Immunology
Head, Gabriella Rich Center for Transplantation Biology
Weizmann Institute of Science



29 November 2000

Our ref. T-21989

The Rich Foundation
Att: Mr. Avner Azulay
Fax: 6954376
Asia House
Weizman st.
Tel-Aviv

Re: Report of Habimah participation in the Prager Theaterfestival Deutcher Sprache

Dear Mr. Azulay,

Upon my return from the Prague Festival where we performed our production of "The Caucasian Chalk Circle", I would like to take this opportunity and thank the Rich Foundation for its support, assistance and collaboration during the last years.

The participation of the Habimah National Theatre in this prestigious Festival was the first time an Israeli theatre performed in Prague and the impact of the two shows was very strong.

I take this opportunity to thank the Rich Foundation for its support in this tour. Without the contribution of the Foundation I'm not sure we could materialize this important project.

I feel obliged to mention the strong collaboration with the foundation during the last years, which resulted in some most important projects for the theatre and for the community.

"Civil War" – during the last three years the Rich Foundation supported the young Habimah Company and by this enabled us to bring important tutors from abroad. The Rich Foundation enabled us to perform "Civil War" outside Tel-Aviv and to bring this politically important production to the periphery. The support of the Rich Foundation enabled us to have 10 additional performances of "Civil War" in the Rabin memorial day.

The Sternheim project - The Rich Foundation, with its support enabled Habimah to go into this experimental Artistic project.



“Singing against Violence” The Rich Foundation supported this special event which was part of Habimah's campaign against violence.

“Haluda” and last but not least, the Foundation supported the 4 performance of this Acco Festival winning production which also bore connection to the Rabin assassination.

For all these activities which were all of utmost importance, I wish to thank the Rich Foundation And to express my hope that this fruitful collaboration will continue and strengthen.

With all best wishes,

Yours Sincerely,

Yaacov Agmon
Chief Executive

A handwritten signature in black ink, appearing to be 'Yaacov Agmon', written over the typed name.



Tel Aviv, 29 November 2000

Mr. Marc Rich
 Chairman of the Board
 The Rich Foundation for Education, Culture and Welfare
 Lucerne
 Switzerland

Dear Mr. Rich,

May I, once again, take the opportunity to express our profound gratitude to you for your enormous contribution to the enrichment of the cultural life of Israel in general, and to that of the Tel Aviv Museum of Art in particular.

In this country, where daily life always seems to be lived under great pressure and stress, we believe that art has a crucial role to play. In our Museum, we welcome tens of thousands of children, teachers from all parts of the country, old people and young, soldiers, Arabs, minorities, new immigrants and established Israelis. Recently we have had record numbers of visitors and it appears that for them the Museum has become an oasis and a place of refreshment for the soul.

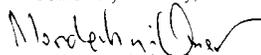
All visitors to the Museum are delighted by the beautiful Gabrielle Rich Wing. Because it is always so full of vitality, it is truly a tribute to the memory of your daughter, who was herself so enchanted and involved with the arts. As a memorial to her, it is filled with beauty and with the spirit of creativity, which I believe were among the outstanding characteristics of this extraordinarily talented young woman. The building, which bears her name, has had a tremendous impact on the life of the Museum, and it has proved to be a most wonderful enhancement, beyond all our dreams.

Since it opened a year ago, every day hundreds of children and young people participate in educational activities in the Gabrielle Rich Wing – from gallery games and shows to serious lectures and concerts. However, the beginning of your important support for the Museum's educational activities dates back to the Doron Foundation in 1988. Through the years your donations have helped to initiate new programmes and develop unique art workshops for children, particularly for those from underprivileged areas. The encounters with original works of art, and the creative activity in art workshops, continue to engage their imagination and curiosity, while also encouraging self-development and broadening their horizons.

The Henri Cartier-Bresson photographs, which came to the Museum through your initiative, are yet another example of your tremendous and thoughtful support for the arts. The Museum collection was greatly enriched by your donation, and the exhibition of the work of this renowned photographer was one to which our audiences responded with much enthusiasm and warmth.

On behalf of all those who believe that, in addition to their intrinsic value, the arts can play an invaluable role in the development of a country and a people, as well as in the building of bridges between individuals and cultures, I wish to thank you wholeheartedly for the many ways in which you, through the Rich Foundation, so effectively contribute to the arts, to Israel and hence to the quality of life in this land.

Yours very sincerely,


 Professor Mordechai Omer
 Director and Chief Curator

Beth Hatefutsoth
The Nahum Goldmann
Museum of the Jewish Diaspora
incl. the Abraham & Edita Soefer Family Bldg



DIRECTOR-GENERAL'S OFFICE

לשכת המנכ"ל

November 28, 2000

Mr. Avner Azulay
The Marc Rich Foundation
Beit Asia - Weizmann 4
Tel Aviv

Dear Avner,

I am very happy to forward to you the schedule of the Marc Rich Seminar at Beth Hatefutsoth, planned to take place between the 19th and 21st of December, 2000.

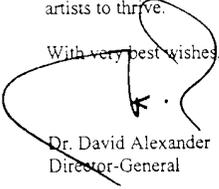
Formal invitations to the festive opening session, honored by the presence of Israel's President - and having as lecturers Mr. Avraham Burg, speaker of the Knesset, Prof. Itamar Rabinowitz, President of Tel Aviv University and Prof. Anita Shapira - will follow shortly.

Allow me to seize this opportunity and to express Beth Hatefutsoth's appreciation to Mr. Marc Rich for the allocations and sponsorships that this institution has been granted over the years by both the former Doron Foundation and the Marc Rich Foundation. Thus enabling us to promote an educational program, as well as to present our exhibition on Spain, and as a major project - to renovate and upgrade our multimedia presentation, the Chronosphere, which to date has versions in Hebrew, English, German and Russian.

If I may add a personal note, as a former Head of the Cultural Administration in the Ministry of Education and Culture - I know that Israel's cultural world is greatly indebted to Marc Rich's involvement in a wide variety of artistic projects, innovations and institutions.

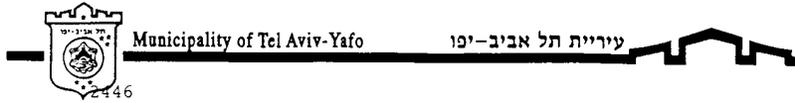
Almost every area of creativity bears witness to the generosity of the Doron and Rich Foundations, which have allowed new creations to materialize and more experienced artists to thrive.

With very best wishes,



Dr. David Alexander
Director-General

Encl.: seminar schedule



20/07/1999

Mr. Marc Rich
 Chairman to the Doron and
 the Rich Foundations
 Luzern, Switzerland.

Dear Mr. Rich,

Please allow me to introduce myself, I am a new member of the Tel Aviv City Council, and the Chairperson of the Committee of Culture and Arts. In addition to my acting career (43 years in theater and cinema) I decided to commit myself to public service, and found the role challenging and providing me with vast cultural and art opportunities.

I am writing to you now, after I had the chance to learn more about the extensive cultural activity in Tel Aviv-Yafo. Amazingly, I found out that over the past few years almost all cultural and/or art projects in Tel Aviv were sponsored by the Rich and Doron Foundations. I am trying to find the words to express my deep appreciation and admiration for your generosity. Culture and art are important aspects of every society, particularly, in a country that is constantly struggling to maintain normal and enriching life regardless of its security and financial hardship.

Once again, I would like to thank you for your deep interest and devotion for Tel Aviv and the arts and cultural life in Israel. Your contribution inspires us all to commit ourselves further and keep developing all aspects of our life.

Yours sincerely,

Gila Almagor
 MEMBER OF THE CITY COUNCIL
 CHAIRPERSON OF THE COMMITTEE OF CULTURE AND ARTS

THE THEATRE OF TEL AVIV



101 DIZENGOFF ST P O B 3014
 TEL AVIV 61030 ISRAEL
 TEL 03-527-9888
 FAX 03-524-6068

28 November 2000

Mr. Marc Rich
 c/o Avner Azoulay
 The Rich Foundation
 4 Weizmann St.
 POB 33622
 Tel Aviv 61336

Dear Mr. Rich,

We have just returned from an extremely successful appearance in Budapest, where the Cameri performed *Requiem*, the much-acclaimed play, by Hanoch Levine.

Levine is undoubtedly the greatest Hebrew-language playwright to date, whose untimely death last year has left the artistic community in Israel bereft, not only of its most gifted dramatist, but also of a true visionary, whose indelible mark on our theater and society will be felt for many years to come.

We are, indeed, grateful to the Rich Foundation for helping us to bring this universally-relevant play to Budapest, within the framework of the Foundation's support for a broad spectrum of top-level Israeli cultural endeavors.

The Foundation's assistance, in exposing audiences abroad, to original Israeli drama, is of the utmost importance. As you know, Israeli playwrights--even the most brilliant among them, such as Hanoch Levine--are often barred from world attention and universal recognition, because of lingual barriers, i.e., the fact that they write in Hebrew. I know this to be true not only for Europe, but also for the US, where in my capacity as Israeli Cultural Attache, in the early eighties, I encountered many a difficulty in presenting choice samples of Israeli arts that are language-bound, even to the vast Jewish audiences.

Your assistance in bringing a number of original Cameri plays, to Parma, Athens and now Budapest, has resulted in exposure, not only of wonderfully rich cultural endeavors developing in this country, but also of issues, dilemmas, hopes and fears which mark Israeli society. In that some of these plays feature Jewish & Arab actors, they demonstrate that Jews and Arabs can collaborate fruitfully, making for successful productions; ones that are both artistically professional and speak to core issues of concern, of Jews & Arabs alike, in this conflict-ridden land.

We look forward to continued collaboration, in bringing the best of what Israeli theater has to offer, to audiences in Europe and the US, as well as to Jews and Arabs in Israel and eventually in the region as a whole.

Best regards,

A handwritten signature in black ink that reads "Semel". The signature is written in a cursive, flowing style. A large, thin, curved line starts to the left of the signature and extends across the bottom of the signature block.

Noam Semel
Director



Tel-Aviv, November 27, 2000

Mr. Avner Azoulay
The Rich Foundation
P.O. Box 33662
Tel-Aviv 61336

Dear Mr. Azoulay,

I would like to share with you the success story of "Carmen in Neve Eliezer"

Carmen in Neve Eliezer premiered on November 11th, 2000 at The Neve Eliezer Community Center and on November 13th, 2000 at The Noga Theater in Jaffa.

The work of a year and the hard preparations has finally paid off. The performance was a tremendous success and was received with enthusiasm by audiences and critics alike.

The wonderful and raving reviews in "Ha'aretz", Israel's most prestigious newspaper, the letters we received from the participants and some viewers and the passion with which it was received by the audience all proved that our vision has become a reality.

To quote a letter from a participant to Mrs Hanna Munitz: "For me it has already been a whole year living with a feeling that drops of happiness are drizzling through my sole, caressing me – opera is for me like the singing of angels which penetrates my body and strums on a new string within me, each time, a hidden string which I never knew existed until the first day I listened and viewed an opera".

Another letter from a viewer quotes "Carmen in Tel-Aviv proved above all else, that opera which is always presented as the culture of the elite, is only but a stigma that can be easily shattered, the proof being that it can succeed in a community of lower socio-economic stature.

Following the large waves of enthusiasm, we have received numerous requests to mount this production in Shechunat Hatikva, Ashdod, Metulla and additional places.

In addition, we are planning to repeat this successful project in Shechunat Hatikva. The work Carmen in Shechunat Hatikva, which like Neve Eliezer is an underprivileged neighborhood in the south of Tel-Aviv, is scheduled to begin in January 2000.



Many of the residents of Neve Eliezer, as like Shechunat Hatikva are the hard core of society. Their involvement in this project has literally over turned their life and helped them rehabilitate themselves. They all come with a very heavy load and have managed to take out their aggression and frustration into a form of creation. Some are ex-drug addicts and ex-convicts who are now completely rehabilitated.

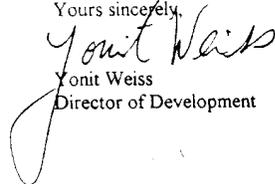
All these people are hardworking, wretched and poor but have somehow all managed to raise families and lead a productive life, and they say they owe so much of it to this project.

The New Israeli Opera feels that by involving a community in the making of an opera production, the operatic medium, still unknown to large parts of the population it will be implanted and infused in such a way that these people will make opera part of their cultural menu.

We here at The New Israeli Opera believe that this year of intensive activities together with The Neve Eliezer Community has contributed not only to the formation of a true bond between all those involved but that it has turned the art of opera into an integral and meaningful part of the life of the residents and they, in turn, have become an integral and essential part of our daily life.

It is our dream and our goal to continue to perform this unique and unordinary production in front of as many additional audiences across Israel as possible.

Yours sincerely,



Yonit Weiss
Director of Development

יִיִדִישׁ־פֿיג

תאטרון היידיש בישראל
דער ייִדישער טעאטער אין ישראל
THE YIDDISH THEATER IN ISRAEL

פ.ד. 5-651-011-58
Mr. Marc Rich
Chairman of the Board
The Rich Foundation
Lucerne, Switzerland

28 November, 2000

Dear Mr. Rich,

The Yiddish theater in Israel, "Yiddishpiel", was founded thirteen years ago with the goal of cultivating and expanding the cultural wealth, greatness and importance of Yiddish theater. We thank The Rich Foundation for their decision in 1999 to add us to their list of many cultural institutions who benefit from this foundation.

In the course of the years of activity of the "Yiddishpiel" Theater, we succeeded in gathering around us a company of young producers and actors, some of whom are native born Israelis and some of whom come from the Confederation of Independent States (former Soviet Union) that represents a very active source of artistic quality and a high level of professionalism, with the goal of returning to Yiddish its folk charm and glory, and thus preserving the contact of thousands of speakers and lovers of Yiddish in Israel and throughout the world.

Within the framework of its varied activities, the theater developed some unique projects amongst which are:

1. Chamber performances in Senior Citizen and Old-age homes which earned us the Chlore Foundation prize for the Jubilee Year celebration of the State of Israel.
2. Making the "Yiddishpiel" Theater available to Jewish communities throughout the world, especially in Central and Eastern Europe and to the Confederation of Independent States.

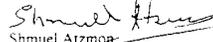
Thanks to the Rich Foundation, we went on the road for two weeks with our show "Gut Yom Tov Yiddish" to eight cities in the Ukraine. Bringing the theater in the "Mama loshen" language to thousands of Jews thirsting for the beautiful tone of the language with its Jewish humor and wisdom was a breath of fresh air that brought back memories and longings. Every performance ended with loud calls begging us to come back a second time.

So, too, was the Yiddish culture festival in Budapest, in which we participated.

Thanks to the contributions of the Foundation we were able to plan projects that we chose for ourselves in the coming years.

With the support of the Foundation you helped us fulfill our national cultural mission whose primary task is to continue to preserve and spread our Jewish national culture.

Thank you and be well, and in the name of the theater management, its players, creators and workers, yours very truly,


Shmuel Atzmon
Artistic and General Manager

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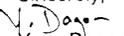
Tel-Aviv, January 9, 2000

Mr. Avner Azulay
Executive Director
The Rich Foundation
For Education, Culture & Welfare
Tel-Aviv

Dear Mr. Azulay,

It is with heartfelt thanks that I acknowledge your more than generous offer to support the Gutman Museum for the next three years. Certainly, your unwavering personal help stands behind the decision of the Foundation to extend their support to the Gutman Museum. This allows us to continue developing our educational department and ultimately reach all schools in Israel.

We will do our best to be worthy of your generous support.
Please extend our sincere gratitude to the Rich Family.
We would be honored to host them during their next visit to Israel.
With gratitude,

Sincerely,

Yoav Dagon
Museum Director



03-5161981 סקס 03-5161970, 5108554 טל 65148 תל-אביב
21 Rokah Str. Neve-Tsedek, Tel-Aviv, 65148 Israel Tel: 03-5161970, 5108554 Fax: 972-3-5161981

הסינפונייטה
הישראלית באר-שבע
 The Israel Sinfonietta Beer-Sheva

ייעוץ מוזיקלי:
ארי קלאס
 מנכ"ח עמותת
סוחרם ובהרזי
 מנהל הסינפונייטה:
מישה גרוס
 Musical Adviser:
Eri Klas
 Associate Conductor:
Menahem Hebenhaus
 Managing Director:
Misha Gross

January 20, 2000

Mr. Avner Azulay
 Managing Director
 The Rich Foundation
 4, Weizmann St.
 Tel Aviv

Dear Mr. Azulay,

The Israel Sinfonietta confirms with appreciation and gratitude your notice regarding the generous grant of the Rich Foundation in the sum of \$90,000 , for our project of Musical Education for Youth for the years 2000-2003 (file No. 2042).

On behalf of the Sinfonietta's management, the Orchestra and ourselves, we wish to express our deep appreciation to you and to all the people of the Rich Foundation, on their outstanding work for youth in the Negev, which nourishes and enhances education and culture.

We thank you for your friendship and for your trust in us.

Enclosed please find the agreement and the required details, as well as the concert program including a notice of gratitude to the Rich Foundation.

Yours sincerely,


 Misha Gross
 Managing Director


 Yardena Benjamin
 Sinfonietta Development Fund

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 84259 באר שבע
 07-6231616 :טל
 07-6235412 :פקס
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 BEER-SHEVA
 84160, ISRAEL
 TEL: 972-7-6231616
 FAX: 972-7-6235412

To: Mr. Marc Rich
 Chairman of the Board
 The Rich Foundation for Education, Culture and Welfare
Lucerne, Switzerland

November 26, 2000

Dear Mr. Rich,

The Herzliya Museum of Art exhibits contemporary art, by Israeli as well as international artists. It is characterized by a dynamic approach to the current world of culture and art, giving up-to-date and diverse expression to painting, sculpture, video, installation, photography and architecture.

Among its many goals, the museum aims to familiarize the community with contemporary art, as well as to encourage young artists and build up the new generation of Israeli artists.

During the year 2000 a new wing opened its doors at the Herzliya Museum of Art, including an up-to-date youth department with four workshops.

Approximately 15,000 students a year visit *Muza*, the museum's educational department, acquainting them with direct, clear manner contemporary art which enables them to create a dialogue within their own world of concepts – the electronic media.

In order to equip the workshops with the most advanced equipment, we have approached the Rich Foundation, which has generously supported our request and has enabled us to fulfill our wishes.

Thanks to the Rich Foundation our workshops are now equipped with the most advanced equipment, which enables us to give the young generation the utmost conditions for their inconstant necessities.

Our ceramics workshop is equipped with the newest ceramic stove, the photography workshop with a compact lab, the creation workshop with unique furniture and the video workshop with digital cameras and *Macintosh* computers for video editing.

Muza's educational program is divided into several stages, and therefore every year, thanks to the Rich Foundation, we manage to enrich our art programs as well as our different community activities, which enables us to reach to more and more residents and to commingle them with the Museum's activities.

Yours sincerely,


 Dalia Levin
 Museum Director

November 29, 2000

Mr. Marc Rich
Chairman of the Board
The Rich Foundation
Zug, Switzerland

Dear Mr. Rich,

Four years ago I applied to the Rich Foundation for support for a project researching the very special phenomenon of cultural resistance in Theresienstadt concentration camp during the WW2 through the vast series of lectures organized by the Jewish intellectuals imprisoned there. The idea was to develop the subject for discussion in conferences and dissemination of the research results in publications.

The intensive work during the three years of support of the Rich Foundation has resulted in seminars and conferences in England, Germany and Israel. This year the work culminated in the publication, in English, of a major book of 472 pages, titled "University Over the Abyss". The book is now being translated for publication in Germany, The Czech Republic and Russia. There have been numerous articles published in Israel and abroad based on the research and Macmillan Publishing will include a chapter, based on this research, in a major book next year.

Without the initial and continuing support of the Rich Foundation, this project simply would not have come to fruition. For not only did the Rich Foundation give support for three years, but because of that support other institutions gave significant grants as well.

I send to you my heartfelt thanks and the thanks of all those whose memory has been preserved through your support.

Sincerely yours,



Lena Makarova

מוזיאון ישראל, ירושלים
 the israel museum, jerusalem
 متحف اسرائيل، اورشليم القدس



26 November 2000

James S. Snyder
 Alma and Jerome Doron Director

Mr. Avner Azulay
 The Rich Foundation for Education, Culture, and Welfare
 Tel Aviv Offices
 Tel Aviv
 Israel

Via telefax: 03-695-4376

Dear Avner

I have just returned from Zurich, where I had the opportunity to visit with Marc Rich, and I am writing to report on that visit and to reflect on the remarkable depth of Marc's contribution to philanthropy and on his continuing interest in the Israel Museum and in Israel.

First, and particularly under the circumstances of the present times, I want to make note of the extent of his ongoing contributions to our Museum. From his first gift in 1986 for the creation of our new wing for Jewish Ceremonial Art, to his current participation in our new Director's Circle of patrons who support the Museum with generous annual gifts for unrestricted purposes, he continues to show a sustained interest in the Museum's well-being. His gifts to this recent initiative have helped to assure that our Youth Wing can continue its work, more essential now than ever, using art and art education in creative ways to integrate Israel's disparate communities of Jews, Arabs, and Christians.

Beyond our own Museum, and elsewhere in Israel, I continue to be impressed to see how his philanthropy reaches throughout the arts here, for the benefit of the Tel Aviv Museum and of other institutions which bring theater, dance, and performance to the Israeli public. I know that the Doron Foundation has just received, for the second year, the Alma Award for exemplary philanthropy in the arts, and this is an excellent testament to Marc's initiatives.

I have also had the opportunity first-hand to participate in conferences sponsored by the Foundation, which work to explore such fundamental issues in the world Jewish community as cultural identity in the 21st century. And again, these are issues, and this is support, which could not be more timely in the current situation in the Middle East and in a way that can affect beneficially the standing and attitudes of the Jewish communities of the Diaspora.

מוזיאון ישראל, ירושלים
 the israel museum, jerusalem
 متحف اسرائيل، اورشليم القدس

Mr. Avner Azulay
November 26, 2000
Page 2

Last Sunday, when I sat for several hours with Marc, I was gratified to see the extent of his continuing interest in the issues of the moment in Israel and in how these issues are affecting the Israel Museum and the rest of the cultural community here. I know that his own business and personal preoccupations could easily override concerns for art and culture, for Israel, and for the world's Jewish community, and yet these subjects were the substance of our conversation. In a complex world environment in which it is very easy for people to put aside issues beyond their own concerns and to side-step the opportunity to rise to the challenge of exemplary philanthropy, Marc does not do so, and we at the Museum are deeply appreciative.

With warm regards,

Sincerely,

A handwritten signature in black ink, appearing to read 'James S. Snyder', with a stylized flourish at the end.

James S. Snyder
Director



מוזיאון דאדא ינקו

רחוב הרצל 30890 תל אביב 61336 טל. 04-9843152 פקס 04-9843152



JANCO-DADA MUSEUM, EIN-HOD, D.N. HOF HACARMEL 30890, ISRAEL, TEL. 04-9843152, TEL. FAX 04-9843152

June 30, 1999

Mr. Marc Rich
 Chairman of the Board
 The Rich Foundation for Education, Culture and Welfare
 POB 33622
 Tel Aviv 61336

Dear Mr. Rich,

The Board of Directors and I wish to express our gratitude to you and the Rich foundation for your generous contribution to the development of the museum's youth wing. We appreciate your dedication to the cause of education of children and youngsters in Israel about art appreciation.

We will use the allocation for the physical construction of the building and for the design and construction of the interior of the Dadalab and of a workshop. The Dadalab is the only art laboratory in Israel, and in the workshop students will try out a variety of diverse artistic techniques, and will enact the work methods of the Dada artists. The allocation will also be used for the development of various preparatory and educational programs, combining experience and creativity that are so characteristic of the museum and the artists' village.

Yours very truly,

 Raya Zommer
 Museum Director



מכללות ובתי ספר לטכנולוגיה מתקדמת ולמדעים
Colleges & Schools for Advanced Technologies & Sciences

DIRECTOR GENERAL

המנהל הכללי

Mr. Marc Rich
The Rich Foundation
Asia House
Weizmann Street
POB 33622, Tel Aviv 61336

Tel-Aviv, November 28th, 2000

Dear Mr. Rich,

On behalf of the management of Ort Israel and of tens of thousand of Ort students and myself, please accept our sincerest thanks and gratitude for the Rich and Doron Foundation's support extended to Ort Israel, for almost two decades. Ort's schools and colleges are spread all over Israel, from Hatzor in the Galilee to Yeruham in the Negev.

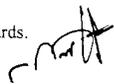
The contribution granted by the Rich and Doron Foundation enabled us to develop curricular modules for the virtual-internet school, operating in all Ort institutions. Thanks to the modules and to the virtual "Aviv" school, students in periphery too benefit, due to the lack of experienced teachers and trainers in these areas. We are already witnessing a significant improvement in the computer literacy of students, which will surely bring them to the forefront of the Israeli economy and society. In addition to the above, your contribution has also been used for scholarships for needy students, among the Arab students too.

Again, please accept my deep appreciation and thanks for the support extended to Ort Israel, and for the support granted to many other social and cultural institutions and activities in Israel.

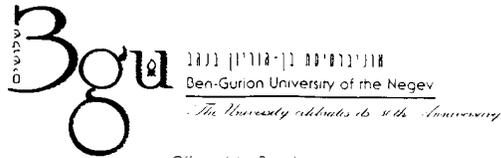
We would like very much to have you as our guest, and have the opportunity to show you some of our achievements - schools, colleges and our R&D Center.

Looking forward to meeting with you,

Best regards.


Haim Ben-Ami, Adv.
Director General

Hbe-rich



Office of the President

Avishay Braverman

Tel: 972-7-646-1211/9, 972-7-6253574/041, Fax: 972-7-647-2991, e-mail: avishay@bgu.ac.il

November 19, 2000

*Mr. Avner Azulay
 Director General
 Rich Foundation
 Asia House
 4 Weizmann Street
 Tel Aviv 64239*

Dear Avner,

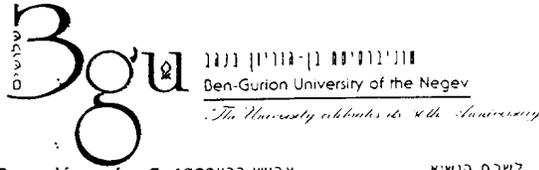
I would like to express my profound appreciation and best wishes on this joyous occasion of the 20th Anniversary of the charitable activities of the Rich Foundation.

The Rich Foundation has provided great support to Ben-Gurion University of the Negev over the past twenty years. The Foundation's support has covered such diverse areas as our community action programs, funds for immigrant scientists, medical research projects, the pre-academic program, the graduate program in Public Administration, and our burgeoning School of Management.

We are grateful to the Rich Foundation for its generosity and dedication to our University throughout the years. The Foundation is a shining example in our quest to make the Negev a focal point of transformation for Israel. Together we strive towards progress and development in order to ensure a better future for our students, for all the residents of the Negev and for the State of Israel.

In partnership,

*Prof. Avishay Braverman
 President*



November 7, 1999 אבישי ברוך

לשכת הושיא

Rich Foundation
 c/o Mr. Avner Azulai
 Director General, Doron Foundation
 Asia House
 4 Weizmann Street
 Tel Aviv 64239

Dear Avner,

I wish to thank the Rich Foundation and you as its representative, for the first payment of \$30,000, towards the Rich Foundation Executive Program – MA in Public Administration and Policy (Your file No. 1072).

We are currently on the threshold of Ben-Gurion University's 30th anniversary, to be marked by us through festive events, academic conferences, ceremonies and exhibits, beginning on David Ben-Gurion Memorial Day, November 15th 1999 and ending on the same auspicious event at the end of the year 2000.

Launching new study programs, such as the Rich Foundation's Program, epitomizes the momentum of progress that we are experiencing and reflects the role our University plays in the advancement of the population, and its significance to the region and its communities.

We are grateful for the Rich Foundation's assistance in fulfilling our objectives and in promoting our spearheading the development of Israel's South. We very much welcome our partnership.

In friendship,

Prof. Avishay Braverman
 President

THE INTERDISCIPLINARY CENTER HERZLIYA
OFFICE OF THE PRESIDENT

November 29, 2000

Mr. Marc Rich
 Chairman of the Board
 The Rich Foundation
 Lucern, Switzerland

Dear Mr. Rich,

The letter is to express our gratitude and appreciation for your continued support of IDC.

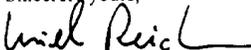
IDC is the first private not for profit university in Israel. It was founded by a group of scholars who left tenured positions at leading universities in Israel and the United States to build a pioneering academic institution. With no government support the founders embarked on their mission, turning an abandoned military base in Herzliya into a vibrant campus. Our goals were ambitious. We hoped to establish an International University, building academic bridges between Israelis and Arabs, and attracting young people who want to study in Israel. The curriculum was designed from the outset to prepare our students to assume a role of leadership in the global information era.

Seven years later IDC is considered a premier academic institution in Israel and abroad. To a large extent we have been able to implement our ideas thanks to a small group of dedicated people who support the institution.

When we met at the inauguration of the Rich Center for the Study of Trading and Financial Markets, I discovered that you and I share a similar vision. We both agreed that today's education should be interdisciplinary, providing a global view and emphasizing information technology. I was likewise pleased to learn that we are both great believers in individual will power and kindness. You mentioned the importance of creating a united learning community by having students working together in close partnership with the faculty. I liked your observation about the importance of stimulating the students to develop their own leadership and entrepreneurship and at the same time guiding them towards ethical behavior and personal morality. Knowing about your past activities of helping so many human causes it came as no surprise to me that you demonstrated genuine interest in our activities providing private lessons to children from poor families helping them to pass their matriculation exams and obtain a chance to reach higher education. Indeed, throughout your long years of giving to worthwhile charitable institutions you have demonstrated the ideal combination of a person who succeeded in the business world due to his creativity and hard labor, and yet never forgot his social commitment and concern for fellow human beings.

I consider myself privileged to continue working with you on developing an educational system that will serve the future of our students and of society at large.

Sincerely yours,



Prof. Uriel Reichman

President



קֶרֶן הַיְסוּד – הַמְגִבִּית הַמְאוּחֶדֶת לְיִשְׂרָאֵל
Keren Hayesod - United Israel Appeal

יושב ראש עולמי
The World Chairman

29th November, 2000

Dear Marc,

I have received, through your representative in Israel, Mr. Avner Azulay, a letter informing us that the Rich Foundation has selected two projects of Keren Hayesod as interesting proposals to be included in your 2001 Budget Allocation, which shall be presented at your upcoming Board Meeting.

I wish to take this opportunity to thank the Rich Foundation and to thank you very much for the attitude you have always shown towards the State of Israel and the Jewish people.

I have known you now for many years and I have always admired your generous dedication and your philanthropic approach, especially to the needy in Israel and those living in its peripheral areas.

I was happy to have been able to host you during your visit to Israel and I hope that you will come again soon so that we will be able to discuss other projects which might be of interest to you and your Foundation.

I wish you all the best and I send you my kindest regards.

Sincerely yours,



Avi PAZNER

Mr. Marc RICH
Chairman of the Board
Rich Foundation
Zug, Switzerland
Fax: 03-695-4376



The
Council
for a
Beautiful
Israel

November 28, 2000

Mr. Marc Rich
Chairman of the Board
The Rich Foundation for Education, Culture and Welfare
Lucerne
Switzerland

Dear Mr. Rich

It gives me much personal pleasure to express my appreciation for the wonderful work being done by you and both the Doron and Rich Foundations in so many areas of life in Israel, which are close to my heart.

In my many visits around the country, especially in my capacity as the wife of the Sixth President of Israel, I encountered exciting and moving projects that were supported by you: a village for minimal brain damaged young adults, special projects for ensuring future employment for the handicapped, educational projects of great value, not to mention your enormous contribution to the cultural life in Israel.

As the International President of the Council for Beautiful Israel, which is about to celebrate its 30th Anniversary, I feel now is the time to thank our loyal supporters. The Knesset will be holding a special session on this occasion next month and at this time, I would like to stress how greatly we value your involvement in projects that lead the way to the upgrading of the quality of life in Israel. We ourselves have received very positive feedback from the pilots we established together – the establishment of special hothouses in a school for the handicapped in Rehovot and the innovative Horticultural Therapy Project at the Rambam Hospital in Haifa, which represent your caring for the special underprivileged sectors of society.

It is the dedication to those less fortunate in our society that demonstrates true charity work. I hope we will have the good fortune to continue our collaboration in such important and heartwarming projects and educational ones in the future.

I wish you personally all the best and hope to see you again soon.

Sincerely yours,

Aura Herzog
International President

Association
Office of the
International Friends
Yehoshua Gardens
(Hayarkon Park)
80 Rokach Boulevard
P.O. B. 53325,
Tel Aviv 61532, Israel
Tel. 972-3-6423111
Fax. 972-3-6422839



P.O. Box 7255 Jerusalem 91071 Israel Telefax: 972-2-5638375

(registered association 58-032-559-5) (Israeli bank account # 12-782-189990)

Jerusalem, November 27, 2000

Mr. Marc Rich
Chairman of the Board
The Rich Foundation for Education, Culture and Welfare
Lucerne, Switzerland

Dear Mr. Rich, Shalom,

There are no words to express our thanks to you and to the foundation board both in Switzerland and in Israel. For us, at **AID WITHOUT BORDERS (AWB)**, it's very simple: without you, we would not exist and could not have saved so many lives, especially those of children.

Your generous support for our 1998 nation-wide traveling photo exhibition, "**tears in the green - the Rwandan tragedy three years later**", laid the foundations for the creation of **AID WITHOUT BORDERS - the first of its kind - Israeli Voluntary Humanitarian Organization**, aimed at long-term developmental projects in the most troubled regions of our planet.

After its creation in May 1998, on the 50th anniversary for the State of Israel, and its acknowledgment as a non-profit organization in June 1998, AWB went into its first action abroad during the Kosovo refugee crisis. Thanks to a second, even greater contribution, from the Rich Foundation, we managed to stay in Kosovo for over a year, faithful to our commitment for long-term assistance missions.

Lately, on the base of our experience in Kosovo and the contribution of our volunteer experts, we have begun work on an even more ambitious project, promoting Public Health Awareness among children in Angola, one of Africa's most troubled nations.

We are very proud to be part of the Rich Foundation's activities in Israel, really contributing to the great growing change in Israel society.

We are humbled by receiving your persistent support and contributions over the past two years, and wish to thank you personally for your trust in us and for the great work done on your behalf by Avner, Michal, Sara and the other staff members of your Tel Aviv branch.

With Sincere Regards,


Erez T. Yanuv
AID WITHOUT BORDERS
(private mobile: 052-514-067)

now at an updated site: WWW.AIDWITHOUTBORDERS.OEG

Internet: WWW.EYETRAVEL.ORG / E-mail: RWANDET@EYETRAVEL.ORG



LATET -Israeli Humanitarian Aid

November 26, 2000

Mr. Marc Rich
Chairman
The Rich Foundation.
Asia House.
4 Weizmann Street.
Tel-Aviv 64239.

Dear Mr. Rich.

Latet-Israel Humanitarian Aid Organization wishes to cite its appreciation for the constant generosity displayed to our organization by the Rich Foundation.

The projects supported by the Rich Foundation include the Latet National Food Bank Drive which attempts to combat poverty and hunger as well as raise public awareness of poverty in Israel. Food is collected and distributed to 20,000 people living below the poverty line throughout Israel.

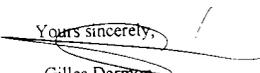
The Rich Foundation also contributed to the aid distributed by the Latet Organization to the South Lebanese Army refugees. Over 6000 SLA refugees received parcels containing food and personal hygiene items. Various outings and activities were also arranged by the Latet organization for the refugees.

The Latet Organization's aid program to the Kosovo refugees was also supported in part by the Rich Foundation. Over 30,000 refugees received substantial aid.

The existence of a fund such as The Rich Foundation is an important source of support for our organization. Without this support, the number and the extent of the projects undertaken would not have been possible and fewer numbers of needy people would have received the aid they so desperately required.

We are much appreciated of your personal involvement and commitment for education and welfare in Israel and abroad.

Yours sincerely,


Gilles Darmon
Chairman



SACRED HEART UNIVERSITY

11/27/2000

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,

A handwritten signature in cursive script, appearing to read "Anthony J. Cernera".

Anthony J. Cernera, Ph.D.
President

AJC/gd



BARQUILLO, 6. 1º Dcha. 28004 MADRID, ESPAÑA
Tel. (34) 91 531 44 32 - Fax: (34) 91 531 20 97
E-mail: wharmony@teletine.es

Madrid, 23 November, 2000

Mr. Avner Azulay
Managing Director
The Rich Foundation
For Education, Culture & Welfare
Asia House, 4 Weizman Street
TEL AVIV 64239
Israel

Fax #: 972-3-695 4376

Dear Mr. Azulay

I wish to express to you and The Rich Foundation my heartfelt thanks for your generous donation of \$20,000 to the humanitarian aid program which H.R.H. Crown Princess Katherine of Yugoslavia is currently carrying out to assist Her country to recover from the terrible ethnic strife which Yugoslavia has suffered over the past decade.

We are cooperating with Crown Princess Katherine of Yugoslavia's *Lifeline Foundation* in the relief effort described in my letter to you of 16 November, 2000. We shall keep you duly informed of the evolution of these activities, which we shall be able to pursue thanks to the solidarity of The Rich Foundation with the Yugoslave nation. Kindly convey our profound thanks to Mr. Mark Rich.

With our deep appreciation for your generosity, and my kindest personal regards,

*Yours sincerely,
Irene of Greece*

Irene, Princess of Greece
President

Oxford Centre for Hebrew and Jewish Studies

FROM THE PRESIDENT EXT 101

Our ref: PMO/TN

30 November 2000

YARNTON MANOR Yarnton Oxford OX5 1TY telephone: 01865 377046 fax: 01865 375079 e-mail: ocdyn@able.ox.ac.uk website: http://associat.ox.ac.uk/ochjs

Marc Rich Esq Chairman of the Board The Rich Foundation Baerstrasse 53 PO Box 4457 CH-6304 Zug Switzerland

Dear Mr. Rich,

PRESIDENT PETER OPPENHEIMER BOARD OF GOVERNORS SIR RICHARD GIFFORD (Chairman) M. D. PASSEY M. W. REEDERSON S. BUCHANAN T. BRIGHTON P. LORRAINE I. M. GABRIEL M. D. GOODWIN A. GOTTSMALK D. HYMAN P. M. JONES A. JONES D. J. LEWIS P. M. MARRAS HELMOLD WARE OF RINGGTON D. T. MARQUAND P. M. OPPENHEIMER D. PATTISON M. J. PINTO P. C. RAY D. J. TREVELLAIN THE LORD WISEMANTON H. G. W. WILLIAMSON

Allow me to take this opportunity to acknowledge the critical support you have provided over the past decade in making the Oxford Centre a leading institution for Hebrew and Jewish studies.

We were most honoured to be one of the few projects selected to commemorate the memory of your daughter Gabrielle. Given that Oxford played an important role in her studies, the Gabrielle Rich Reading Room in the Centre's Library is a particularly meaningful memorial.

Whether it has been lectureships, fellowships, scholarships or the renovation and upgrading of our library, you have been there to meet our needs at critical phases of our development.

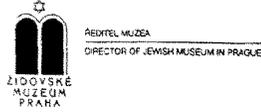
The Oxford Centre is indeed grateful for your continued partnership in our endeavours.

HONORARY GOVERNORS SIR IESMAN QUAIN W. FARRER T. GREEN SIR CLAUDE MOORE THE EARL & M. M. MOUNTAIN SIR HAUCICE SMOKER SIR SYMOND WISEMANTON C. WELLES HEATRON THE LORD ACTON HEATRON THE EARL OF HUNTINGDON

Yours most sincerely, Peter Oppenheimer

Registered Charity No. 105729 254th Avenue, South West, New York, NY 10014 Oxford Centre for Hebrew and Jewish Studies 100 Brookline Avenue, Suite 1000, Brookline, MA 02147

Peter Oppenheimer



TO WHOM IT MAY CONCERN

The Rich Foundation for Education, Culture & Welfare, and especially its Chairman of the Board Mr. Marc Rich, contributed in a remarkable way to the establishment of the Jewish Museum in Prague as an independent Jewish institution. It was Mr. Rich, who after the ruin of the communist regime in Czechoslovakia understood as one of the firsts the importance of the Prague collections for the whole of the modern Jewish heritage and who supported in various ways the transformation of our museum in a modern Jewish cultural institution. We would like to express our extreme gratefulness for the evaluation of the computer system, for the intensive support in the founding period of our Educational and Cultural Center, in organizing professional symposiums on an international level, in establishing intensive mutual cooperation with other institutions like the Jerusalem Center for Jewish Art and a lot more.

Prague, November 23 2000

Leo Pavlát
Director of the Jewish Museum in Prague

École GANÉNOU

231, Boulevard Voltaire
75011 ParisTel 01 43 56 12 13
Fax 01 43 56 61 83

ref: project file 2016
Title: integrating handicapped children in the school
and choir support.

the 21st of November 2000

Dear Avner,

Here enclosed are three

documents.

the copy of the "Compagnie financière Edmond de Rothschild's" transfer of your grant to the school's account.
My gratitude is always reborn and I feel highly privileged for your support of Ganénu's special projects.

A letter written by former parents after discovering in the "Mondel" the attached article on "Misgar". It so happens that the director of "the Misgar Galil school", Tami Dubai is the best friend of Raya Kalkisman the founder of the center for humanistic studies. These two women, in a critically sensitive field go on with their work, in which as conflicts arise, the attitude that diffuses the tensions. If you have not already met Raya, I cannot imagine you would not draw great interest and satisfaction out of the meeting with her.

École GANÉNOU



231, Boulevard Voltaire
75011 Paris

Tel: 01 43 56 12 83
Fax: 01 43 56 61 83

I know your time table is full, but I
hope you keep a meeting with Raya in
a corner of your mind. The kind document
is the leaflet of her center.
Please do not feel I am interfering I just
remember your curiosity for innovative
initiatives.

Yours ever so sincerely
with warm regards,
Beatrice Rosenberg)

700

EMBAJADA DE ISRAEL



שגרירות ישראל

November 14, 2000

Avner Azulay
Managing Director
The Rich Foundation
4 Weizman Street, Asia House
Tel Aviv 64239
Israel

Dear Mr. Azulay,

I have the great pleasure of informing you that the Kibbutz Contemporary Dance Company was a resounding success on November 4th and 5th at the Festival Sur near Madrid. More than 700 people attended each night's performance, and the reviews in the media were lavish in their praise.

While the contribution of the Kibbutz Contemporary Dance Company to Israel's cultural outreach activities was of great value, this was especially so considering the current situation in which Israel finds itself these days. The Kibbutz Contemporary Dance Company was a tremendous boost to the morale in these difficult times and, moreover, enhanced the positive message that Israel seeks to convey.

Without the invaluable assistance of the Rich Foundation, the participation of the Kibbutz Contemporary Dance Company would not have been possible. Therefore, please accept our heartfelt appreciation for your efforts: the results were fantastic.

Cordially,



Eyal Sela
Counselor for Cultural Affairs



VELÁZQUEZ, 150 - 28002 MADRID - TEL. 91 411 13 57 - FAX 91 564 59 74
<http://www.embajada-israel.es> - e-mail: embajada@embajada-israel.es

CANCER SUPPORT SERVICE Information 0171 613 2121 Freephone 0800 800 1234
 CancerBACUP Scotland 0141 553 1553
 WEBSITE www.cancerbacup.org.uk



24 November 2000

Marc Rich
 The Rich Foundation
 Asia House
 4 Weizmann Street
 Tel Aviv 64239
 Israel

3 Bath Place
 Rivington Street
 London EC2A 3DR

TELEPHONE
 0171 696 9003
 FAX
 0171 696 9002

Dear Mr Rich

I understand from Avner Azulai that you are in the process of putting together a booklet setting out the Rich Foundation's work over the past 20 years and I am very pleased, therefore, to write and acknowledge the importance and significance of the Foundation's contribution to CancerBACUP and the project of a Global Cancer Information System.

CancerBACUP's proposed Global Cancer Information Service project incorporates an electronic internet based system for answering detailed and individual questions from cancer patients and their families. There is a considerable body of research evidence that individualised information, tailored to the needs of the patient and carer, enhances their understanding which, in turn, can help them cope better with their disease. It is also clear that there is a large unmet demand for information about cancers and their treatments. The internet offers a mechanism to provide information on a wide scale and changing technology means that it will become available on different systems, potentially making it more accessible to groups who currently do not access it.

The proposed Global Cancer Information System, therefore, has great potential to provide information in a tailored way and to reach, hitherto, under-served groups (as the internet becomes more accessible and more widely used). The project will provide unique individualised information for cancer patients and will eventually cover many, if not most questions that would be asked. CancerBACUP is uniquely well-suited to carry out such a project due to its extensive track record of delivering high quality information to cancer patients and carers.

The Rich Foundation made a significant contribution to CancerBACUP in funding the study. I know of nothing else that even closely approximates the breadth and ambition of this project. The Rich Foundation was the first to invest in this project to allow us to bring this project to reality, for which we are extremely grateful.

Yours sincerely

Dr Maurice L Slevin MD FRCP
 Consultant Medical Oncologist and Chairman of CancerBACUP



28 November, 2000

Mr. Marc Rich
Chairman of the Board
The Rich Foundation for Education, Culture & Welfare
Lucerne
Switzerland

מטרוו האגודה
נשיא מדינת ישראל
Patron
The President of the
State of Israel

נשיא
מר בן-דאון
President
Mr. Benjamin D. Gaon

נשיאא סייסדה
גב' ס' אבאן
Founding President
Mrs. S. Eban

מיידי פורמן
מר. ג' פורמן
Honorary Chairman
Mr. J. Furman

מיידי
מר. א. רובינסון
Chairman
Prof. E. Robinson

מיידי
מר. ל. רענאטי
Vice Chairman
Mr. L. Recanati

מיידי
מר. מ. זיו
Director General
Mrs. M. Ziv

האגודה לסלחסה בסרטן בישראל
זוכה אות הנשיא לסתנדב
לשנת ה-55 לסדינה



Dear Mr. Rich,

On behalf of the *Israel Cancer Association* and myself I wish to take this opportunity to express our sincere thanks and gratitude to you and to the *Rich Foundation* for all of your continuing support.

We are especially grateful for the Foundation's support of the leukemia research work being carried out in a number of the medical centers here in the country. The wide scope and amount of this grant is certainly unusual for Israel. Without a doubt it has the power to significantly promote research in this important area in Israel and for this we are most appreciative.

The aid that you provided to the Cancer Information Resource Center here at the *Israel Cancer Association* is felt every day. The resource center is an integral part of our Information and Education Department and with your generous support we are able to remain continually updated and in doing so provide an important service to cancer patients and the general public throughout the country – by providing essential information that can save lives.

We are also quite familiar with the Foundation's support of the fight against cancer worldwide, for instance your support of "Cancer Bacup" and research insitutes in the United States. As cancer is a disease that knows no territorial boundaries, it is essential to promote the fight on an international level and for your contribution to the cause you are to be saluted and praised.

בית מטי - לזכרה של מטילדה רענאטי

Head Office: **Bett Mati - In Memory of Matilde Recanati**

רח' ג' הירובים 7 ת.ד. 437 גבעתיים מיקוד 53103 טל. 5721616-03 פקס 5719378-03
7 Revivim St. Givatayim, P.O.B. 437 Zip Code 53103, Tel. 197213-5721616, Fax: 7213-5719378
http://www.bettmati.org.il



As the *Israel Cancer Association's* means are derived exclusively from public contributions with no assistance from government funds, all support received is evermore crucial. For this reason I wish to stress how very important your aid is to us. Without the help of generous contributors such as you, we would be unable to carry out all of our vital activities for the benefit of cancer patients and their families.

Your support of our association is greatly appreciated - touching the hearts of all those participating in the battle and motivating us all to continue in the fight against cancer.

Sincerely,

Mia Ziv
Mia Ziv
Director General

מטרת האגודה
נשיא סדרת ישראל
Patron
The President of the
State of Israel

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מ. ב. ג. און
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Mr. L. Recanati

מנהל
מ. זיב
Director General
Mrs. M. Ziv

האגודה לסלחם בטרטן בישראל
זוכה אות הנשיא לסתנדב
לשנת ה-50 לסדנה



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ת"ד 437 גיבתיים תל אביב 6101000

Head Office: Beit Mati - In Memory of Matilde Recanati

תל אביב 6101000, גיבתיים 437, מיקוד 53101, טל 03-5721616, פקס 03-5719978

7 Revivim St. Givatayim, P.O. 437, Zip Code 53101, Tel: 972(3)-5721616, Fax: 972(3)-5719978

http://www.cancer.org.il

704



Office of the President

January 27, 1998

Mr. Avner Azulay
The Rich Foundation
Asia House
4 Weizman Street
Tel Aviv 61336
ISRAEL

Dear Mr. Azulay:

I would like to thank you personally for the pledge of \$505,000 from the Gabriella Rich Leukemia Fund of The Rich Foundation to Memorial Sloan-Kettering Cancer Center. This pledge will be used to support the research work of Dr. David Scheinberg.

Through gifts such as this, the Center can be assured of the important funding that makes possible the progress that all of us seek. What we accomplish together will touch the lives of many people affected by cancer.

Our goals can only be achieved through intensive efforts at the highest level of excellence in medicine and science. On behalf of everyone here at Memorial Sloan-Kettering, thank you again for joining us in this important work.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul A. Marks".

Paul A. Marks, M.D.

*Memorial Sloan-Kettering Cancer Center
1275 York Avenue, New York, New York 10021
NCI-designated Comprehensive Cancer Center*

705



January 27, 1998

Mr. Avner Azulay
The Rich Foundation
Asia House
4 Weizman Street
Tel Aviv 61336
ISRAEL

Dear Mr. Azulay:

Please accept our thanks for the kind pledge of \$505,000 from the Gabriella Rich Leukemia Fund of The Rich Foundation to Memorial Sloan-Kettering Cancer Center. This pledge will be used to support the research work of Dr. David Scheinberg.

This generosity comes at a time when we feel enormous excitement regarding our programs of prevention, education, research, and patient care. Thanks to the vital support provided by private philanthropy, our scientists and clinicians are developing improved treatments to bring about higher survival rates, as well as a better quality of life for people living with cancer.

Our prospects for continued progress are bright indeed. Thank you again for this generous support.

Sincerely,

Robert G. Wilkens, Jr.
Vice President,
Development

RGW:dt
c: David Scheinberg, M.D., Ph.D

*Memorial Sloan-Kettering Cancer Center
1275 York Avenue, New York, New York 10021
NY 10021-0001*



FRED
HUTCHINSON CANCER
RESEARCH CENTER
FOUNDATION

August 15, 2000

The Rich Foundation
Asia House, 4 Weizman Street
Tel Aviv, 61336
ISRAEL

Dear The Rich Foundation friends,

As an expression of our gratitude for your generous support of the Fred Hutchinson Cancer Research Center, we are adding The Rich Foundation to our Lifetime Giving Wall in the lobby of the Thomas Building. The state-of-the-art building, which houses our clinical research division and some administrative offices, is named for Dr. E. Donnall Thomas, our renowned scientist who won the 1990 Nobel Prize in medicine for developing bone marrow transplantation as a cure for certain cancers.

Before installing the plaque, we would like to make sure that you are comfortable with receiving the recognition and that we have the correct wording and spelling of your name.

Please complete the attached form and return it by September 1, 2000. We would also appreciate it if you would take a moment to verify the contact information to ensure the accuracy of our records.

Please let us hear from you by September 1, 2000. If we do not, we will recognize you with the name as it appears on the attached Donor Recognition form.

If you have any questions, please call Suzanne Schindler or me at (206) 667-4440.

On behalf of our board, faculty and staff, *thank you* again for your generous support of our cutting-edge research in the war against cancer.

Sincerely,

A handwritten signature in cursive script that reads "Cliff Sandel".

Cliff Sandel
Director of Foundation Relations

707

THE UNIVERSITY OF TEXAS
MD ANDERSON
CANCER CENTER

100

September 30, 1999

Office of the President

The Rich Foundation
Mr. Avner Azulay
Asia House, 4 Weizmann Street
P. O. Box 33622
Tel Aviv,
ISRAEL 61336

Dear Mr. Azulay:

On behalf of all who will benefit from your generosity, I am writing to thank you for your contribution to The University of Texas M. D. Anderson Cancer Center. Special gifts such as yours provide our patients comfort and support, while allowing our faculty to continue strong research programs.

M. D. Anderson has been ranked as one of the best hospitals in the country. We are proud of this status because it is a reflection of dedication to each of our patients. That dedication comes not only from faculty and staff, but also from partners such as you who truly make a difference. Again, thank you for your support.

Sincerely,



John Mendelsohn, M.D.
President

JM/rb

PLEASE RETAIN FOR YOUR RECORDS

This information is provided to you in compliance with the Budget Reconciliation Act of 1993 and IRS Regulations.

No goods or services were given to the donor in exchange for the donation.

Gabrielle Rich Fund for Leukemia Research

Date: September 30, 1999
Amount: \$82,500.00

Receipt No: 152531001
ID: 00350752

708

File 102

THE UNIVERSITY OF TEXAS
MD ANDERSON
CANCER CENTER

11/11/00

May 19, 2000

Office of the President

The Rich Foundation
Mr. Avner Azulay
Asia House, 4 Weizmann Street
Tel Aviv, ISREAL 61336

Dear Mr. Azulay:

The University of Texas M. D. Anderson Cancer Center extends heartfelt gratitude for the Rich Foundation's generous support. Your leadership and generosity allows M. D. Anderson to move toward a future which promises many advances in the fight against cancer.

The partnership of philanthropic leadership with medical and scientific leadership becomes more critical every year. Thank you for being at the forefront of the cancer challenge and for helping us to make cancer history.

Sincerely,



John Mendelsohn, M.D.
President

JM/lkc

PLEASE RETAIN FOR YOUR RECORDS

This information is provided to you in compliance with the Budget Reconciliation Act of 1993 and IRS Regulations.

No goods or services were given to the donor in exchange for the donation.

Gabriella Rich Leukemia Fund

Date: March 24, 2000
Amount: \$82,500.00

Receipt No: 185491001
ID: 350752

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Ambassador Milton A. Wolf

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The American Jewish
Joint Distribution Committee, Inc.

711 Third Avenue
New York, N.Y. 10017-4014

Tel: (212) 687-6200 Fax: (212) 370-5467
Website: www.jdc.org

PRESIDENT
Jonathan W. Kolker

EXECUTIVE VICE PRESIDENT
Michael Schneider

December 5, 2000

BY FAX, E-MAIL, & MESSENGER

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Henry Taub

Center for Social Policy Studies

Mr. Marc Rich
Chairman of the Board
The Rich Foundation
Asia House
4 Weizman St.
Tel Aviv 64239, Israel

Dear Mr. Rich,

The American Jewish Joint Distribution Committee, Inc. respectfully acknowledges the assistance provided by the Rich and Doron Foundations (Switzerland).

Over the past few years, we have received assistance for programming and research that has helped support a wide variety of programs and has benefited the population of Israel, as well as the Jewish population worldwide. The Foundation's support has helped further the following:

1. Programs for Jewish education and leadership development in the FSU, South America, and Europe
2. Programs for populations with special needs in Israel, among them:
 - (a) programs for immigrant integration, employment and entrepreneurship
 - (b) programs for children-at-risk and people with disabilities
3. Programs promoting Israeli-Palestinian cooperation, dialogue and development

JDC hopes that with the ongoing support of the Rich Foundation, we will be able to continue working together to meet the needs of disadvantaged populations, facilitate people-to-people dialogues, and enrich the lives of Jews around the globe.

Best wishes.

Sincerely,

Michael Schneider

Michael Schneider
Executive Vice-President

MS:tb

The Joint Distribution Committee receives its funds primarily from American Jewry through the Jewish Federations of the United States, as well as the United Jewish Communities. The JDC also receives funding from World Jewish Relief of Great Britain and UJA Federations Canada.

האוניברסיטה העברית בירושלים
 THE HEBREW UNIVERSITY OF JERUSALEM
 الجامعة العبرية في اورشليم القدس



Faculty of Law
 Harry S Truman Research Institute
 for the Advancement of Peace

كلية الحقوق
 معهد هاري س ترומان للأبحاث وخدمة السلام

הפקולטה למשפטים
 המכון למחקר ע"ש הרייס טרומן
 למען קידום השלום

The Minerva Center for Human Rights

מרכז מינרבה לחقوق האדם

מרכז מינרבה לחוקת אדם

8 February 2000

The Authority for Research and Development
 The Hebrew University of Jerusalem
 Givat Ram
 Jerusalem

To Whom It May Concern:

The grant received by the Minerva Center for Human Rights from the Rich Foundation of \$50,000 will cover approximately 65% of the total cost of the project "A Human Rights Commission for Israel."

Sincerely,

Francine K. Hazan
 Francine K. Hazan
 Administrative Director

The Faculty of Law
 The Hebrew University

كلية الحقوق
 الجامعة العبرية في اورشليم القدس
 جامعة العبرية في اورشليم القدس

הפקולטה למשפטים
 האוניברסיטה העברית
 בה הנופים ירושלים 91905

Paris, le 4 décembre 2000

Le Président

Chers amis,

En ce mois de décembre 2000, alors que nous préparons comme chaque année notre rapport d'activité, je voudrais vous exprimer au nom de l'Alliance israélite universelle notre immense gratitude pour l'appui qu'ont prodigué les Fondations Doron et Rich à nos activités.

Depuis douze ans déjà, les Fondations Doron et Rich nous ont accompagnés dans des projets audacieux qui ont été couronnés de succès et ont pu grâce à votre aide se développer par la suite de façon indépendante.

Ce fut tout d'abord la possibilité de donner naissance à notre département Créer-Didactique qui, jusqu'à aujourd'hui, a servi des centaines d'établissements scolaires à travers le monde, a publié plus de quatre cents documents dans une dizaine de langues.

Ont suivi un appui considérable pour la création d'une maison d'édition (Les éditions du Nadir) destinée au grand public ainsi qu'une aide à la mise en place d'un site Internet favorisant la diffusion de notre travail culturel et pédagogique à travers le monde.

Actuellement, c'est au soutien de la Fondation Doron/Rich que nous devons d'avoir entrepris un nouveau programme de promotion de la culture juive en Europe, programme qui en quelques mois a pu réunir autour de lui quelques unes des plus grandes personnalités du monde intellectuel juif européen et qui a d'ores et déjà obtenu l'aval et le soutien de la Commission européenne de Bruxelles.

Mr. Avner AZULAY
The Rich Foundation
Asia House, 4 Weizmann Street
Tel Aviv 64239 - ISRAEL

.../...

Alliance israélite universelle
43, rue La Bruyère - 75009 Paris
Tél. : 01 53 32 88 55, Fax : 01 48 74 51 33
e-mail : info@aiu.org - <http://www.aiu.org>

Il est indéniable que si ces projets ont été parmi les plus prestigieux de l'Alliance, ce n'est certainement pas un hasard. Les processus de décision sous l'impulsion des responsables de ces fondations et en particulier de M. Mark Rich ont à chaque fois fait l'objet d'une étude attentive. C'est ainsi que vous n'avez retenu que des programmes qui, outre leur intérêt, paraissaient fiables, réalistes et par dessus tout aptes à servir le plus grand nombre.

L'esprit d'ouverture, de tolérance a été également l'un des critères requis par M. Mark Rich et son équipe et je pense que c'est la raison pour laquelle l'Alliance israélite universelle qui a toujours mis ces facteurs au centre de son action, a pu bénéficier d'un partenariat si intense avec les Fondations Doron et Rich.

J'ajouterai que rares sont les fondations qui, tout en contrôlant avec attention l'utilisation des subventions qu'elles octroient, accordent une telle confiance à ceux qu'elles aident, les laissant mener à bien dans les meilleures conditions possibles les programmes choisis.

Je ne crois pas qu'il est exagéré de dire que sans votre partenariat l'Alliance ne serait pas aujourd'hui ce qu'elle est. Très récemment encore, l'intérêt que vous avez bien voulu témoigner à notre nouveau projet de création d'un centre culturel européen à Paris nous a engagés à aller de l'avant et j'espère que ce sera pour nous une occasion supplémentaire de poursuivre cette belle aventure commune afin de promouvoir à travers le monde les valeurs d'un judaïsme ancré dans la tradition et ouvert sur le monde moderne.

Vous renouvelant tous nos remerciements, je vous prie de croire, Chers amis à l'assurance de mes sentiments les meilleurs.

Professeur Ady STEG



Alliance israélite universelle
45, rue La Bruyère - 75009 Paris
Tél. : 01 53 32 88 55, Fax : 01 48 74 51 33
e-mail : info@aiu.org - <http://www.aiu.org>



October 24, 1999
Rich44

Mr. Marc Rich
Att. Mr. Avner Azulai
The Rich and Doron Foundations
4 Weizman Street
P.O. Box 33622
Tel Aviv 61336

Dear Mr. Rich,

Once again we are privileged to acknowledge receipt of the grant that the **Rich and Doron Foundations** have awarded to the **Keshet Eilon Violin Mastercourse** for 1999.

Your support makes possible the development of a unique master-class program in Israel that has grown from an experiment in immigrant absorption of young musicians to an important international training venue that attracts the most talented of budding virtuosos and recognized master violinists from all parts of the world. Over 300 talented young musicians have taken part in the Keshet Eilon Mastercourse during the past decade, representing 34 countries, including Israel, with special emphasis on new immigrants. In the process, Keshet Eilon enhances the cultural life of Israel generally and the Galilee in particular, while reaching out to the world by attracting students from all countries who perfect their skills here while experiencing the life style of Kibbutz Eilon.

We are grateful for your sustained involvement in our project, and hope that the potential for growth and development demonstrated by the consistent increase in the number of applicants annually will bring about the realization of our goal of becoming a year-round music center.

The entire program was initiated some ten years ago on a modest basis with little funding. Our success over the years is attributable in no small measure to the volunteer spirit that has characterized Keshet Eilon activity and to the commitment of devoted supporters, of whom the **Rich and Doron Foundations** are outstanding examples, for which we are deeply grateful.

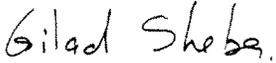
You may be interested in knowing that we have scheduled two benefit concerts for Keshet Eilon at this time. One will be held at the Conservatory of Geneva on October 26, 1999 with the participation of Maestro Mintz and Keshet Eilon Mastercourse graduates. The other will be held at Christie's in London on November 17, 1999, with the participation of the noted violinist Ida Haendel along with Mastercourse graduates. We know it's a bit late, but you are cordially invited to attend these concerts.

714

We would also be very glad to welcome you at our 2000 Mastercourse this summer, which will take place during July 28 – August 15. At that time we will be marking our first decade and are planning a series of special concerts.

Allow me once again to express our gratitude for your ongoing generosity and commitment.

Sincerely yours,

A handwritten signature in black ink that reads "Gilad Sheba". The script is cursive and fluid, with the first letters of "Gilad" and "Sheba" being capitalized and prominent.

Gilad Sheba
Managing Director

Letters Addressed to the Honorable
President William J. Clinton
Expressing Support for the Pardon of
Mr. Pincus Green

**Letters Addressed to the Honorable President William J. Clinton
Expressing Support for the Pardon of Mr. Pincus Green**

Robert D. Green	Son of Mr. Pincus Green
Sandra Mirriam Kohn	Daughter of Mr. Pincus Green
Sarah Freund	Daughter of Mr. Pincus Green
Moishe Green	Brother of Mr. Pincus Green
Solomon H. Green	Brother of Mr. Pincus Green
Pearl Fontek	Sister of Mr. Pincus Green
Isaac Querub Caro	President Israeli Community of Madrid

**Robert D Green**

President William Jefferson Clinton
The White House
Washington, D.C.

Dear Mr. President

How do I begin to talk about my father who not only played a central role in my early childhood years, but also still does? I look up to, and admire him, very much. Whatever I would say would not do justice. I can't even say that he is one in a million because even that is an understatement.

I come from a family of four siblings where I am the second oldest. As far as my childhood and teenage years are concerned I have many happy memories. Whether they are family holidays or one to one with my father I would have to struggle to think of times that were not positive ones.

I was not an easy child and I certainly gave my parents sleepless nights. When disciplining was in order I can only remember my father dealing with me with much care, love and consideration and instilling me with a sense of right and wrong.

No son could ask for a better role model. He has an ability to find the right balance in life. Whether in terms of balancing time with family and business, knowing right from wrong, dealing with people on an individual basis, or being a benefactor for charity, education and health.

He has a true understanding of human values and that people come first. His position as the head of a major international company or his status in terms of wealth did not stop him from caring for others, no matter who they are.

His sense of loyalty to others goes beyond the call of duty. He would go out of his way to spend either time or money (or both) to help and assist. He has no problem with wealth, as his motto is: "Surplus wealth is a sacred trust which its possessor is bound to administer for the good of the community"(Carnegie), and so he does!

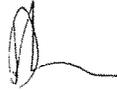
This upbringing has given me a fundamental set of principles in terms of value by which I lead my life and in turn try and instill in my own five children. My children are missing out a lot by not being able to see their Grandfather more often. As the saying goes "A picture is worth a thousands words" Seeing him in person, being in his company, holding his hand, a kiss, a hug - its worth more than a thousand.

Whenever I am faced with decisions, choices or pressures, I look back and think what would my father have done and how would he have dealt with that particular situation.

I miss the daily contact with him whether just to see him, say hello or ask for advice.

What more can I say, how do I go on? There is so much more, but it is in the heart. Feelings and memories, which are not tangible, words, could not do justice to.

From a loving son

A handwritten signature consisting of a stylized, cursive 'S' followed by a horizontal line.

719

Sandra Mirriam Kohn
62 Cranbourne Gardens
London NW11 OJD
England

December 1, 2000

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue
Washington D.C.

Dear Mr. President:

I am writing to support my father's application for a pardon by explaining something of what his life has taught me about his principles and character. Others may know more about his charity and actions in the community at large, although I have seen a great deal of that. But I know how he has been an inspiration to his family and to me.

Throughout his life my father has been concerned for the welfare of others and for what is right. My father could never say "No" to someone in need, and he always stood on principles and always was fair. He could never do something knowing it might be wrong. Honesty and trust are principles he believed in and stood for.

My father's deep devotion to his orthodox Jewish way of life means that there were boundaries he would never cross-he had to do what is right. Although he gained wealth through hard work and good fortune, my father never needed to show it to the world. To him, wealth means there is more to give to charity and to less fortunate people. He has earned the respect of his family, friends, co-workers, employees, and partners through his actions and his soft-spoken manner.

My father and his principles have had a strong impact on my life. It is a privilege to be his daughter. If his character and contributions to the welfare of others are important, he satisfies any standard. He is a man deserving of a pardon.

Respectfully yours



Sandra Mirriam Kohn

720

Sarah Freund
53 Ahi Dakar Street
Raanana, Israel 43259

December 6, 2000

President William Jefferson Clinton
The White House
Washington, DC

Dear President Clinton,

I am writing to tell you about my father, Pincus Green, better known to me as Dad. I understand that he has requested a pardon from you. In making your decision, I hope you will consider the following.

I can tell you stories of a man who is kind, a good man, a charitable and honest man, but this could be many men. But what makes this man special to me, what separates him from all the rest, is his dedication as a father and special attention to my family and me.

Even though he is a wealthy man with a hectic schedule, he always makes plenty of time for my five boys and me. He does not hesitate to roll up his sleeves, get down on the floor and play with the boys. My father could buy us gifts, give us a hug and smile and feel that he has done his duty. But he doesn't. He chooses to give my boys and me something money can't buy: his time.

I remember how after my twin sons were born and I was left alone at home to man the front (due to a car accident in which my husband was injured). But I was not really alone. When my father heard the news he dropped everything and moved in with me to help. This was the big leagues: feeding, dressing, car pooling and changing the dirtiest of diapers. My father did not help me by hiring a maid or assistant. No, he helped me in the best way he knows how - by coming himself to do the job.

This is just one example of the countless times my father's generosity of spirit has shone through. He is a man of true action, not just words. I love and admire him dearly for what he has given to me and for what he has given my children.

Sincerely,



Sarah Freund



בהנהלת הרה"ג מוהר"ר משה גרין שליט"א

16 ROMAN BOULEVARD • MONSEY, NEW YORK 10952 • (914) 426-2964

December 6, 2000

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Dear Mr. President:

I am writing to tell you a little about my brother, Pincus ("Pinky") Green.

As children he had an outgoing personality and people were drawn to him. I am more reserved and bookish, and had few friends. He always tried to include me in different activities so I wouldn't be alone.

Now that we are adults, he is still helping me out. When the Yeshiva I run became too small for the number of students attending, he sent me a check to start a building campaign in order that I could build a new building to service the students that I had and more. As always he acted on an impulse to help. He does not need to be asked.

That is the type of person Pinky is – always helpful, thoughtful, and looking after others.

Respectfully yours,

Moishe Green
Moishe Green

722

Solomon H. Green
918 East 9th St.
13 Brooklyn, NY 11230

December 5, 2000

President William Jefferson Clinton
The White House
1600 Pennsylvania Ave.
Washington, D.C.

Dear Mr. President,

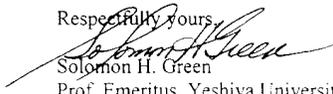
I am pleased to be recognized as the older brother of Pincus Green. He is a person of generosity and integrity whose devoted attention to individual and communal causes has been the pride of our family.

We have a deep respect for his intellectual acumen and for his concern for the welfare of our community and of our family. His caring, his insight and his generosity assured our parents the respect and caring they enjoyed in their later years. His knowledge of the world has been a source of help to his siblings as they confronted economic and physical hardships.

His grandchildren adore him, are at ease with him and love it when he joins them in their play. Pincus is a warmly relating and affective husband to his wife. He has been the patient and guiding spirit to his children as they have themselves grown into parenthood.

Though my brother Pincus Green is younger in years, we have always looked up to him as a model of maturity, integrity and wisdom

Respectfully yours,


Solomon H. Green

Prof. Emeritus, Yeshiva University, New York

Pearl Fontek
918 E. 9th Street
Brooklyn, N.Y. 11230

December 5, 2000

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue
Washington, D.C.

Dear Mr. President:

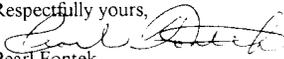
I am Pincus ("Pinky") Green's sister and write to support his application for a pardon.

I know you will receive many letters from people outside his family who have benefited from Pinky's generosity, but it is also important to understand that his generosity and concern are part of his private life as well as the public one, and that they have been part of his character from the very earliest part of his life.

Pinky is two-and-a-half years older than I. We grew up as the two youngest of eight children and did not have much materially, but even then Pinky's generosity and concern for others was exceptional. He shared whatever he had with me, and when he was grown he continued to look out for my welfare in small ways and larger ones.

What I am trying to say is that Pinky is and has always been thoughtful, caring, and dedicated to sharing whatever he has. That is what Pinky Green means. It is what his family knows in the most direct and meaningful ways, and what you should know when trying to understand his character and contributions.

Respectfully yours,



Pearl Fontek



Presidencia

Comunidad Israelita de Madrid
הקהילה היהודית במדריד

November 27, 2000

The Honorable William Jefferson Clinton
President of the United States of America
The White House
Pennsylvania Avenue
Washington, District of Columbia

Dear President Clinton,

I am pleased to acknowledge to you that Mr. Pincus Green is a long-time registered member of the Jewish Community of Madrid who is highly-esteemed and much loved by our members.

We have always known Mr. Green to be a God-fearing man whose strong faith and religious convictions have manifested themselves in his generosity towards the less privileged and in particular towards the children of our community. He is a good husband and a loving father whom we admire.

As he is genuinely an upright person, we wish him all the best in his endeavors.

Truly yours,

Isaac Querub Caro



Comunidad Israelita de Madrid
הקהילה היהודית במדריד

Letters Expressing Support for the Pardon of
Mr. Pincus Green

Paul Fontek	Nephew of Mr. Pincus Green
Kalman Samuels	Founder and Director, Shalva
Rabbi Simcha Hacoheh Kook	Chief Rabbi and Head of the District Rabbinical Court in Rechovoth
Eliezer Jeselsohn & Rabbi Moshe Raziell	Chairman of the Board Head of the Machon The Ludwig and Erica Jesselson Institute for Advanced Torah Studies
Dr. Jerry Hochbaum	Executive Vice-President Memorial Foundation for Jewish Culture
Noach Dear	Councilman – 44 th District, New York City
Prof. Jonathan Halevy, M.D.	Director-General Shaare Zedek Medical Center, Jerusalem
Rabbi Aaron Lasker	General Director, Pachad Yitzchok Institutions
Shlomo N. Mandel, Ph.D.	Friend of Mr. Pincus Green
Josef Guggenheim	Friend of Mr. Pincus Green Former Secretary of Marc Rich Group of Companies
Dr. Harry Trost	Friend of Mr. Pincus Green
Dr. D. Jeselsohn	Friend of Mr. Pincus Green
Sanford Kestenbaum	Friend of Mr. Pincus Green
Dr. Daniel Tropper	President, Geshar Foundation Former Assistant to Minister of Education
Rabbi Yehuda Amital	Dean, Rosh Yeshiva

**Letters Expressing Support for the Pardon of
Mr. Pincus Green**

Walter Straus	Friend of Mr. Pincus Green
Rabbi David Cohen	Board of Governors, Gvul Yaabets
Rabbi David Feinstein	Dean, Mesivtha Tifereth Jerusalem Rabbinical Seminary
Rabbi Shmuel Berenbaum	Rosh HaYeshiva, Mirrer Yeshiva Central Institute
Dr. Joel Aschkenasy	Surgeon, Zurich, Switzerland
Abraham H. Fruchthandler	Friend of Mr. Pincus Green
Rabbi Daniel Levy	Rabbi of Israelit Religionsgesellschaft
Rabbi Yitzchok David Grossman	Chief Rabbi of Midgal Ha Emek Member, Chief Rabbinat Council Dean, Midgal Ohr Institute
Prof. Moshe Kaveh	President, Bar-Ilan University, ISRAEL
Rabbi Herman N. Neuberger	President, Ner Israel Rabbinical College

728

Paul Fontek
996 E. 19th Street
Brooklyn, N.Y. 11230

December 5, 2000

To Whom it May Concern,

I am writing about a man that I admire enormously, Pincus Green.

My relationship with him is quite unique as it has been on two levels. He is my uncle, and has been my employer.

Because he is my uncle I have known him my whole life. In the late 1970's and early 1980's he lived around the corner from my family, and I saw him quite often and came to know him very well. Later, in 1982 I became an employee of his company.

Since he has lived out of the country I have talked to him often and visited him as well, as the various companies that I worked for had offices in Switzerland.

During my many years of knowing him my opinion of him has not changed. He is a bright, thoughtful, caring, and sincere man, who happily has a very good sense of humor.

Sincerely yours,

Paul Fontek



שחרור המשפחה ולידה הומוגבל



December 4, 2000

To Whom it May Concern,

Mr. Pincus Green is a unique individual whose sincere concern and compassion for his fellow man are extraordinary. Mr. Green has generously supported the work of Shalva, but not before thoroughly investigating the merits of the organization. He was most impressed by the fact that our programs benefit not only the individual, but help the entire extended family to cope with their mentally challenged child's needs, and to maintain a healthy family life. Mr. Green also carefully verified that services were available equally to children of all ethnic backgrounds without discrimination.

Never has Shalva had a donor like Mr. Green who shuns any and all honors, and the limelight. He asks nothing in return other than the knowledge that his gifts are utilized to bring light into the lives of special children and their families. His unparalleled generosity is surpassed only by his humility.

Sincerely,

Kalman Samuels
Founder and Director

חתי אומנת פרס הנשיא
וראש עיריית ירושלים

E-MAIL: info@shalva.org
WEBSITE: www.shalva.org

רח' אבן דן 6, ת.ד. 35199 ירושלים 91351
טלפון: 02-6535787 פקס: 02-6519555

שלווה - בית נחשון

RABBI SIMCHA HACHEN KOOK
CHIEF RABBI OF REHOVOT
ISRAEL

שמחה הכהן קוק
רב ראשי ואב"ד
רחובות

DATE: December 3, 2000. ב"ה, י"ט, 2000.

To Whom it May Concern,

I was privileged to have served close to thirty years as the Chief Rabbi and head of the District Rabbinical Court in Rehovot. My rabbinical position commits me to serve a wide and varied community as well as being at the forefront of educational activities for youth and adults. I also take part in assisting individuals who are afflicted with severe illnesses or other hardships.

In such cases, I make use of the services of exceptionally humanitarian people who selflessly live for what they can do to help others.

Without question, one such rare individual who I am acquainted with is Mr. Pincus Green, of Zurich, Switzerland.

In every talk I have had with him, I had the pleasure of seeing a man whose concern for the individual and the community is sincere, far-reaching and sagacious.

I first met him in connection with the remarkable work he did in concert with the international effort to help refuseniks exit the Soviet Union.

Every time I turned to him concerning saving the life of a man, woman or child suffering from a rare disease whose treatment was prohibitively expensive, Mr. Green's heart was open to hear the case and he responded generously to save the person.

One of the primary values of a nation or people is its educational system, whose purpose is to raise a generation versed in its heritage and culture.

RABBI SIMCHA HACHOEN KOOK
CHIEF RABBI OF REHOVOT
ISRAEL

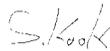
שמחה הכהן קוק
רב ראשי ואב"ד
רחובות

DATE..... ב"ה, יום.....

I am setting up a large educational network in the city of Rechovoth and other places in Israel which has received the help and support of Mr. Green. I am obligated to emphasize that even though his support has been extremely substantial, he has given it in a most unobtrusive and unassuming manner.

His deeds and concern for the fate of the Jewish nation, has made him a special person graced with integrity, wisdom and generosity who is involved in both humanitarian and national projects.

With blessing and appreciation,



Rav Simcha Hachoen Kook,

Chief Rabbi and Head
of the
District Rabbinical Court in Rechovoth.

המכון הגבוה לתורה ע"ש לודביג ז"ל ואריקה יסלזון (ע"ר)
 THE LUDWIG AND ERICA JESSELSON
 INSTITUTE FOR ADVANCED TORAH STUDIES (RA)



בס"ד

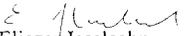
8 Cheshvan 5761
 December 5, 2000

To whom it may concern:

This is to recommend to you Mr. Pincus Green, a close acquaintance of ours for nearly ten years.

Throughout this period he has distinguished himself in the leadership role he assumed in support of our Institute. He is not only a most generous benefactor, but has shown himself to be a man of great vision and communal responsibility. He conceived, brought to fruition and follows closely a program training university students in the values of Torah and Science, guiding them to become moderating forces in the workplace, community and academia. These students, the academic, intellectual and spiritual elite of the university, attest to the finest qualities of Mr. Green, a man displaying in his every action warm concern and unconditional positive regard to his fellow man and to society at large.

Sincerely yours,


 Eliezer Jeselsohn
 Chairman of the Board


 Rabbi Moshe Raziell
 Head of the Machon

MEMORIAL FOUNDATION FOR JEWISH CULTURE

15 East 26th Street
New York, NY 10010
(212) 679-4074

December 5, 2000

To Whom It May Concern:

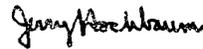
I am the Executive Vice-President of the Memorial Foundation for Jewish Culture, an international Jewish organization engaged in reconstructing Jewish culture around the world after the Holocaust.

I have known Mr. Pincus Green for almost two decades in connection with my work. He has, with abundant generosity and sensitivity, helped support our organization continuously during that period. Whenever approached, he has responded with alacrity and enthusiasm. One of the areas in which he has made a pioneering contribution is his revival of Jewish life in the Former Soviet Union, where he has demonstrated resolute purpose and vision.

In his philanthropic activity, he has achieved a well deserved international reputation for his kindness, dedication, sensitivity, and modesty.

His generosity has made a difference in this world, for which all who know him are deeply grateful. He is truly a philanthropic saint.

Sincerely yours,



Dr. Jerry Hochbaum
Executive Vice-President

JH:fzs



NOACH DEAR
 COUNCIL MEMBER, 44TH DISTRICT
 DISTRICT OFFICE
 4424 16TH AVENUE
 BROOKLYN, NY 11204
 (718) 633-9400
 FAX (718) 633-9403
 CITY HALL OFFICE
 250 BROADWAY, 22ND FLOOR
 NEW YORK, NY 10007
 (212) 786-7022



THE COUNCIL
 OF
 THE CITY OF NEW YORK

COMMITTEES
 TRANSPORTATION
 CHAIR
 LAND USE
 FINANCE
 SUBCOMMITTEE
 ZONING & FRANCHISES

November 29, 2000

To Whom It May Concern:

As a Councilman for New York City since 1982 I have often been asked to support a person or a project, even when my acquaintance with the person is short and my knowledge limited. But my support of Pinky Green is unqualified and not like the usual case. I have known Pinky for close to 25 years. I also know first-hand his humanitarian contributions to the community – not just recently and for the few, but for many years and for many, many people.

I was Pinky's neighbor in Brooklyn and sat next to his son in Synagogue. He has always gone to exceptional lengths to help those who needed help the most. He has always helped with an open heart, and he never wanted any publicity for his assistance and financial contributions. He did not help because he wished to see his name associated with it. He is humble, honest and dedicated to helping those in need.

He has been particularly dedicated to education for the young and to the survival of Jewish communities in Russia. From my personal contacts I know that those communities have faced devastating hardships both under the old Soviet regime and in the difficult transition in recent years. When I worked to bring aid to the Russian communities seeking to overcome the disasters of the communist years, Pinky guided me with advice and provided financial support to those in Russia who had no where else to turn. His financial contributions were on a large scale.

Pinky Green was the principal supporter of the main synagogue in Moscow, where they started a day school for children. There was a need for a ritualarium in Moscow, which is very important for the survival of the Jewish community and Pinky helped it to be built. He helped start educational systems in other cities in the former Soviet Union and funded summer programs for the children.

I know something about all these matters and can say without hesitation that the survival of the Jewish community in Russia today is due in large part to the unstinting support of Pinky Green.

Page 2

As I walk through my community, there are many synagogues and schools that would not have been built, except through the benevolence of Pinky Green. No where does it show his name or acknowledge his contribution – it has all been done in a quiet and humble way.

This is a community that has large families and sending children to day schools is part of their religious upbringing – who could subsidize and supplement the cost of that? Thank goodness for the efforts and philanthropy of Pinky Green.

He has also been extraordinarily generous to institutions, communities and individuals in this country and in Israel. I have sent people to him who needed help and have seen the benefits. I remember one of the chief Rabbis of Israel who had a particular need and desperately lacked funds for a school to survive. I referred him to Pinky Green and all I know is that when I went to visit the school in Israel, the smile on the faces of the children was so heartening and displayed their gratitude to have a comfortable, safe environment. It was Pinky Green who came to the rescue.

I must say that Pinky reminds me of Elijah, the prophet, who responds to a person's outcry when someone is in dire need of help. Suddenly a package arrives or the financial means to solve their problem appears ... without the person knowing where it came from. If Pinky could have access to a list of the needy people of this world, he would respond the same way as Elijah does and would not want them to know whom their benefactor was.

Any community and country should be proud to have Pinky Green as a member.

Very truly yours,



Noach Dear
Council Member – 44th District

December 3, 2000

To whom it may concern:

Shaare Zedek acknowledges with deep gratitude the support we received from the charitable foundation of Mr. Pincus Green.

Mr. Green is deeply committed to ensuring that Israelis have access to quality medical care. He therefore helped outfit our departments and clinics with state-of-the-art equipment, following our 1979 move to our present modern facilities near Mount Herzl.

Among the many purposes to which these funds were used was the equipping of the Mammography Room in our Department of Radiology. Early detection of breast tumors is the decisive factor in saving the lives of women who are struck by breast cancer, and mammography is a key component of early detection.

The assistance Mr. Green provided Shaare Zedek was part of a broad program of support for a number of Israeli medical institutions.

Shaare Zedek is appreciative of the 14 years of support we received from Mr. Green's foundation, which helped us to provide superior medical care to the people of Jerusalem and to develop into one of Israel's premier centers of medicine.

Sincerely,



Prof. Jonathan Halevy, M.D.
Director-General

ב"ה

בית חולים
אוניברסיטאי

המרכז הרפואי
שערי צדק
ירושלים



shaare zedek
medical center
jerusalem

a university
affiliated
teaching
hospital

פרופ' יונתן הלוי
המנהל הכללי

תל אביב 6102350
רחוב הרצל 10
טל: 02-6554933
פקס: 02-6513936

Prof. Jonathan Halevy
M.D.

office of the
director-general

תל אביב 6102350
רחוב הרצל 10
טל: 02-6554933
פקס: 02-6513936

Pachad Yitzchok Institutions

*High School
Post High School
Graduate Division*

Rabbi A. Lasker - General Director

Monday, December 04, 2000

To Whom it May Concern

Regarding: Mr. Pincus Green

My Name is Rabbi Aaron Lasker. From Sept. 1965 – August 1973 I served as an educator on various levels (elementary school, and high school) in the New York Area. From Nov. 1973 I assumed the position of principal of the Jewish studies department in the Kiryat Mattersdorf Elementary School in the Kiryat Mattersdorf section of Jerusalem, Israel. That position I held for the next 17 years. In Sept. 1990 I assumed the position of General Director of the Pachad Yitzchok Institutions (a high school, post high school and graduate school) in the Har Nof section of Jerusalem.

I have known Mr. Green, whom we have always referred to as “Pinky” since I was a youngster in my pre teens. Pinky is slightly older than I am and he served as a youth leader in youth groups that our synagogue provided on Saturday afternoons. The memories that I have from the times that he was my leader are still vivid and fond. All wanted to be in his group.

Pinky grew up and went to the army. He married and lived in Europe for a while while we were still growing up. But, on the occasions when he did come back for visits all flocked to greet him and to be greeted by his warm genuine smile.

Pinky made it in the business world. The boy who was born into a poor hard working immigrant family, worked his way up in the business world. But, he did not change. Money did not go to his head, and he in no way became snobbish and arrogant as many do.

My next relationship with Pinky that has been going on now for about 25 years was that of fundraiser, first for the Mattersdorf school and then for Pachad Yitzchok. And, for literally hundreds of other cases for which I have turned and appealed to Pinky for. A poor bride and groom. A large family that did not have the funds necessary to provide for the upcoming Holiday. A sick parent or child. Loans for completely unknown persons. Never was I turned down and almost as soon as the request arrived at his office, the check was on the way. All requests were treated the same.

Pachad Yitshok Institutions

*High School
Post High School
Graduate Division*

Rabbi A. Lasker - General Director

To give you some idea of how money did not change Pinky's personality a few stories come to mind. I once had to go to meet with him regarding a charity. When our meeting was finished Pinky helped me on with my coat. He and his wife then proceeded to put on their coats. When I asked where they were going they said that they were taking me home. Protesting did not help, and he and his wife went down to the car and drove me to where I was staying. When we arrived at my destination Pinky got out of the car and opened my door for me.

Pinky once asked me about a certain individual and a learning program that that person wanted to set up. I knew the individual and felt that he was capable of setting up and running the program that was being spoken about. Based possibly on my recommendation Pinky provided funding for the program. After some time passed I found out that the person fooled Pinky and the learning program that the funds had been asked for was actually not being followed at all. I felt obligated and called Pinky and informed him of what was going on. Most other people would have reacted negatively, or asked for the money to be returned. Pinky merely asked if the young men that were supposed to receive the funds were indeed receiving them, as that was the main thing.

I can go on and on, but all of the stories will lead to the same conclusion. Pinky Green is one of the finest most scrupulous and caring people that anyone could know.

Rabbi Aaron Lasker

Shlomo N. Mandel Ph.D
548 Coldstream Ave.
Toronto, Ontario
M6B 2K9

December 6, 2000

To Whom It May Concern:

With this letter, I take the opportunity to write about Mr. Pincus Green, who is a close friend of mine as well as a true friend of our community.

I have had the privilege of working with Mr. Green in his support of humanitarian causes in Eastern Europe. In my own limited experience, I have been witness to his financial and moral support of hundreds of thousands of individuals in Eastern Europe, North America and Israel.

Through his philanthropy, Mr. Green has been instrumental in instilling democratic and American values throughout the former Soviet Union, via numerous educational projects.

By sending food and other humanitarian aid to large populations of needy individuals in Eastern Europe, often in cooperation with such governmental agencies as USAID, Mr. Green has quite literally helped save thousands of lives.

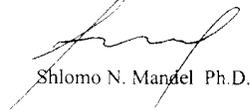
I am aware of hundreds of projects around the world that Mr. Green has supported with sizable contributions, but more significantly, he has enhanced the efforts of many of these projects with his experience and profound wisdom.

His guidance over the past ten years has been personally helpful. His integrity and sound advice has been extraordinarily inspiring.

In my opinion, Mr. Green's potential return to North America would be wonderful news and provide great benefit to all Americans.

Thanking you for all due consideration of my letter, I remain,

Yours truly,



Shlomo N. Mandel Ph.D.

Josef Guggenheim

Hügelstr.44
8002 Zürich

TO WHOM IT MAY CONCERN

I am Josef Guggenheim, born 1928, a Swiss citizen and have been living in Lucerne and Zurich since my birth.

Part of my forefathers have been living in Switzerland since 1607; my father Dr. med. Robert Guggenheim, was a well known and most respected medical doctor in Lucerne, and also my father-in-law (Dr.med.Werner Wyler) was for many decades a medical doctor in the same town; he was also for 16 years a Member of the City Council and acted for a period as its president; my mother-in-law, Mrs.Susy Wyler, was for 12 years a well respected Member of the Cantonal Parliament of the Canton of Lucerne.

In Lucerne I went to all the schools up to Matura and after some years abroad studied law at the Zurich University. After several years in a Lucerne law office I was for several years Deputy General Manager for the international investment Group of Intershop Holding Ltd, which was formed by the leading European Banks; thereupon for several years leading Manager for real estate firm which was based in Switzerland, and which was successfully active in developing and finding international investors for a new City in Florida (USA). Thereupon I was active for several years as a Managing Director for a firm of the Rosenstein Group of Companies, based in Switzerland, but active on an international level. Finally I was employed as a Company Secretary of the Marc Rich Group of Companies, and was also active in certain financial activities on an international level.

Presently I advise a group of Swiss Companies and am also active in the Federal Foundation Society (AGES, combining 200 Swiss based Foundations).

I am writing to you on behalf of Mr Pincus Green, who I have known for 25 years and have also worked closely together with him for many years. I write to confirm to you that he is a most honest and upright citizen who has on a large scale been very charitable and helpful to the larger community, within which he is very much respected.

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-2 -

During the many years he has lived here in Switzerland he has lived an exemplary life and has made many voluntary contributions on a large scale to the society.

I can recommend him to all people and institutions .

Zurich, December 4, 2000

Respectfully yours,


Josef Cuggenheim

Dr. med. Harry Trost
 Spezialarzt FMH
 Physikalische Medizin
 und Rehabilitation
 speziell Rheumaerkrankungen



Steinwiesstrasse 4
 CH-8032 Zürich
 Telefon 01/262 20 80
 Telefax 01/252 79 60

Zürich, den 5. Dezember 2000

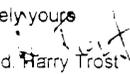
To Whom it may concern

I am a practicing rheumatologist in Zürich in private practice since 1982. I have been active as a teacher of Manual Medicine and am on the examination-board for the specialization in Physical Medicine and Rehabilitation. I am also director of a clinic for Strength-training for back ailments in Zürich since 1994, and am on the board of the Swiss-International Committee for Medical-Strength-Training and am a founding member of the Swiss Committee for Strength-Training.

Mr. Pinky Green has been known to me for approximately 18 years, as a patient and friend of the family. I confirm that he is an honest, upright and very charitable person. He has been helpful and has financially assisted the community with donations for the needy and patients, as well as hospital donations, and is very respected within and without the community.

During the many years that he has lived here in Switzerland, he has led an exemplary respectful life and has made numerous voluntary contributions to the society. He has an open heart and soul for all of mankind.

Sincerely yours


 Dr. med. Harry Trost

DR. D. JESELSON

**SCHEIDEGGSTRASSE 40
8002 ZÜRICH/SWITZERLAND
TEL. +41-1-202 45 07
FAX +41-1-202 45 77**

TO WHOM IT MAY CONCERN

Zurich, Dec. 4, 2000

These lines are written in my capacity as an old business and personal friend of Mr. Pincus Green.

I am a citizen and resident of Switzerland, active as a business man in the areas of financial management, international trade and real estate. I am also active in the Jewish public life of Switzerland, serving as a member of the Central Committee of the Swiss Federation of Jewish Communities.

I know Mr. Green and his family for more than 30 years, having worked together in the same organization. Mr. Green is and has always been an honest, upright, trustworthy person, who has always fulfilled his work and executed his projects according to these principles.

Alongside his remarkable and outstandingly successful business career, Mr. Green is very active in communal, social, educational and cultural areas. His activity in these fields, both in Switzerland and abroad, is exemplary and has caused his name to be a synonym for compassion and charity. As a matter of fact, there are very few people who I know that have understood like Mr. Green how to transform their own outstanding financial success into an ever growing flow of support and help for such a wide gamut of needs for the whole society.

I shall be more than happy to furnish, if necessary, any needed details about some of the outstanding deeds of Mr. Green.

Dr. D. Jeselson

December 5, 2000

To whom it may concern,

I know Pinus Green since 1957. We have been good friends all this time. He has always been honest and truthful. Our friendship and my knowledge of him is completely on a personal level. He is forthright, keeps his word, and deals with his acquaintances modestly. I also think that his wonderful family is a reflection of his true character.

We worked for the same company at the start of our careers and his reputation there was always excellent.

I gladly vouch for him as a fine person

yours truly,
Sanford Kestelbaum

3 Nachlat Zedek Street
Jerusalem, Israel

Dr. Daniel Tropper
1 Mechalkei HaMayim Street
Jerusalem 93222

December 4, 2000

To Whom it may Concern,

Throughout the many years that I have known Mr. Pincus Green and over the course of at least 50 collaborative charitable ventures with him, I have always been impressed by the enormity of his sense of identification with others, his feeling of responsibility toward his people, his sensitivity for the poor and ill, and his profound sense of modesty.

As the current President of the Geshar Foundation, a former Assistant to the Minister of Education, and the former Director of the Joint Program for Jewish Education of the Jewish Agency, I have encountered countless numbers of individuals trying to better the world and make their contribution to the Jewish nation as a whole and Israeli society in particular. I have never known anyone as generous, unassuming, and respectful of the recipients of his grants as Pincus Green.

There is almost no limit to the breadth and variety of individuals, organizations, and institutions that have benefited from Pincus's sincerity and financial contributions. To name just a few, he has contributed funds to individuals in need of surgery, clothes and shoes to abused children in an institution, to poor families drowning in debt and to a broad spectrum of medical, educational and social organizations. Even more extraordinary, anytime I have ever known him to make a donation of funds, he has done so anonymously. Mr. Green does not seek recognition. His generosity derives from true compassion and moral commitment.

Mr. Green does not choose his beneficiaries randomly, but based upon deeply rooted beliefs and principles. He has supported the development of educational technology based on his belief that children must develop technological know-how in order to function and prosper in this world of rapidly advancing technology. He has provided the means for settling young people in development towns based on the premise that they can contribute significantly to the growth of these towns. I remember being particularly touched by his generous donation to a fertility clinic, and his expression of compassion for the tremendous pain experienced by women unable to have children.

Mr. Green is also a person of incredible breadth. This is perhaps best illustrated by a recent occurrence. Just a few weeks ago, Mr. Green approached me and asked if I had heard of a town in France, Le Chambon, whose citizens, he understands,

saved 5,000 Jews during the Holocaust. He had heard that it is today an impoverished area and wanted to know if anything had been done by the Jewish people to repay their debt to help the people living there. After some investigation, I discovered the information which Mr. Green had received was true. In our encounter, Mr. Green seemed to feel as if he was the representative of his people, as if he personally had a moral debt he must repay to the citizens of Le Chambon. He is today in the process of examining in what way he can assist those people. I have never encountered such an identification with and commitment to one's people. He harbours an unusual sense of moral responsibility.

Pincus Green is a man of real substance, simply one of the finest, most modest and genuinely philanthropic individuals I have ever had the privilege of knowing.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul Tipp", with a long horizontal flourish extending to the right.

ב"ס
7 Kislev, 5761
December 4, 2000

To Whom It May Concern,

Eight years ago I was diagnosed with a rare malady that greatly limited the use of my hand. My new limitation was particularly disturbing because it prevented me from being able to write – the very lifeblood of the life of the scholar. I was referred by an acquaintance, Mr. Pincus Green, to the Schulthess Clinic in Zurich that performs a surgical procedure, which could restore the functioning of my hand.

Mr. Green's involvement just began here. Mr. Green met me at the airport and took me to my hotel. Each day he personally came to the hotel to drive me to the clinic, await the examination and drive me back to the hotel. And in the days that I was hospitalized he visited me each day to be certain that all my needs were being taken care of. And it was he – when I had recovered sufficiently to return home – who took me back to the airport. He even offered to cover all medical costs, which I was fortunately able to turn down.

I shall never forget the kindness that Mr. Green bestowed on me during that time. He acted with a simplicity and humility that completely belied the fact that he is a man of large resources who could certainly have found some underling to ferry me around and who surely had more pressing matters than to spend many hours acting as my chauffeur and companion.

Simplicity and humility are rare and valuable human resources. They are even rarer among the moneyed and powerful. I can personally attest to the fact that money and power have not corrupted Mr. Green. He remains a kind, thoughtful and humble human being.

Sincerely,


Rabbi Yehuda Amital
Dean – Rosh Yeshiva
Yeshivat Har Etzion

H & W STRAUS

3333 HENRY HUDSON PARKWAY, APT. 18E
RIVERDALE, N. Y. 10463

December 7, 2000

TO WHOM IT MAY CONCERN:

I have known Mr. P. Green for nearly 50 years.

After serving in the US Army during World War II, and after finishing my college education, I first worked as a security analyst at Bache from 1948 until November 1950. Subsequently, I joined Philipp Brothers, a metals and minerals trading company that served the global market.

In 1952, I was sent to Philipp Brothers' Amsterdam office (at that time the main European office) and I served in Amsterdam for approximately 33 years. First I worked as a metal and mineral trader and during the last approximately 15 years as managing director.

Mr. Green also worked in the Philip Brothers organization in New York and in 1958 he was sent to the Istanbul office stopping off first in Amsterdam to acquaint himself with the business activity in Turkey. About two years later he was called back to Amsterdam (at that time still the European headquarters of Philipp Brothers) to handle and supervise the business activities with Turkey and other European countries. In the mid 60's he joined our then European manager, Dr. A. Blum in moving to Switzerland when the ore and mineral department was transferred to Zug.

Ever since Mr. Green joined Philipp Brothers I have had the good fortune of maintaining a close personal relationship with him and with his entire family.

I know Mr. Green as an honest and straight forward person who was not only a good business man but also was (and still is) known for his charitable contributions. He and his family always endeavor to help other people who, for one reason or another need help.

Mr. and Mrs. Green are family oriented people who take pride in raising their children to be well educated -honest and respectable people- all of whom are now married with exemplary families of their own.

I can attest that Mr. Green is well respected in the communities of Europe and the U.S.

Respectfully yours,



Walter Straus



DAVID COHEN
RABBI-LIBRARIAN

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גבול יעבץ Gvul Yaabetz

1518 EAST SEVENTH STREET / BROOKLYN, N.Y. 11230 / 376-7388 - 376-7423

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To whom it may concern:
I've been asked to describe the activities of Pinus Green during the last twenty-five years that I've known him as a parishioner and friend. As his Rabbi, he has consulted with me concerning many personal as well as communal issues. His concern for the pain of others and the community at large was paramount. He is also a very modest person who would insist that his charity would not be disclosed.

He financed the building of our synagogue, an edifice that was built fifteen years ago at a cost of approximately three million dollars. He did so without any solicitation and insisted that I do not disclose that he was the sole benefactor which I honored until it became ludicrous, since everyone realized that it must have been Pinus.

I know of many instances where he helped variegated institutions involved in social welfare, education and religious needs of the entire spectrum of the community.

Our people are always lamenting these last fifteen years that he's been away as a great deprivation of material benefits as well as inspirational energy which he infused into the communal bloodstream when he was here.

David Cohen of
Congregation Gvul Yaabetz
Chairman - Chel Guste Home
Dean - Long Island Commission
of Rabbis

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2:30 p.m. - 5 p.m.
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Rabbi Shmuel Berenbaum
Rosh HaYeshiva

בס"ד

מסמך של מן המסמך ר' אברהם קלמן ויצחק זיל
Founded by
Rabbi Abraham Kalmanowitz זצ"ל

December 5, 2000

To Whom It May Concern:

I have personally known Mr. Pincus Green for over 25 years, both as a concerned parent and as a devoted patron of our school. He is a man of vision, generosity and caring. In my dealings with him, I have been greatly impressed by his integrity, reliability and by his being "a man of his word".

He has always demonstrated a profound understanding and awareness of the pivotal role that Jewish education plays in the molding of generations of forthright and upstanding citizens, and he gave of his time and resources to assist the school in any way possible.

His dedication to humanitarian causes inspired him to take a leadership role in a broad spectrum of community activities. Mr. Green is one of the major benefactors and supporters of our institute as well as of many others and has been instrumental in their growth and expansion.

Sincerely,

Rabbi Shmuel Berenbaum
Rosh HaYeshiva

FOUNDERS: Morris Morgenstern High School Sarah Persky Rabbinical College
Joseph & Faye Tanenbaum Yeshiva K'lana

Dr. Joel Aschkenasy
Scheideggstrasse 62
8002 Zürich

5th of December 2000

TO WHOM IT MAY CONCERN

My name is Dr. Joel Aschkenasy. I am a surgeon in Zürich, Switzerland.
I was born in Switzerland 1933.

I am writing on behalf of Mr. Pincus Green.

I have known Mr Green since 1965. I got to know him through my wife, who knew the Green family several years earlier when they were living in Holland. They are very dear friends.

I also know him as a patient and although he was a very busy man, he struck me as being modest, e.g. not asking for privileges.

I confirm that Mr Green is a man of high moral standard. He is known to help the needy individual as well as many institutions and all this he is doing in a very discreet way.

Sincerely Yours

J. Aschkenasy

A handwritten signature in cursive script, appearing to read 'J. Aschkenasy', written in black ink.

December 4, 2000

To Whom It May Concern:

I am writing this letter on behalf of a dear friend, confidant, and a man whom I respect, Mr. Pincus Green.

On a business level, knowing him for many years, I have found Mr. Green's business acumen to be excellent and his advice to be sound. Many a time, he has lent a business ear to those who seek his advice. This, of course, is done at no benefit to himself.

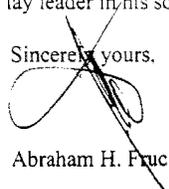
I, myself, for example, am in the real estate business, where inflation and interest rates have a very direct impact and effect. I often have sought his direction and he has always made time for me and provided me with wise input.

In reference to his charitable and philanthropic endeavors, once again, I have first hand knowledge of his actions and deeds. He has, for many years, supported local schools and synagogues here in Brooklyn with very sizable donations. In addition, there are many institutions here, in Israel and worldwide to whom he has given tremendous amounts of money to help them through severe financial crises. These contributions have often saved these institutions from closing. In addition, he has contributed great amounts of money for expansion and capital programs besides yearly stipends for day to day operations.

I have also found Mr. Green to be one who is concerned about his heritage and fellow Jew, which goes beyond philanthropy. He had discussed with me at length the consideration and possibility of creating a new educational program in the Jewish community that would fill a void. This program would have provided a fine mix of religious and secular classes, giving many students the educational wherewithal to face the challenges of tomorrow.

In summation, I believe that Mr. Green has added a lot to his community and friends in a business way and a philanthropic way, and would the opportunity present itself, he would once again become a major asset and lay leader in his society.

Sincerely yours,



Abraham H. Fruchthandler

754

ב"ה

RABBINAT DER
ISRAELIT. RELIGIONSGESELLSCHAFT
Rabbiner DANIEL LEVY
8002 Zurich, Brändschenkesteig 14
Telefon 01-202 48 19 - Telefax 01-202 68 73

הרב ד. לוי
אב"ד דקהל עדת ישרון ציריך

To whom it may concern

I, Rabbi Daniel Levy, am the Rabbi of the above community.

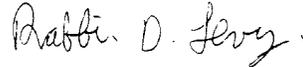
I have known Mr. Green since my arrival here in April 1972 and have worked together with him on various communal and charity projects.

I write to confirm to you, that he is an honest and upright citizen who has been very active in every field of charity all these years. This includes not only the standard cases of people who are poor and destitute, but also educational institutions at every level of education. On many occasions he has been the major contributor to lifesaving operations for people unable to afford the best and highest available medical attention. These activities are not only local but on an international level.

During the many years he has been in Switzerland he has lived an exemplary life.

Thanking you in advance

Respectfully Yours,



Rabbi D. Levy

Zurich, 4th December 2000

ראשון לציון
 Chief Rabbi of Migdal Ha'Emek
 Member, Chief Rabbinate Council
 Dean, Migdal Ohr Institutions

ראשון לציון
 רב העיר-מגדל העמק,
 חבר מועצת הרבנות הראשית
 נשיא מוסדות מגדל-אור

בס"ד

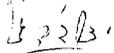
ח' בכסלו תשס"א

לכל המעוניין

מר פנחס גרין הוא אישיות מיוחדת ביותר. קשה לתאר במילים את עצמת תמיכתו במשפחות במצוקה, ילדים, יתומים וכל נצרך.

כרב ראשי של עיירת פיתוח, אני נקרא שוב ושוב לסייע בפתרון בעיות אישיות כגון: עניות, חולי, משפחות במצוקה, התעללות בנשים וילדים וכו'. למרות שרוב המקרים אינם נפתרים ע"י תרומה כספית, תמיכה מעין זה תוכל להקל במידה רבה במצבים קשים אלו.

אין לנו אלא להתפעל מההיענות הנדיבה של מר גרין לנוקקים. הוא אכן נתברך בלב פתוח ונשמה גדולה.

בברכה,

 הרב יצחק דוד גרוסמן
 רבה הראשי של מגדל העמק

756

Translation

Rabbi Yitzchok David Grossman
Chief Rabbi of Midgal Ha Emek
Member, Chief Rabbinate Council
Dean, Migdal Ohr Institutions

December 4, 2000

Jerusalem

To Whom it may Concern,

Mr. Pincus Green is an extraordinary individual. It is difficult to describe in words the magnitude of his assistance to families in distress, children, orphans and anyone in need.

As the Chief Rabbi of a development town, I am repeatedly called upon to assist in personal problems, e.g. poverty, illness, broken homes, abused wives and children, etc. While money cannot solve most of these issues, it is often a critical element in ameliorating the situation. The generous response of Mr. Green to those in need is absolutely astounding. He has been blessed with an open heart and a gracious spirit.

Sincerely,

BAR-ILAN UNIVERSITY אוניברסיטת בר אילן

רמת גן, ישראל 52900
 טלפון: 03-6352115
 מבריקים: UNIBARILAN
 פקס: 972-3-5353523



בס"ד
 December 5, 2000
 8 Cheshvan 5761

To whom it may concern:

We are pleased to write on behalf of Mr. Pincus Green, a long-standing friend of the university.

We have come to recognize Mr. Green not only as a philanthropist but as a major force for academic excellence and societal change. He has championed the cause of outstanding students in need, appreciating their great potential and the promise they hold – not only for Science but for the community, as well. His pioneering spirit and foresight have led to the actual creation of a level-playing field, granting equal opportunity to all students of high ability. Throughout the process he has been attentive, responsive and caring, never demanding any recognition whatsoever for his significant contribution.

Sincerely yours,

Moshe Kaveh
 Professor Moshe Kaveh, President



November 29, 2000

To whom it may concern:

I wish to share with you the enormous esteem and great regard that I have for Mr. Pincus Green who is unquestionably one of the major philanthropists and great humanitarians of our era.

As President on Ner Israel Rabbinical College, I have known Pincus Green for over twenty years. Although his son Aaron was only in our school for a very short period of time, Mr. Green has recognized the importance of our institution as one of the foremost citadels of higher Jewish learning in the world. In almost seventy years of existence, Ner Israel has trained and continues to graduate rabbinic, educational, communal and knowledgeable laymen who occupy positions of leadership throughout the Jewish world.

It is this understanding, coupled with Mr. Green's global concern for the growth and success of Jewish communities throughout the world, that has motivated him to participate in funding a number of our capital projects over the years. Furthermore, he has never asked for any public recognition or dedications for his efforts on our behalf.

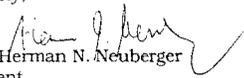
Over the years, I have come to know that there are numerous individuals who have been helped in significant ways by his generosity, including those in need of medical attention that they could not afford as well those who faced fiscal emergencies and were in need of a helping hand. Often the recipients of his largess are unaware of its source.

There are numerous Jewish educational and social service agencies throughout the world that receive regular contributions from this caring humanitarian.

Pincus Green is a devoted husband, a loving father and grandfather. He is blessed with a beautiful family whose lifestyle reflects the moral, ethical and religious tenets of Orthodox Judaism. Amongst his siblings are those who are considered great talmudic scholars and educators. He is personally a man of dignity, integrity and trust who is uncompromising in the practice of his faith.

We look forward to a time when he will be able visit with us and see first hand all that he has helped us build.

Sincerely,


 Rabbi Herman N. Neuberger
 President

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.

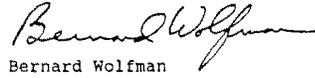
Our understanding of the facts and our legal analysis and conclusions are set forth in the form of Proposed Findings of Fact and Conclusions of Law which we enclose herewith. These are the Findings and Conclusions which we would request and expect a court to make if it were called upon to determine civil liability in this case.

Professor Ginsburg and I would be happy to discuss our views

760

with you at your convenience and hope you will afford us the opportunity to do so.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bernard Wolfman".

Bernard Wolfman

cc. Professor Martin D. Ginsburg
Leonard Garment, Esquire

12/07/90

Defense's Proposed Findings of Fact
and Conclusions of Law With Respect to
the Deficiency in Federal Income Tax
Determined Against Marc Rich & Co.
International Ltd. for 1980 and 1981

I. FINDINGS OF FACT

1. By notice of deficiency, the Commissioner of Internal Revenue ("Commissioner") determined a deficiency in federal income tax based on the superseding indictment in U.S. v. Marc Rich, et al., 83 Cr. 579 (SWK) (S.D.N.Y.). The superseding indictment charges Marc Rich & Co. International Ltd. ("MRI") with income tax evasion for allegedly under-reporting income totalling approximately \$105 million on the U.S. income tax returns MRI filed for calendar years 1980 and 1981. While Marc Rich & Co. AG ("AG"), MRI's parent, is also a defendant in the criminal case, AG has never filed a U.S. tax return and is not charged with tax evasion or with a deficiency in federal income tax.

2. MRI was duly organized under the laws of Switzerland in 1978 as a wholly-owned subsidiary of AG¹. AG was duly organized as a Swiss corporation in 1974. At all relevant times, MRI and AG were each headquartered in and conducted substantial business from their offices in Zug, Switzerland. Both AG and MRI were engaged in the international trading of commodities, including crude oil, metals and minerals. A primary purpose for forming MRI was to conduct trading activity in the United States.

¹ In July 1983, AG sold the stock of MRI. The company was renamed and continues to trade as Clarendon, Ltd.

To this end, MRI opened a branch office in New York City immediately upon incorporation in 1978.

3. During the taxable years in issue, Marc Rich ("MR") was the Chairman of AG's board of directors and also was Chairman of MRI. Pincus Green ("PG") was a member of AG's board of directors and also was President of MRI. At all relevant times, MR and PG were employed and paid by MRI, not AG. More than 50% of the stock of AG was owned by persons unrelated to MR and PG who were neither U.S. citizens nor U.S. residents. The majority of directors of both AG and MRI also was comprised of non-U.S. citizens and non-U.S. residents.

The Regulatory Background

4. The deficiency determined by the Commissioner is based on MRI's tax treatment of certain crude oil transactions that occurred in 1980 and 1981. From 1973 until decontrol by President Reagan at the end of January, 1981, sales of crude oil in the U.S. were subject to regulations issued by the Department of Energy ("DOE") or its predecessors. The regulations were complex and attempted to further several different goals. As a result, different regulations applied to different classes of crude oil producers, resellers and refiners, and to oil produced from different wells and in different historic volumes. Thus, for example, oil of identical physical properties sold in the U.S. might attract different regulatory prices and be subject to different legal restrictions depending on by whom the oil was

sold, to whom the oil was sold, and the production history of the well from which the oil was first derived.

5. More particularly for present purposes, the DOE imposed ceiling prices on producers' initial sales of crude oil coming from domestic wells that on average produced in excess of ten barrels per day. Such oil was called "controlled" oil, because the maximum price for the first sale of such oil by its producer was restricted. (There were two categories of controlled oil. Crude oil produced from a well existing in 1972 at or below a designated 1972 level of production was labelled "old" oil; "new" oil referred to crude from wells opened after 1972 or oil obtained from wells existing in 1972 but produced in quantities exceeding a designated 1972 level of production for that particular well. Old oil carried a lower regulatory initial sales price than new oil at any given time, although the ceiling price of each rose through the years.) After the initial sale by the producer, controlled oil could be resold at any price. Oil from wells whose average daily production did not exceed ten barrels and oil from foreign sources was called "uncontrolled" or "exempt" oil, because this oil could be sold for any price at any time.

6. Even though the classification of a barrel of crude oil as controlled did not impose a ceiling price on the oil after the first sale by the producer, the oil continued to carry its classification through the refining stage, because some crude oil refiners in some circumstances incurred additional costs or received cash benefits depending on the mixture of controlled and

uncontrolled oil used in their refineries in a given month. These additional burdens or benefits were known as "entitlements." The entitlements program was designed to reduce the disparity in costs different refiners were incurring by virtue of their unequal access to producers' lower priced controlled oil and their resulting disproportionate purchases of more expensive uncontrolled oil.

7. Entitlement burdens or benefits and other regulatory factors affected the free market price of oil. For example, ceiling prices on controlled oil changed, entitlement burdens and benefits lagged behind other market changes, and, beginning in 1980 with the possible end of DOE controls, companies speculated on controls being lifted. In addition to regulatory changes, international developments and free market forces affected domestic and foreign crude oil prices dramatically from 1973 to 1981.

8. The existence of the many different regulations and other factors affecting price variations in crude oil from 1973 to 1981 ushered in hundreds of crude oil "resellers," companies that neither produced oil nor refined it, but simply traded oil for profit. Many of these companies lacked any oil storage or transport facilities; they traded barrels through ownership certificates, much as other commodities are traded. Resellers were recognized by DOE as playing an important role in the crude oil market.

9. DOE regulations allowed resellers to sell any barrel of oil (whether controlled or uncontrolled) at any price. However, DOE regulations limited resellers' average monthly profit on all domestic crude oil trading activities. MRI was a domestic oil reseller subject to DOE's restrictions. Resellers such as MRI were required to file monthly with DOE a form "ERA-69" that set forth their actual average monthly profit on domestic crude oil sales, so that DOE could determine if excess profits had been earned. For much of the regulatory period, a given reseller's permissible average monthly profit on domestic trading depended on when the reseller entered the industry and, in some cases, on the reseller's historic profit margin. In addition, some resellers were for a time permitted excess profits on domestic trading if their prices were no higher than those of other, similarly situated resellers. However, in late July, 1980 DOE announced a new maximum permissible average monthly profit of 20¢/barrel effective September 1, 1980 applicable to all of the resellers involved in the present case.

10. Among the lawful and profitable practices in which DOE allowed resellers to engage was a practice known as "tier trading."² Tier trading was a generic term for the process by

² While tier trading was often done legally, during the years in question a number of companies engaged in illegal tier trading, primarily by miscertifying oil subject to certain price controls as subject to different regulations or as free of regulatory controls. Such illegal tier trading is not involved in this case. After thoroughly investigating the various participants' roles in the business arrangements in issue, the United States government did not civilly or criminally charge anyone with any impropriety or illegality with respect to the tier trading.

(Footnote Continued)

which some resellers exchanged oil of different classifications or "tiers" (i.e., old or new controlled oil was traded for uncontrolled oil) among crude oil producers, resellers or refiners who, due to their varying regulatory restrictions, business needs or perceptions of the future of the market place, required a different classification of oil.

The Origins of the Transactions in Issue

11. The crude oil transactions in issue here involve multiple, linked sales of foreign and domestic oil, in combination with domestic tier trading activities carried on by two U.S. corporations, West Texas Marketing Corporation ("WTM") and Listo Petroleum, Inc. ("Listo"), both of which were completely unrelated to MRI and AG. In the years at issue, WTM and Listo were crude oil resellers with experience in tier trading. WTM and Listo did a substantial amount of reselling business not involving MRI or AG. MRI and AG did not conduct tier trades and were not familiar with details of how tier trading was done.

12. In late 1979, John Troland of WTM approached an MRI trader with whom Troland had worked at a previous job to propose a business opportunity. Troland explained that WTM could lawfully and profitably tier trade controlled oil obtained from producers at the low, regulated ceiling prices set for producers' first

(Footnote Continued)
trading process involved in the transactions in issue. See March 6, 1984 letter from Assistant United States Attorney Martin J. Auerbach to Judge Shirley W. Kram, specifically informing Judge Kram that no charges were brought in the superseding indictment relating to miscertification of crude oil.

sales of controlled oil produced by them for discounted uncontrolled domestic oil that could be sold at the higher, unregulated free market price. However, Troland continued, WTM had difficulty obtaining controlled oil from producers, because many producers were willing to sell their controlled oil at the controlled price only in combination with another transaction -- often involving unregulated foreign oil -- of benefit to the producer. Troland explained all this to the MRI trader because WTM did not have sufficient access and resources in the foreign oil market to engage in the additional foreign oil transactions required by many crude oil producers as a condition of selling controlled oil that WTM could tier trade. Troland knew AG and its affiliates had the requisite capacity to trade effectively in the foreign oil market.

13. In early 1980, Charter Crude Oil Company ("Charter"), a domestic crude oil producer completely unrelated to AG and MRI, had been trying unsuccessfully to obtain Peruvian Loreto foreign oil for its Bahamian affiliate, Charter Oil (Bahamas) Limited ("COBL"), which required this somewhat unusual type of crude oil for its antiquated refinery. AG dealt in Loreto foreign oil, and its Lima office had ongoing contacts with Petro Peru, a foreign entity completely unrelated to AG or MRI that was the major supplier of this oil. Together, these three factors -- AG's ability to acquire Loreto foreign oil, Charter's need for Loreto and its ability to sell domestic controlled oil at low prices, and WTM's ability to tier trade controlled oil into uncontrolled oil

at a small cost -- formed the basis for a negotiated agreement for linked oil transactions covering the remainder of 1980.

14. In May 1980, Charter, COBL, AG, MRI and WTM negotiated the volumes and prices of the oil to be sold in the various, linked steps of the integrated arrangement. AG negotiated with Petro Peru a long-term purchase in Peru of Loreto foreign oil; AG would then resell the Loreto foreign oil to MRI in Peru for a reasonable profit. Meanwhile, an MRI trader negotiated with a Charter official concerning MRI's sale to COBL of Loreto foreign oil, which MRI would ship from Peru to COBL in the Bahamas with title passing in Peru. COBL would pay less than market price for the Loreto; however, Charter would sell to MRI a related volume of domestic controlled West Texas Sour ("WTS") oil produced by Charter at the low controlled price. At the same time, another MRI trader negotiated with WTM regarding the disposition of this domestic WTS oil. It was agreed that MRI would sell the controlled WTS oil to WTM at cost or a small profit. WTM would tier trade the controlled oil for uncontrolled oil at a small additional cost to WTM, and then WTM would resell the uncontrolled oil to MRI at a small profit but still well below the high, unregulated world market price. The volumes and prices at which COBL would purchase Loreto foreign oil from MRI were therefore linked to Charter's willingness to sell a related volume of domestic WTS oil to MRI at controlled prices, and to the return MRI would make on the ultimate resale at the high world market price of uncontrolled oil obtained from WTM after the tier trades were completed. Most important, without the transactions in which

COBL purchased foreign oil at a discount, Charter would not have sold the domestic oil to MRI at the controlled prices.³

15. The superseding indictment does not challenge MRI's tax or energy reporting treatment of the first linked oil transaction with Charter, which took place as outlined above in May of 1980.

Pre-September 1980:
The Alleged "False Deduction" Transactions

16. In June of 1980, before the second linked oil transaction with Charter and COBL occurred, the Loreto foreign oil leg of the arrangement was changed by agreement of the parties so that AG sold the foreign oil directly to COBL in Peru, rather than AG selling the Loreto to MRI in Peru and MRI reselling the oil to COBL. Thus, under the new arrangement, title passed from AG to COBL in Peru with COBL paying less than market value. As MRI would continue to earn the high revenues on the sale of the uncontrolled oil but would no longer incur directly the cost of the discount sale to COBL, MRI agreed to compensate AG for the discount to COBL, including a reasonable profit. MRI's payments to AG were necessary to compensate AG for the discount AG would now be giving COBL on the sale of Loreto foreign oil in the first leg of the transaction, without which discount Charter would not have sold the domestic controlled oil that was subsequently tier

³ The superseding indictment (par. 22(p)) acknowledges that the discount sale of foreign oil to COBL was part of an overall transaction also involving Charter's sale of domestic controlled oil.

traded for uncontrolled oil. The type of arrangement employed in the second linked oil transaction with Charter and COBL continued in the next four linked oil transactions that took place through the end of August 1980. The Commissioner challenges MRI's tax treatment of the approximately \$31 million total payments it made to AG on these five pre-September 1980 foreign oil transactions with COBL.

17. To summarize, the type of linked oil transactions with Charter in issue here during the pre-September 1980 period consisted of four legs as follows:

- Leg 1: AG would buy Loreto foreign crude oil at market price and sell it to COBL, with title passing in Peru. AG would invoice COBL at a discounted price for the oil. AG would also invoice MRI for an amount equal to the discount it gave COBL, including a reasonable profit.
- Leg 2: Charter would sell MRI controlled WTS oil at the low, controlled price to which producers were restricted in their first sales of such oil. MRI would then sell the controlled oil at or near cost to WTM. By tier trading the controlled oil in transactions with unrelated third parties, WTM then would obtain uncontrolled oil at a low price.

Leg 3: WTM would sell the uncontrolled oil to MRI at a profit, but still well below the world market price. MRI would then sell the uncontrolled oil to third parties at the higher market price.

Leg 4: MRI would pay the invoice it had received from AG for the leg 1 sale in which COBL paid less than full market value.

18. In arriving at the gross income MRI reported on its 1980 U.S. tax return, MRI included in its cost of goods sold the total of approximately \$31 million it paid to AG on leg 4 of the five pre-September 1980 Charter transactions in issue. MRI did not deduct such payments as "expenses" from its gross income in order to arrive at its taxable income. The Commissioner completely disallowed MRI's payments to AG (which the superseding indictment incorrectly characterizes as the "Charter false deductions").

19. The only other pre-September 1980 transaction in issue involved a linked oil arrangement with Atlantic Richfield Company ("Arco") similar to the five pre-September 1980 Charter transactions in issue. The Arco transaction followed the same form as these Charter transactions, except for leg 1. There, Arco sold the leg 1 foreign oil at a premium to AG.⁴ (In the Charter

⁴ AG purchased the foreign oil in the name of Rescor, with title passing in the Netherlands Antilles. This oil was resold with title also passing in the Netherlands Antilles. As described in the superseding indictment (par. 6), Rescor was a wholly-owned Panamanian subsidiary of AG which did not maintain separate sets
(Footnote Continued)

transactions, a Charter affiliate purchased leg 1 foreign oil at a discount.) Like the Charter transactions, MRI's leg 4 payment to AG in the Arco transaction (approximately \$3 million) was necessary to compensate AG adequately for the foreign oil transaction that induced Arco to part with its domestic controlled oil. Arco would not have sold the domestic oil to MRI at the controlled price unless Arco also sold its foreign oil at a premium.

20. As in the Charter transactions, MRI's leg 4 payment to AG in the pre-September 1980 Arco transaction in issue was taken into account on MRI's 1980 tax return in arriving at gross income and not as a deduction from gross income. The Commissioner completely disallowed this payment (which the superseding indictment incorrectly characterizes as the "Arco false deduction").

21. On its applicable pre-September 1980 monthly reports submitted to DOE (form ERA-69), MRI included the leg 4 payments to AG for both the Charter and Arco transactions as part of the cost of the domestic oil to which the payments were allocable. The superseding indictment does not challenge MRI's treatment of these payments for energy purposes.

22. MRI's leg 4 payments on the pre-September 1980 transactions in issue totalled approximately \$34 million. AG did

(Footnote Continued)
of books or records from AG. Rescor served only as a trade name under which AG directly conducted some of its business.

not report the receipt of this money as U.S. taxable income, a position the Commissioner does not dispute.

Post-September 1, 1980:
The WTM and Listo "pots"

23. The deficiency determined by the Commissioner is based in part on a number of post-September 1, 1980 transactions described in the superseding indictment as the WTM and Listo "pots." The Commissioner determined that MRI improperly omitted from income approximately \$24 million attributable to the transactions in the WTM arrangement and approximately \$47 million attributable to transactions in the Listo arrangement, for a total of approximately \$71 million.

24. As noted in the superseding indictment (par. 22(b)), the post-September 1, 1980 transactions differed from the pre-September 1980 transactions in issue in response to a DOE rule change. In late July 1980, DOE announced new regulations, effective September 1, 1980, limiting to 20¢ per barrel the average monthly profit that resellers such as MRI, WTM and Listo could earn from sales of domestic crude oil. Prior to September 1980, MRI's average monthly profit was well in excess of this amount. This rule change required a change in the WTM transactions. The linked oil transactions in issue in the Listo arrangement all arose after the July, 1980 DOE announcement and took account of the DOE rule change from the start.

25. As a result of the announced DOE rule change, the format of the post-September 1, 1980 linked oil transactions

involving WTM and Listo differed in two major ways from the format of the pre-September 1980 transactions with WTM:

a. First, in the post-September 1, 1980 transactions, MRI did not purchase uncontrolled domestic oil in leg 3 at a discount from world price. Instead, as noted in the superseding indictment (par. 22(b) and (k)), WTM and Listo sold this uncontrolled oil at market prices to third parties or (roughly half of the time prior to decontrol) to MRI. Accordingly, in the post-September 1, 1980 period, WTM and Listo received large revenues on the leg 3 sale of uncontrolled oil at market price.

b. Second, as part of the overall post-September 1, 1980 arrangements, WTM and Listo agreed (as MRI had agreed in the pre-September 1, 1980 arrangement) to make the leg 4 payments to AG attributable to the leg 1 foreign oil transactions that freed the domestic oil for tier trading. WTM's and Listo's obligations to provide additional compensation for the leg 1 foreign oil transactions that freed controlled oil were measured by the difference between the proceeds WTM and Listo received on the sale of the uncontrolled oil and the cost of the uncontrolled oil (which included the cost of tier trading and a lawful profit to WTM and Listo). Such net amount constituted the so-called "pots." Instead of AG's simply invoicing WTM and Listo for these leg 4 amounts (which is how AG collected the leg 4 amounts owed by MRI in the pre-September 1980 period), AG collected the money in connection with additional foreign oil transactions that AG

engaged in with WTM and Listo. The leg 4 change was requested by Listo and on August 4, 1980 was incorporated into a long-term contract under which AG sold 100,000 tons of foreign oil per month to Listo. A similar offer was extended to WTM as leg 4 of the WTM arrangement and a similar long-term contract for foreign oil was concluded between WTM and AG on September 12, 1980. Twenty such leg 4 foreign oil transactions took place between September 1980 and May 1981. In these transactions, WTM and Listo purchased foreign oil at a total price equal to the market value of the oil plus the sums WTM and Listo owed (approximately \$71 million) for the leg 1 transactions. In the leg 4 transactions involving Listo prior to decontrol, Listo was importer of record⁵ into the United States and resold the oil to a third party. In the first leg 4 transaction listed in the superseding indictment involving WTM, WTM resold the foreign oil to a third party. In the remaining leg 4 transactions, WTM and Listo, unable to trade the foreign oil on their own, resold the oil back to AG, which purchased the oil under its alternate trading name Rescor or, in the last WTM transaction, Highams Consultants.⁶ (Thus, WTM and Listo did not deal directly with AG's international foreign oil customers.) In all of the leg 4 transactions involving use of the name Rescor or Highams Consultants, the amounts paid by WTM and Listo above the

⁵ Throughout the period in question, DOE regulations specifically permitted resellers to make a profit on sales where they acted as importer of record.

⁶ As described in the superseding indictment (par. 6), Highams Consultants, like Rescor, was a wholly-owned Panamanian subsidiary of AG which did not maintain separate books and records from AG.

fair market value of the leg 4 foreign oil (*i.e.*, the sums paid out of the pots) were separately invoiced as a "differential" due. WTM and Listo earned a fee of between 20-25¢ for each barrel of foreign oil involved in each of the leg 4 transactions. Those sums greatly increased WTM's and Listo's profit (roughly doubling it) and were a substantial factor in their willingness to engage in the overall arrangement. During the course of the arrangement, both WTM and Listo successfully resisted attempts to eliminate the obligation to pay 20-25¢/barrel, and the amounts continued to be paid throughout the arrangement.

26. In addition, the transactions involved in the Listo arrangement differed from the contemporaneous post-September 1, 1980 WTM transactions in two major ways:

a. First, leg 1 of the Listo arrangement involved a purchase from Arco under unique circumstances. The transactions in issue in the Listo arrangement, all of which took place after September 1, 1980, were planned in the summer of 1980, just after the DOE rule change was announced. In the summer of 1980, Arco found itself with a large volume of foreign oil that had a market value at the time well below the price Arco had paid to acquire it. Arco management introduced a program to dispose of this oil, which was costing Arco tens of millions of dollars as oil prices continued to drop. Arco disposed of most of this oil successfully, but had difficulty disposing of several million barrels of foreign oil (primarily Kuwaiti) it was storing in the Netherlands Antilles. Arco, which had done considerable business

with AG and MRI, offered to sell this foreign oil to them. They refused. When the oil still was not sold, Arco added to the offer Arco's willingness to sell a large volume of Alaskan North Slope ("ANS") domestic controlled oil. As a result of Arco's offer to supply ANS as part of the overall arrangement, an agreement was reached on the following terms: (1) Arco would sell the foreign oil⁷, with Arco receiving at the time of the purchase an amount that exceeded the fair market value of the foreign oil by approximately \$7.50 per barrel; (2) Arco would sell 18 million barrels of ANS to Listo at the controlled price, which Listo would tier trade for uncontrolled oil and then resell as under the post-September WTM arrangement; and (3) in consideration of the \$7.50 per barrel additional payment to Arco in connection with the purchase of the foreign oil, Arco would purchase a like volume of uncontrolled ANS from MRI (which MRI would obtain from Listo after the tier trades were completed), paying \$7.50 per barrel above the value the parties determined for the uncontrolled oil. Virtually all of the controlled oil tier traded by Listo in the post-September 1, 1980 linked oil transactions at issue was ANS domestic oil purchased from Arco as outlined above.⁸

⁷ It is not clear whether MRI, as opposed to AG, was intended from the beginning to be the purchaser of Arco's foreign oil, but the purchase was in fact made in the name of MRI, which included the foreign oil in its inventory. MRI resold this oil with title passing in the Netherlands Antilles.

⁸ See United States Department of Energy Economic Regulatory Administration's Proposed Remedial Order Issued to Arco on October 4, 1985. The overall agreement with Arco proceeded as arranged, except for Arco's purchase of uncontrolled ANS from MRI. Shortly after decontrol at the end of January 1981, the parties cancelled Arco's obligation to purchase uncontrolled ANS scheduled
(Footnote Continued)

b. Second, unlike the pre-September 1, 1980 WTM arrangement, MRI did not purchase controlled oil in leg 2 of the Listo arrangement. Listo purchased directly from the producer all of the controlled oil that Listo tier traded. Thus, as Listo sold to third parties nearly half of the uncontrolled oil it obtained from the tier trades prior to decontrol, MRI was not at all in the chain of title as to nearly half of the domestic oil tier traded by Listo during this period.

27. MRI continued to be involved in the post-September 1, 1980 WTM transactions, although its role differed from its pre-September 1980 role. First, MRI continued to purchase controlled oil in leg 2 of the WTM arrangement (although not in the Listo arrangement) and sell the oil on to WTM. Second, MRI purchased at market prices in leg 3 approximately 50% of the total uncontrolled barrels WTM or Listo obtained by tier trading prior to decontrol. Nearly all of MRI's leg 3 post-September 1, 1980 purchases were made either to fulfill long-term sales commitments MRI had in place prior to September 1980 (e.g., with Arco), or to prevent WTM or Listo from developing a relationship with an MRI customer (e.g., Vickers). Third, an MRI trader monitored the prices WTM or Listo received on sales to third parties, and in some instances introduced WTM or Listo to transactions with higher prices.

(Footnote Continued)
for future delivery, and the additional \$7.50 per barrel amount that Arco had agreed to pay in connection with these future deliveries was collected simply by invoicing Arco for the balance due.

28. MRI reported and paid federal income taxes on the net amount of money it retained from its resale of the domestic oil it purchased in the post-September 1, 1980 WTM and Listo transactions. Neither AG or MRI reported as taxable income the approximately \$71 million AG received from WTM and Listo on leg 4 of the post-September 1, 1980 transactions. The Commissioner does not dispute AG's tax treatment, but determined that MRI improperly omitted this money in calculating its U.S. taxable income.

II. CONCLUSIONS OF LAW

1. For U.S. income tax purposes, a Swiss enterprise is entitled to the benefits of the United States-Swiss Confederation Income Tax Convention, T.D. 6149, 1955-2 C.B. 814 ("Swiss Treaty").

2. A Swiss enterprise engaging in a U.S. trade or business through a U.S. permanent establishment is subject to U.S. tax only on its U.S. source income. Swiss Treaty Article III(1)(a); Rev. Rul. 74-63, 1974-1 C.B. 374.

3. Income from the sale of crude oil is sourced where title to the oil passes. Section 862(a)(6) of the Internal Revenue Code of 1954, as amended and in effect for the taxable years in issue ("Code"); Treas. Reg. §§ 1.861-7(a),(c) and 1.862-1(a)(1)(vi),(a)(3).

4. AG and MRI were corporations organized for business purposes and each conducted substantial business activity. They are separate corporate entities for U.S. tax purposes. E.g.,

Moline Properties, Inc. v. Commissioner, 319 U.S. 436 (1943). See In re Grand Jury Subpoena Directed to Marc Rich & Co. AG, No. M-11-188, slip op. at 11 (S.D.N.Y. Aug. 25, 1982).

The Alleged "False Deductions"

5. In arriving at its gross income for federal income tax purposes, MRI properly subtracted from sales revenue its leg 4 payments to AG on the pre-September 1980 linked transactions with Charter and Arco. The payments made by MRI to AG were an integral part of the overall arrangement and were necessary for MRI to obtain the domestic oil. These payments compensated AG for engaging in the leg 1 foreign oil transactions on terms unfavorable to AG and were consistent with the overall economic substance of the interdependent foreign and domestic oil transactions. See Rev. Rul. 89-102, 1989-2 C.B. 202. Viewed properly, MRI's payments to AG represent an additional cost it was required to incur to acquire domestic oil and were so treated by MRI. MRI's payments completely satisfy the test for inclusion in cost, which requires only that the payments be necessary to acquire the goods. Treas. Reg. § 1.471-3(b) (cost includes "necessary charges incurred in acquiring possession of the goods"). See Rev. Rul. 80-141, 1980-1 C.B. 111.⁹

⁹ The superseding indictment does not charge any violations of the ceiling price energy regulations applicable to sales of controlled oil by producers. In any event, the conclusion that MRI properly treated its pre-September 1980 leg 4 payments for federal income tax purposes is correct whether or not the payments exceeded applicable energy price control ceilings. Although amounts deducted as "expenses" may sometimes be disallowed under Code section 162(c)(2) if the Commissioner establishes illegality (Footnote Continued)

6. The Commissioner has not challenged AG's non-reporting of the funds received from MRI on leg 4 of the pre-September 1980 arrangement. Nevertheless, it is useful to analyze the tax consequences of AG's receipt of the money from MRI as the principles applicable here also bear on the proper tax treatment of the post-September 1, 1980 transactions.

a. From AG's standpoint, the payments it received from MRI on leg 4 of the pre-September 1980 Charter transactions represent additional proceeds on the leg 1 sale of foreign oil to COBL, notwithstanding the fact that MRI was not the purchaser of

(Footnote Continued)

by clear and convincing evidence, amounts paid for goods, which amounts are subtracted from sales in arriving at gross income, are not subject to disallowance on this ground. Sullenger v. Commissioner, 11 T.C. 1076 (1948), Nonacc., 1976-2 C.B. 4; Max Sobel Wholesale Liquors v. Commissioner, 630 F.2d 670 (9th Cir. 1980), aff'g 69 T.C. 477 (1977), Acq., 1982-2 C.B. 2; Pittsburgh Milk Co. v. Commissioner, 26 T.C. 707 (1956), Acq., 1982-2 C.B. 2; Dixie Dairies Corp. v. Commissioner, 74 T.C. 476 (1980), Acq., 1982-2 C.B. 1; Rev. Rul. 82-149, 1982-2 C.B. 56.

In addition, although not pertinent to MRI because it accounted for the payments in arriving at its gross income, even if MRI had deducted the payments as expenses from gross income on its tax return, it would nevertheless be entitled to reduce its taxable income by the amount of the payments, whether or not legal, if in fact they represented additional costs incurred in the acquisition of domestic oil. As the Tax Court noted in Max Sobel, 69 T.C. at 484, the taxpayer in Pittsburgh Milk, supra, deducted the illegal rebates as "advertising" expenses, the taxpayer in Rosedale Dairy Co., T.C.M. 1957-243, deducted the illegal rebates as "freight and hauling" expenses, the taxpayer in Harmony Dairy Co., T.C.M. 1960-109, disguised the payments in issue as "advertising or other operational expenditures," and the taxpayer in Atzingen-Whitehouse Dairy, Inc., 36 T.C. 173 (1961), charged the illegal rebates to "selling expense-sales promotion. Despite the various means used by the taxpayers in the cases cited above to disguise the illegal payments as normal operating expenses, all of the taxpayers were allowed to subtract the payments in arriving at gross income because the payments reduced the actual gross profit on sales to customers.

the foreign oil from AG. Prizant v. Commissioner, T.C.M. 1971-196; DeLong v. Commissioner, 43 B.T.A. 1185 (1941). Since title to the Loreto foreign oil AG sold to COBL passed in Peru, the additional proceeds paid by MRI constitute foreign source income exempt from U.S. tax under Article III(1)(a) of the Swiss Treaty.

b. Similarly, the payment AG received from MRI on leg 4 of the pre-September 1980 Arco transaction represents a reduction in the cost of the leg 1 foreign oil purchased from Arco. Brown v. Commissioner, 10 B.T.A. 1036, Acq., VII-2 C.B. 5 (1928); Freedom Newspapers, Inc. v. Commissioner, T.C.M. 1977-429. Since the foreign oil AG purchased from Arco was subsequently sold in the Netherlands Antilles, the reduction in the cost of the foreign oil generated additional exempt foreign source income when the sale took place. See Palmer v. Commissioner, 302 U.S. 63, 68-69 (1937); Pellar v. Commissioner, 25 T.C. 299, 309 (1955), Acq., 1956-1 C.B. 5 (income is not realized at the time a bargain purchase occurs but at the time a subsequent sale or disposition of the property occurs.)¹⁰

¹⁰ AG's treatment of the linked oil transactions is consistent with the Commissioner's own analysis in Rev. Rul. 89-102, 1989-2 C.B. 202, supra p.20, involving a domestic parent's purchase of goods from a third party at an inflated price as part of an integrated transaction that also enabled its wholly-owned subsidiary to sell other goods to a fourth party at an above-market price. The Commissioner ruled that the transaction should be recast to reflect its true economic substance by reducing the parent's basis in the goods purchased at the inflated price for the benefit of its subsidiary and thus eliminating the loss the parent deducted on its U.S. tax return upon the subsequent resale of the goods at market price. In the present case, had AG been a domestic corporation subject to U.S. tax, the reasoning the Commissioner applied in the ruling would not allow AG to deduct losses from the leg 1 transactions that were structured to benefit

(Footnote Continued)

The WTM and Listo "pots"

7. The structure of the post-September 1, 1980 transactions differed from the pre-September transactions, reflecting the effort to respond to the amended energy regulations. The tax consequences of the transactions after September 1, 1980 are not dictated by the tax consequences of the pre-September 1980 transactions, but are judged on their own merits by attributing the income from the post-September 1, 1980 transactions to the activities that earned the income generated during this period. E.g., Crowley v. Commissioner, 34 T.C. 333 (1960), Acq., 1961-1 C.B. 3. See also Frank Lyon Co. v. U.S., 435 U.S. 561, 583-84 (1978) ("[i]n short, we hold that where, as here, there is a genuine multiple-party transaction with economic substance which is compelled or encouraged by business or regulatory realities, is imbued with tax-independent considerations, and is not shaped solely by tax avoidance features that have meaningless labels attached, the Government should honor the allocation of rights and duties effectuated by the parties" (emphasis added)).

8. WTM's and Listo's roles in the linked oil transactions were those of buyer and seller of crude oil. WTM and Listo, acting in the normal course of their business, as they commonly did in many transactions that had no connection to MRI,

(Footnote Continued)
MRI. Instead, AG would have to account for the benefit provided to MRI, which it did by treating the leg 4 payments from MRI as additional consideration on the leg 1 transactions.

took title to the domestic oil they purchased and resold at a profit in legs 2 and 3. Moreover, WTM and Listo performed a role critical to the business success of the overall transaction, namely tier trading domestic oil, which MRI and AG did not do and did not know how to do. The role of an MRI trader in aiding WTM and Listo to maximize revenues on their sale of uncontrolled oil is not at all inconsistent with the buyer and seller relationship. Thus, WTM and Listo were owners of the oil, not agents of MRI or AG, and WTM and Listo, not MRI, earned the revenues they received on the leg 3 sale of uncontrolled oil following the tier trades. See, Spermacet Whaling & Shipping Co. v. Commissioner, 30 T.C. 618 (1958), aff'd, 281 F.2d 646 (6th Cir. 1960) (entity which was subject to much greater control and performed significantly smaller role than Listo and WTM, and which was inserted solely to comply with regulatory requirements, nonetheless recognized as owner because its involvement supported by business purpose); J.H. Baird Publishing Co. v. Commissioner, 39 T.C. 608 (1962), Acq., 1963-2 C.B. 4 (a realty company was not the taxpayer's agent in a prearranged plan involving the taxpayer's transfer of improved real estate to the realty company so that the realty company could sell the property and use the sales proceeds (which were held in escrow) to acquire an unimproved lot and construct a building on the lot subject to the taxpayer's approval and supervision, and upon completion transfer the new property and building to the taxpayer).

9. In addition to the fact that MRI's domestic activities did not actually earn the money WTM and Listo paid to

AG on leg 4, the Commissioner's authority to reallocate income in this case is limited by the energy regulations. Treating the money WTM and Listo paid to AG on leg 4 as having been earned domestically by MRI would cause MRI to exceed the 20¢ per barrel permissible average markup that applied to it for energy purposes after September 1, 1980. As MRI never received the money WTM and Listo paid to AG, the Commissioner is not permitted to reallocate the money to MRI's domestic activities and thereby cause it to violate the energy regulations. Commissioner v. First Security Bank of Utah, N.A., 405 U.S. 394, 403 (1972) ("[w]e know of no decision of this court wherein a person has been found to have taxable income that he did not receive and that he was prohibited from receiving").

10. The sums AG received from WTM on leg 4 of the post-September 1, 1980 Charter transactions (from the "pot," in the government's description) constitute additional payments to AG for its leg 1 foreign oil sales to COBL. Prizant, supra; DeLong, supra. This characterization does not differ from the proper characterization of the leg 4 sums AG received from MRI for AG's leg 1 sales to COBL in the pre-September 1980 period. Since title to the leg 1 foreign oil AG sold to COBL passed in Peru, the additional proceeds AG received from WTM on leg 4 constitute foreign source income to AG exempt from U.S. tax under Article III(1)(a) of the Swiss Treaty.

11. The leg 1 transactions with Arco attributable to the post-September 1, 1980 period involved purchases of foreign oil

from Arco. AG's receipt of the leg 4 payments attributable to the post-September 1, 1980 Arco transactions represents a reduction in the cost of the leg 1 foreign oil purchased from Arco. Brown, supra; Freedom Newspapers, Inc., supra. Since the foreign oil purchased from Arco was subsequently sold with title passing in the Netherlands Antilles, the reduction in the cost of the foreign oil increased the exempt foreign source income realized when the sale took place.¹¹

12. The same result is reached whether AG or MRI is treated as the purchaser of the leg 1 foreign oil from Arco that freed the ANS for Listo to tier trade, because MRI is also a Swiss corporation entitled to the benefits of the Swiss Treaty. If MRI is properly viewed as the purchaser of Arco's foreign oil on leg 1, then Listo's leg 4 payments to AG attributable to the foreign oil purchase are treated for tax purposes as having first been received by MRI as a tax-free reduction in the price paid to Arco on leg 1, followed by a constructive dividend by MRI to AG (MRI's sole shareholder) in an equal amount. E.g., DiZenzo v. Commissioner, 348 F.2d 122 (2d Cir. 1965).

13. The Commissioner has not sought to tax AG on its receipt of the leg 4 payments from Listo. In this, the Commissioner is correct since a constructive dividend from MRI to

¹¹ While not directly at issue here, it should be noted that the leg 4 payments WTM and Listo made to AG in the post-September 1, 1980 transactions would be properly included in WTM's and Listo's cost of goods sold for the reasons set forth above with respect to MRI's leg 4 payments in the pre-September 1980 transactions.

AG was exempt from U.S. tax. Under Article XIV(1) of the Swiss Treaty, dividends paid by one Swiss corporation to another Swiss corporation are exempt from U.S. tax if the recipient does not have a U.S. permanent establishment. As AG and MRI are both Swiss corporations, this Article of the Swiss Treaty applies to dividends paid by MRI to AG. For purposes of determining whether AG has a U.S. permanent establishment, Code section 894(b) provides that it is not deemed to have a permanent establishment with respect to income not effectively connected with its conduct of a U.S. trade or business. See Rev. Rul. 79-56, 1979-1 C.B. 459. AG's receipt of a dividend from MRI may not be treated as effectively connected with AG's U.S. trade or business (assuming AG in fact engages in a U.S. trade or business), unless the dividend satisfies either the asset-use test or the business-activities test of Code section 864(c)(2).¹² Neither of these

¹² In addition to assuming that AG is engaged in a U.S. trade or business, this analysis assumes that the constructive dividend from MRI constituted U.S. source income to AG. If the dividend were foreign source income, it would not be subject to U.S. tax even in the absence of the Swiss Treaty and regardless of whether AG were engaged in a U.S. trade or business. A foreign source dividend would be exempt under Code section 881(a) if AG were not engaged in a U.S. trade or business. If AG were engaged in a U.S. trade or business, a foreign source dividend would be exempt under Code sections 882(a) and 864(c)(4)(B)(ii) because AG's principal business is not trading in stocks or securities.

Under Code section 861(a)(2)(B), dividends paid by MRI constitute U.S. source income unless less than 50% of MRI's gross income from all sources for the previous three years is effectively connected with a U.S. trade or business. In view of the conclusion reached below that AG is not subject to U.S. tax even on a U.S. source dividend from MRI, it is not necessary to determine whether MRI satisfies the 50% test. Nevertheless, it should be noted that a substantial portion of MRI's business during the applicable period was conducted abroad. Under Code sections 864(c)(4)(A) and (B)(iii), foreign source income derived

(Footnote Continued)

tests was satisfied here. A constructive dividend to AG would not satisfy the asset-use test because the money AG received from MRI was not used to further AG's U.S. activities, Treas. Reg. § 1.864-4(c)(2)(iv)(Ex. 4), and would not satisfy the business-activities test because AG did not deal in securities. Treas. Reg. § 1.864-4(c)(3). Thus, AG's receipt of the constructive dividend from MRI was not subject to U.S. income tax.¹³

14. For the reasons set forth above, MRI and AG were correct in their U.S. income tax treatment of all the items in question, and there was no unreported federal income or additional tax liability attributable to any of the transactions described in the superseding indictment upon which the Commissioner's notice of deficiency is based.

(Footnote Continued)

on a sale of oil which is attributable to a U.S. office is not treated as effectively connected income if the oil is sold for use, consumption or disposition outside the United States and a foreign office participated materially in the sale.

¹³ In addition to not challenging AG's non-reporting of the money it received on leg 4 from Listo, the Commissioner has not challenged AG's non-reporting of the money it received on leg 4 from MRI or WTM. In the Commissioner's view, all of this money was earned by MRI and was improperly omitted from its 1980 and 1981 U.S. tax returns. Following the Commissioner's argument, AG's receipt of money alleged to have been earned by MRI would constitute a constructive dividend from MRI. The absence of any challenge to AG's tax treatment suggests that the Commissioner agrees that AG is not subject to U.S. tax on dividends from MRI.

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A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

855 Fifteenth Street, N.W.
Washington, D.C. 20005

Laurence A. Urgenson, Esq.
To Call Writer Direct:
202 879-5145

202 879-5200

Facsimile:
202 879-5200

June 3, 1994

Patrick Fitzgerald, Esq.
Assistant United States Attorney
Southern District of New York
One St. Andrews Plaza
New York, New York 10007

Re: United States vs. Marc Rich and Pincus Green

Dear Mr. Fitzgerald:

Bob Fink and I very much appreciated your meeting with us to discuss the case involving our clients Marc Rich and Pincus Green. While we and our colleagues continue to work on an approach which will lead to a satisfactory settlement, we thought it might be helpful to share some thoughts and suggestions prompted by our meeting and more recent telephone conversation.

After eleven years, the time has come to resolve this case and we believe that this process should start with a candid exchange of views. We understand your view of this case. Given your understanding, it would seem that a resolution based upon the current indictment would be fair, and that selecting counts that fit the evidence would be easy. We seek an opportunity to present another point of view.

In our view, the charges in the current indictment do not provide an appropriate basis for disposition of this case. We believe this for two reasons. First, there is more than ample reason to believe that the defendants paid all the taxes they owed and properly reported all of their domestic oil trading profits. We base this conclusion upon our own comprehensive review and consultations with two of the leading tax authorities in the country who stand ready to visit your office and explain their conclusions. Second, neither the law nor the policies of the Department of Justice support the RICO, fraud, or trading with Iran charges in the in the current indictment. For the most part, the issues appear on the face of the indictment and can be readily evaluated.

We recognize that missteps by the defense are largely responsible for the enhanced dimensions of this case. These missteps included a flawed decision by counsel not to be

KIRKLAND & ELLIS

Patrick Fitzgerald, Esq.
June 3, 1994
Page 2

forthcoming on the facts coupled with dubious legal maneuvers that led to the notorious document disputes during the grand phase of the investigation. Because of the confusion, anger and intense media interest that surrounded the grand jury investigation, the parties never engaged in an open dialogue regarding the merits of this case. We would like an opportunity to satisfy you that this case does not involve the inflammatory tax fraud, false energy reporting, RICO or trading with Iran violations. We would then like to address the false statement allegations and other matters you mentioned during our discussions. In all events, we believe that a straightforward legal discussion among counsel would soon establish the fair dimensions of the case and lead to a proper resolution.

We know that you do not share our optimism given the long history of the pretrial proceedings and your present understanding of the case. However, the discussion we seek concerns clear and important issues which we assure you can be determined with a modest investment of time and without running afoul of your office policies.

We would like to begin by asking that you and any government tax experts you may choose meet with Professors Bernard Wolfman of Harvard and Martin D. Ginsburg of Georgetown, so that you can 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, of course, stand ready to begin by addressing a different aspect of the case should you find it more useful.

In considering our request, we ask that you take into account the following additional thoughts regarding the matters raised during our discussions.

1. The Need to Consider the Tax Analysis of Professors Ginsburg and Wolfman

As you noted during our meeting, the core of the indictment is the charge that Marc Rich & Co. International Ltd. ("MRI") evaded roughly \$50 million in federal income tax by failing to report income and improperly taking deductions arising from a series of crude oil transactions. Moreover, since MRI was a crude oil reseller subject to additional income reporting requirements, its alleged failure to include the income in

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Patrick Fitzgerald, Esq.
June 3, 1994
Page 3

certain regulatory reports is also charged as a scheme to defraud the Department of Energy.

Professors Wolfman and Ginsburg have concluded that what the indictment alleges is unreported "domestic profits" was properly attributed to foreign transactions and, thus, under U.S. law and the governing U.S.-Swiss tax treaty, was not subject to United States tax. Likewise, the so-called "false deductions" were properly treated as a cost of goods sold and, thus, reductions of income. According to Professors Ginsburg and Wolfman, the challenged tax treatment was lawful and proper. Indeed, they believe the government should not win even a civil tax case. In short, their analysis goes to the very core of the government's case and is crucial to defining the true dimensions of this matter.

The Ginsburg/Wolfman analysis is worthy of careful review for three additional reasons. First, Professors Ginsburg and Wolfman are among the most respected tax authorities in the country. Second, the conclusions of Professors Ginsburg and Wolfman (who were not in the case at the time of the transactions) follow the tax treatment actually adopted by the taxpayers taking into account contemporaneous legal advice provided by others; this is not merely an alternative computation method which the taxpayer did not elect, such as in United States v. Helmsley, 941 F.2d 71, 86 (2d Cir. 1991). Third, the Professors' analysis is based upon facts alleged by the government in the superseding indictment and in separate proceedings brought by the Department of Energy in 1985 concerning many of the same transactions.

While there were many individual transactions involved in this case, they all follow the same basic pattern. The corporate defendants engaged in off-shore foreign oil transactions that induced a major U.S. oil company (ARCO or Charter) to sell on-shore domestic controlled oil at the low controlled prices. This foreign-domestic link is critical to the Department of Energy's analysis in the subsequent administrative action brought in 1985 against ARCO concerning the very transactions that form the bulk of the tax evasion case. It is also critical to the Professors' analysis of the proper tax treatment. Unfortunately, the indictment makes no more than a passing reference to the foreign portions of the transactions at issue.

KIRKLAND & ELLIS

Patrick Fitzgerald, Esq.
June 3, 1994
Page 4

We understand that the impact of the Ginsburg/Wolfman analysis has been discounted as failing to account for certain unspecified facts. Although we have carefully reviewed much of the grand jury material and other information, we are candidly at a loss to determine what these facts could be, or how they could make a difference. We do know the Ginsburg/Wolfman analysis is based upon public record information which is not in dispute. We also know that the prosecutors who conducted the investigation did not then have access to the Ginsburg/Wolfman analysis or to the DOE's 1985 analysis of the ARCO transactions; nor did they have an opportunity before they brought the indictment to review the substantial record of contemporary tax advice which we later provided to your office.

Professors Ginsburg and Wolfman are confident that their analysis is correct and that the tax issues can be quickly explained. Both are prepared to present their conclusions to you and any tax experts you may choose, and to respond to any questions that may be presented.

2. The Corporate Guilty Pleas

During our meeting you asked: If our clients are not guilty of the tax fraud in the indictment, why did the corporations plead guilty and pay \$200 million? The answer is simple. The corporate pleas were compelled by the risk of enormous RICO forfeitures and by pretrial restraints and levies that crippled the defendants' ability to do business.

The indictment returned on September 19, 1983, marked the first use of RICO, and RICO forfeiture, in a major white collar case. 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 in interests that were not even claimed to be the proceeds of criminal conduct. In light of the threat of ruin posed by these potential RICO forfeitures, the pleas became the only course open to the corporate defendants.

In addition to the threat of RICO forfeitures, the corporate defendants were crippled by pretrial restraints that included hundreds of millions of dollars in asset freezes and by a cut-off of credit and trading activity caused by the enormous forfeiture claims. Even before the indictment, restraining notices were served to assure collection of fines arising from

KIRKLAND & ELLIS

Patrick Fitzgerald, Esq.
June 3, 1994
Page 5

disputes concerning the production of European documents. In testimony before a Congressional Committee chaired by Representative Wise on December 4, 1991, former Assistant U.S. Attorney Morris Weinberg, Jr. stated that:

"In essence, the restraining notices made it impossible for Marc Rich to do business in the United States. As a commodities trader, Marc Rich could not do business without a credit line and as a result of the restraint notices as well as the daily publicity most financial institutions refused to do business with Marc Rich until his problems with the United States government were resolved."
(emphasis added).

Moreover, while these restraints remained in place, the IRS, shortly after the indictment, issued a jeopardy assessment totalling more than \$90 million. Because a jeopardy assessment -- even though entirely pre-trial -- has the same effect as a judgment, the IRS served notices of levy on many companies doing business with the corporate defendants, including their principal banks. As a result, virtually all of MRI's funds in the United States were cut off.

The combined use of disproportionate RICO forfeiture claims and restraining orders was unprecedented in a white-collar case, and its coercive effect is beyond doubt. 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. In addition, the Department of Justice acknowledged that Congress did not intend RICO to be used in tax evasion cases. These policies are set out in two "blue sheet" amendments to the United States Attorneys Manual ("USAM") ¶ 9-110.415 & ¶ 6-4.211(1).

We are not seeking to revisit the validity of the plea agreement. Rather, we seek to explain why the corporate pleas should not be treated as admissions of guilt by our clients, thereby hindering you from seriously considering their position. The law certainly supports our view. Courts have uniformly followed the view that a co-defendant's guilty plea cannot be used as substantive evidence in a criminal trial. This refusal to view the guilty plea of one defendant as probative of the

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Patrick Fitzgerald, Esq.
June 3, 1994
Page 6

guilt of another recognizes that a guilty plea may be motivated by factors unrelated to the guilt of a co-defendant. See e.g., United States v. Blevins, 960 F.2d 1252, 1260 (4th Cir. 1992); United States v. Griffin, 778 F.2d 707, 711 (11th Cir. 1985).

As noted above, the threat of a ruinous RICO forfeiture of all "sources of influence" and the accompanying pretrial restraints placed irresistible pressure upon the corporate defendants to settle. Corporate guilty pleas obtained in these circumstances say nothing about the guilt or innocence of our clients and should not be a barrier to a full discussion of the charges.

3. This Is Not a Rico Case

You mentioned that the presence of a RICO charge in the original indictment would influence your thinking regarding an appropriate disposition of this case. We understand your point but ask you to consider whether this matter could proceed as a RICO case today. The use of RICO and wire fraud offenses to prosecute tax charges violates the policy of the Department of Justice, adopted to address the problems highlighted in the Princeton/Newport case. See USAM 6-4.211(1), adopted July 14, 1989. Further, 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). In light of these deficiencies, the presence of RICO charges in the indictment should not have any bearing on our discussions.

4. Our Clients Do Not Seek Preferential Treatment

You expressed concern that if you undertake a serious review of this case you will be affording our clients preferential treatment. We ask that you consider a number of points that dramatically distinguish this case from other matters that your office may be asked to review on behalf of defendants who have not subjected themselves to the jurisdiction of the court.

- First, there is simply nothing preferential in seriously examining an analysis, such as that of Professors Ginsburg and Wolfman, which authoritatively questions the central premise of the government's case.

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Patrick Fitzgerald, Esq.
June 3, 1994
Page 7

- Second, in examining many of the transactions at issue here, the Department of Energy collected millions of dollars from ARCO based upon a factual analysis that contradicts the superseding indictment. Although the superseding indictment fails to take into account the linkage between the domestic transactions and their foreign counterparts, the Department of Energy determined that these foreign and domestic transactions were in fact linked. Professors Ginsburg and Wolfman also concluded that the linkage of the foreign to domestic transactions is critical in determining the proper tax position.
- Third, no other companies have ever been indicted for energy practices like those alleged here, including major oil companies that engaged in similar activities. During the 20 year history to date of enforcement under the Mandatory Allocation and Pricing Program (including actions brought long after the regulations were repealed in 1981), several thousand enforcement actions were brought against various firms in the petroleum industry. Except for a handful of extreme cases that involved practices not present here -- most notably miscertification -- enforcement has been accomplished exclusively through administrative proceedings. By salient example, ARCO profited substantially from many of the same linked oil transactions described in the indictment, yet received only an administrative sanction.
- Fourth, our clients were charged with RICO violations and RICO forfeitures that, as discussed above, should not have been brought.
- Fifth, the charges of unlawful dealings with Iran were then, as now, defective. The superseding indictment partially acknowledges this deficiency by dropping the Iranian charges against the corporate defendants.
- Sixth, for much of this case, the government seemingly labored under the misapprehension that the defendants had agreed to the miscertification of oil; indeed, the original indictment so alleges. In March 1984 the allegations of miscertification were finally dropped.

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Patrick Fitzgerald, Esq.
June 3, 1994
Page 8

In testimony regarding the indictment of our clients, AUSA Weinberg told the Wise Committee that the case

"ended after Marc Rich fled, his company ended up paying a \$150 million fine, had already paid \$21 million in contempt fines, forfeited another \$40 million in tax deductions, had lost an estimated \$500 million to \$1 billion in revenues, and had been tarnished and tainted and represented basically as one of the world's greatest criminals."

Our clients have been "tarnished and tainted," lost up to \$1 billion in revenues, fined \$170 million and forfeited \$40 million, for the very transactions where others, if charged at all, received only an administrative sanction. In light of this, and the many other factors distinguishing this case from others, we do not believe that discussions on the merits are unwarranted.

Conclusion

Nothing in the history of this case could be said to crown the defense with glory or a halo. But we also believe that this history distinguishes this case from others in a way that requires consideration of the very real issues raised by the indictment -- issues which candidly should have been forthrightly presented to the government over a decade ago. For this lapse, and for the problems that ensued, the defendants have already paid an enormous price.

Your office's past discussions with defendants absent from the jurisdiction, including the most recent agreement in the Vaskevitch case, demonstrate that nothing in the history of this case, including the defendants' absence, forecloses such a dialogue. The Ginsburg/Wolfman analysis raises a fair question. Providing a considered answer would not constitute preferential treatment. And more importantly, it would provide a framework for finally resolving this matter.

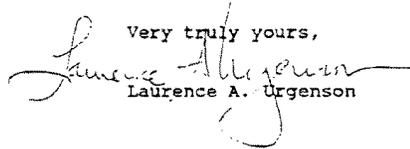
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KIRKLAND & ELLIS

Patrick Fitzgerald, Esq.
June 3, 1994
Page 9

In all events, we appreciate your courtesy in receiving our views and look forward to hearing from you regarding our request for a meeting with Professors Ginsburg and Wolfman or any other steps which you believe would be helpful.

Very truly yours,



Laurence A. Urgenson

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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

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 2

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

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 3

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

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Honorable Mary J. White
December 1, 1999
Page 4

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.

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 5

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.

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 6

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.

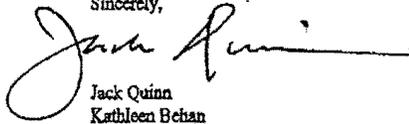
In essence, we believe that there are very real and important legal policy issues raised by the indictment — issues that should have been, but regrettably were not, forthrightly presented to your Office, or the Department of Justice's Tax Division or Criminal Division, at the time of the indictment. 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.

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 7

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,

A handwritten signature in cursive script, appearing to read "Jack Quinn".

Jack Quinn
Kathleen Behan

Cc: The Honorable Eric Holder
The Honorable James Robinson
The Honorable Loretta Collins Argrett

in its crude oil trading activities was not merely to maintain adequate levels of suitable crude oil for its refinery operations, but also to realize substantial profits from resales of crude oil. ARCO therefore imposed on its customers the payment of a premium as a condition to its offer to sell domestic crude oil.

In order to camouflage its prohibited profit on these sales, ARCO devised several schemes, each with two common elements: (1) every sale by ARCO was "linked" or "tied" to another transaction in which ARCO received some financial consideration or concession from its trading partner; and (2) each sale of domestic crude oil was invoiced at ARCO's posted price for that crude oil. Thus, for each of the 48,000,000 barrels of

domestic price-controlled crude oil sold and invoiced at the posted price in the transactions described herein, the purchaser gave additional consideration, in the form of a discount or a premium on other barrels of crude oil, which was not recorded on ARCO's books as a profit on the sale of the domestic price-controlled crude oil.

As evidenced by ARCO's internal memoranda and other documents cross-referencing tie-ins, as well as by affidavits of participants to them, the financial concessions ARCO received were acknowledged by ARCO and its trading partners to be

consideration for ARCO's sales of domestic crude oil. For example, at least two of ARCO's customers, CRR and MARC RICH INTERNATIONAL, accounted for them on their books as costs of the domestic crude oil which they purchased.

These transactions were devised and executed in violation of the restrictions of the DOE's crude oil price regulations at §212.183(b) and were expressly prohibited by 10 C.F.R. §210.62(c): ARCO made use of "premiums, discounts...[and] tie-in agreements" as means to obtain prices higher than permitted by the regulations. These transactions, which had the effect of contravening and circumventing the DOE regulations, also violated 10 C.F.R. § 205.202. The total amount received by ARCO in violation of 10 C.F.R. §212.183(b), 210.62(c) and 205.202 was \$239,948,207, exclusive of interest.

VII. AUDIT AND INVESTIGATIVE FINDINGS

A. BACKGROUND AND METHODOLOGY

During the audit period from August 1, 1977 through January 27, 1981, ARCO owned and operated four refineries located at Cherry Point, Washington; Carson, California; Houston, Texas; and Philadelphia, Pennsylvania. The refineries had a total oil refining capacity of 793,000 barrels a day. ARCO's supplies of crude oil were delivered to the refineries by both pipeline and ship.

During the audit period, ARCO had contracts with eleven crude oil resellers pursuant to which ARCO sold 48,251,710 barrels of domestic price-controlled crude oil.^{7/} As a condition of the sale of each of these barrels of domestic price-controlled crude oil to the eleven resellers, their foreign affiliates or surrogates, ARCO required each reseller to pay additional consideration for the price-controlled crude oil either on purchases of foreign crude oil from ARCO or on sales of exempt foreign or domestic crude oil to ARCO.

Beginning in August 1977 ARCO imposed upon these resellers the requirement that a premium be paid for each of these price-controlled sales by ARCO. The commitment to pay this premium, or additional consideration, was a condition precedent imposed by ARCO on the receipt by each of the eleven resellers of these barrels of domestic price-controlled crude oil. The premium was paid to ARCO through "linked", or "tied-in", transactions, proposed and arranged by ARCO, in which exempt foreign crude oil was either sold to or purchased from ARCO or in which exempt domestic crude oil was sold to ARCO, all at prices which were calculated by ARCO.

Specifically, during the violation period, the resellers were required to furnish to ARCO premiums in these contingent transactions, totalling \$239,948,207. ^{8/} Neither ARCO nor its trading

^{7/} See Schedule A.

^{8/} See Schedule B.

F



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Molo Building
One Saint Andrew's Plaza
New York, New York 10007*

June 27, 1994

Laurence A. Urgenson, Esq.
Kirkland & Ellis
655 Fifteenth Street, N.W.
Washington, D.C. 20005

Re: United States v. Marc Rich and Pincus Green

Dear Mr. Urgenson:

I acknowledge receipt of your letter of June 3, 1994. Your letter makes clear your desire to resolve this case in what you perceive to be an equitable manner. While I do not doubt your good faith intentions, it is your clients' intentions that matter more. There is every reason to believe that if a full discussion of the evidence took place and convinced you that the Government could prove your clients' guilt, little would change. Your clients would continue their life on the lam -- with, perhaps, another change of lawyers. It is for that reason that the Government views discussions as to the merits of the case as inappropriate and pointless.

As I have repeatedly stated, if your clients genuinely believe that they have done nothing wrong, they should board the next plane to New York and subject themselves to the jurisdiction of the Court. Even if you were unable to persuade the Government not to proceed on the Indictment, they would remain free to put forth their defense, including the testimony of the two eminent tax professors, before a jury with the assistance of able counsel. Your clients, however, have no intention of being part of any process other than a moot court, and it is that which remains unacceptable.

Mr. Laurence A. Urgenson, Esq.
page 2
June 27, 1994

Please be assured that if Marc Rich and Pincus Green are ever sufficiently serious about negotiations to surrender to the jurisdiction of the Court, the Government will give you ample opportunity to persuade us that your clients are wrongly accused.

Very truly yours,

MARY JO WHITE
United States Attorney

By: *Patrick J. Fitzgerald*
PATRICK J. FITZGERALD
Assistant United States Attorney
(212) 791-1942

G



U.S. Department of Justice

United States Attorney
Southern District of New York

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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.
SI 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.

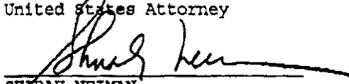
While we have been unwilling to negotiate with Mr. Rich in his absence, we have heard numerous presentations over the

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: 

SHERAH 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

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Memorandum to Honorable Otto G. Obermaier
Re: U.S. v. Marc Rich, et al., 83 Cr. 579 (SWK)
Date: 11/6/90

This memorandum provides preliminary background information and analysis concerning the issues in this case.

In 1983 the office of U.S. Attorney Rudolph Giuliani brought a much-publicized RICO and tax fraud indictment against commodities trader Marc Rich, his partner Pincus Green, and two of their trading firms. After a series of pre-indictment and post-indictment confrontations, the companies pleaded guilty in 1984 and paid some one hundred fifty million dollars in taxes, penalties and fines. The companies are among the largest commodities trading organizations in the world, with annual sales of many billions of dollars. The case against the two individuals remains unresolved and they have, since 1983, resided in Switzerland.

The prosecution and defense never exchanged views on the substantive issues of the case because of the confusion, anger and near panic that came to surround it. The circumstances under which the two men left the country were unprecedented; and we urge that their present status not be treated as a bar to a discussion of the merits. This memorandum presents a brief overview of some facts and considerations bearing on our legal contention but is not designed to be an authoritative or complete statement of the case.

The case against Marc Rich & Co. AG ("AG"), Marc Rich & Co. International ("International") and Messrs. Rich and Green began as an energy investigation that had its roots in the federal oil price control program of 1973. The controls were a response to inflation and the energy crisis, and lasted until January 1981, when new president Ronald Reagan ended them with his first executive order. While it was in force, the program limited the amount that could be charged by domestic crude oil producers and the domestic refiners who used the crude to make other goods.

Yet alongside the goal of lowering prices, the program embodied other goals as well. Because of these additional goals, often competing and contradictory, the price rules were riddled with exceptions. For instance, the regulators wanted to spur the development of new energy sources, so the rules permitted higher prices for new oil than for old oil. The regulators also wanted to protect small business, so oil from small or marginal fields was exempted from the price controls.

A special feature of the price control program arose from the fact that the big, integrated oil companies, which both produced and refined oil, had access to large quantities of the cheap controlled variety. Smaller, non-integrated refiners had to buy more of the expensive uncontrolled oil, including foreign crude. To equalize matters,

the regulators established a system of "entitlements" under which each refiner was assigned a certain quota of controlled oil. Small refiners, with limited access to controlled oil, would be relatively unlikely to use up their quotas and, therefore, likely to have extra entitlements on hand. If a big company wanted to use more controlled oil than its quota allowed, it would have to buy an entitlement from a smaller operator. When all the trading was over, the theory went, the large and small companies would have paid about the same for their oil.

Yet the entitlement rules, like the basic price control rules, were soon pockmarked by exemptions and exceptions. For instance, certain end users were given specially favorable treatment. So were certain regions of the country.

Regulatory systems are often complex, but the price control system spawned a body of subsidiary rules that became notorious for its complications, ambiguities, and obscurity. Many major questions about the meaning of the rules were never tested and resolved in court. Because of such difficulties, the Justice Department started turning down cases based solely on Department of Energy price control regulations. Enforcement efforts were unsystematic. They continued for years after the program itself had been recognized as a failure, ignominiously ended, and thoroughly discredited.

A Rube Goldberg system of regulations and enforcement actions was wholly predictable in a price control system as ambitious as the energy program. Just as predictably, the price controls led to the birth of new markets and mechanisms designed to remedy the misallocations that the government regulations had caused. Some of these techniques were clearly illegal -- for instance, the crime of "miscertification," in which an oil company, in filling out one of the many forms the program required, lied to the government about whether it was selling controlled or uncontrolled oil. Miscertification is not part of the Marc Rich case.

Price controls also resulted in the practice of "tier trading," in which firms would swap oil from different categories to satisfy particular needs, as well as offering other advantages, so that one party ended by owning uncontrolled oil that could be sold at the full market price. These tier trades were legal. They were also almost always complicated, and some government enforcement officials viewed the many steps in these trades and exchanges with the suspicion that they were shelters for sham transactions.

Because of all the Byzantine categories and misallocations, a third wholly predictable result of the oil price control system was the proliferation of resellers who often earned big profits. The government was as suspicious of these middlemen as of tier trading and, naturally, sought to

regulate them. At the end of 1977 the Department of Energy introduced new rules to limit the resellers' monthly profits by giving each of them a "permissible average markup" (or "PAM") based on historical profit margins. Firms that entered the market after the date of the new rule were free of these limits until the regulators could do a study to establish what their PAM should be. The study was not finished until the middle of 1980. The Department then gave the new resellers a PAM of twenty cents per barrel, effective September 1, 1980. International, as well as other companies that traded domestic oil in this case, were among these new resellers, and the indictment against International makes reference to supposed violation of the twenty cent PAM.

Marc Rich was born in Belgium and came to this country as a child in 1941. In 1953 he went to work for the old-line commodities trading firm of Philipp Brothers, where he became known as an unusually brilliant and imaginative trader. In the early 1970's Rich helped pioneer a new type of market in crude oil -- the "spot market," in which resellers used world-wide information on crude oil grades, locations, and availabilities to make quick matches between buyers and sellers with particular needs. He thus was the leader in the process of taking the world's oil distribution

network from the exclusive control of the Seven Sisters cartel and making the system into a functioning, competitive market.

In 1974, after more than twenty years with Philipp Brothers, Rich left over a salary dispute. After a bitter and public split, Rich, Green and others established AG in Switzerland. In 1978, AG formed a Swiss subsidiary, International, which began a general commodities business in New York. Like every economic player operating under the oil price controls, International engaged in multi-part trades to get the maximum possible benefit out of the existing system of regulations. Here are two examples, chosen because they were later cited by the government in its prosecution:

The first trade, a paradigm for other, similar trades around the same time, took place in 1980 before the "twenty-cent" rule limiting resellers' profits became effective. The process of agreed-upon transactions began when AG sold uncontrolled foreign oil below the market price to a Bahamas-based company affiliated with an American oil producer called Charter. The agreement provided that in return, Charter would sell some of its price-controlled domestic oil to International in the United States, and International would sell this controlled oil at a small profit to another domestic reseller, West Texas Marketing ("WTM"), which was wholly independent of International and AG. WTM, exchanging

this oil for uncontrolled oil through the use of exemptions and tier trading, sold the resulting uncontrolled oil back to International for another small profit, and International sold the oil on the open market at the unregulated and higher market price.

International completed the transactions by paying AG back for the price break that AG had given to the Bahamas affiliate of Charter, for this was the discount that had prompted Charter to release its controlled oil and make the whole set of trades possible.

When the twenty-cent rule became effective in September 1980, it prohibited a class of domestic resellers, which included International, from making substantial profits in these transactions. AG then phased International out of such trades. In one trade that took place under the "twenty-cent" rule, WTM, instead of selling the oil back to International for a small profit, sold it on the open market at the unregulated and higher market price. The lion's share of the proceeds from the trades now sat with WTM instead of International, and it was WTM that paid AG back for its original and critical contribution to the transaction.

In still later trades, International was taken out of the domestic picture altogether. And in yet another variation, the trades began not by selling oil at a discount but by accommodating a long-time customer, Atlantic Richfield

("ARCO"), through the offshore purchase of a very large quantity of foreign crude, thus helping solve an acute oversupply problem that ARCO faced in a declining market.

Part of the complexity of these trades came about not from a desire to address the regulatory system but for other reasons. Sometimes International wanted to prevent one of its customers from going around its back and selling International-supplied oil to one of its other customers. Sometimes a customer wanted a certain kind of payment: WTM, for example, made its payments to AG in connection with foreign oil purchases because of WTM's desires to get into the foreign oil business. Another crude oil reseller independent of International with whom it conducted business during this period, Listo, wanted its transactions conducted through foreign oil sales so that it could earn the import fees permitted under the price control system.

Both AG and International employed customary and accepted accounting methods in recording these trades, but the complexity of such transactions -- not only in their case but with other traders as well -- was doubtless daunting to those not skilled in the commodities business. Yet the players involved in these transactions, none of them novices, and including all of the major oil companies of the world, did not find this complexity overwhelming.

In 1981 John Troland, the head of WTM, pleaded guilty to charges of miscertifying oil. Troland's crimes were not connected to his trades with AG or International. But, as part of a plea bargain, he told a Department of Justice energy attorney that he had traded with International and AG in 1980 and 1981 and that, in the course of these trades, money had been paid offshore to AG. Troland's story suggested that International might have evaded the energy price control program's twenty-cent rule by shifting profits abroad.

From a prosecutor's point of view, this was not a very promising case, particularly as an energy law violation. No miscertification was alleged. The various rules governing offshore transactions and administration of the PAMs were untested and ambiguous. No one had ever been criminally prosecuted for the practices outlined by Mr. Troland. Indeed, under the energy laws no such prosecution involving anything more than a money penalty could take place without an explicit prior warning of illegality from the Department of Energy -- and even then, the crime is a misdemeanor.

Since International had a branch in New York as well as Switzerland, Justice passed the case on to the Southern District, where an investigation began in the spring or early summer of 1981.

In September 1981, with the investigation already under way and known to its targets, International filed its tax return for 1980, covering its trades with Charter and WTM and other similar transactions. In computing its tax, International reduced its taxable income by the amount it had reimbursed to AG for the foreign oil discounts that AG had given to AG's trading partners and counted the remaining, lion's share of the income as subject to United States taxation. On the same return, for the period after the twenty-cent PAM limitation had taken effect and after the transaction had been restructured, International did not make a reimbursement to AG (and, therefore, did not include such a payment in its cost) but took as a profit -- and taxable income -- only the margins from its trades with WTM and Listo. International's tax return for 1981, filed well after the service of grand jury subpoenas referencing tax violations, followed the same reporting pattern.

The tax returns gave an accurate account of International's practices. But they also opened the possibility that the problematic International energy fraud case could now be attacked as a dramatically large tax fraud case. A grand jury was empaneled and subpoenas were issued to International and AG in March and April 1982.

International complied with its subpoena but AG's American attorneys, on the advice of Swiss counsel, decided

to resist the AG subpoena for documents located in Switzerland. They began in the conventional way, challenging the subpoena in court. Judge Leonard Sand ordered the documents produced and said that noncompliance would result in a fine of \$50,000 a day. Judge Sand stayed the imposition of the fine while AG took the case to the Court of Appeals.

In May 1983, while Judge Sand's order was on appeal, lead counsel, Edward Bennett Williams, approached the Assistant U.S. Attorney in charge of the investigation, Morris Weinberg, Jr., with a proposal to dispose of the case by payment of the alleged tax deficiency and a substantial fine. Weinberg told Williams that the government would not accept a plea agreement unless it included both huge fines and substantial jail time for Messrs. Rich and Green. If there were no such settlement, Weinberg went on, all the companies, Rich, Green and others would be charged with RICO offenses. Williams reported this with distinct alarm: A RICO indictment, Williams explained, would mean a massive and unquantifiable freeze on assets before trial and a similarly massive and unquantifiable mandatory forfeiture of assets if there were a conviction. RICO also meant a trial at which the rules of evidence would be dangerously elastic, and the statute provided for jail sentences that were draconian. From Rich and Green's point of view, it now suddenly seemed that the government was using a conventional tax and energy

dispute to pursue them and their companies' complete destruction.

The Court of Appeals affirmed Judge Sand's order for production of the AG documents. In response, Rich's attorneys adopted a strategy which was, it appears in retrospect, unduly aggressive. The result was to transform a documents dispute into a clash of wills. First, attorneys began a suit and countersuit in the Swiss courts to determine whether Swiss internal laws would allow AG to produce the disputed documents. Both AG and International were incorporated under Swiss law. The majority of their board members were, following Swiss law, Swiss citizens. The problem of the conflict between the American demand for documents and the Swiss internal laws was a real one, and thus there was nothing illegitimate about the companies' action. But the suits in Switzerland were begun and conducted without any notice to the U.S. government attorneys, who were -- not surprisingly -- furious when they learned of the proceedings.

AG's attorneys also sought review of the Court of Appeals judgment on the documents. The Swiss government, reluctant until now to participate in a U.S. discovery contest, joined the dispute and filed a brief in the Supreme Court in June 1983 requesting an adjournment to the October term. The Supreme Court declined the adjournment, denied certiorari and Judge Sand rebuffed the intervention by the

Swiss government and started the running of the \$50,000-a-day fine. In early July, AG sold control of International to a business associate who was not under investigation -- again, without advance notification to the prosecutors. In response, Judge Sand ordered restraints on numerous U.S. bank accounts.

By this time, the case had begun to attract escalating and eventually massive publicity. The U.S. Attorney's office repeatedly described the case to reporters and in other public forums as the largest tax evasion case in U.S. history. The press began to treat the case as a sensation, and the publicity started to have serious effects on the business. In August 1983 AG entered into an agreement with the prosecutors to produce the documents located in Switzerland and, as part of the pact, agreed not to exercise its right of appeal any further. The agreement contained still more restraints and multi-million-dollar mortgages on U.S. assets.

Even this agreement did not end the fight. Just days after it was signed, U.S. authorities, acting on a tip, dramatically stopped a Swissair flight that had already begun to taxi down the runway at Kennedy Airport en route to Switzerland and seized two trunks of International documents, bound for International's headquarters in Zug. The U.S. Attorney held a press conference to publicize the seizure and

had the trunks brought into Judge Sand's courtroom as physical evidence of brazen behavior. International's lawyers claimed -- correctly, it is now conceded -- that the papers were being sent to company headquarters in Zug so that U.S. counsel, who was in Zug to help organize the simultaneous production of AG documents, could quickly examine the International papers before turning them over to the prosecutors. International's lawyers said the government already had copies of the relevant documents and offered to have the trunks opened and examined to prove it. This offer was not accepted, but it was later acknowledged that the trunks contained no relevant documents.

To add to the bitterness of this case, the Swiss government began to act more decisively in defense of its laws. Swiss authorities made a raid on AG's headquarters in Zug and took control of a few documents which remained after a plane load of AG documents had been shipped to the United States. The Swiss later brought criminal proceedings against Rich, Green and numerous other AG employees who had handed other company documents over to the Americans in compliance with Judge Sand's order. The prosecutors, seeing all this activity, were reinforced in their belief that the Swiss government's actions were being unduly influenced by Marc Rich. The prosecutors, therefore, went after the documents

which had been seized by the Swiss with extreme aggressiveness. The Swiss, for their part, were offended at the prosecutors' assumption that Swiss laws deserved less respect than did U.S. statutes. The U.S.-Swiss dispute became yet another loud, long-running distraction from the substance of the case.

In September 1983, the indictment of AG, International, Rich and Green was filed. In it, the prosecutors alleged in general terms that International had violated the country's energy laws by earning excess profits and had concealed these profits by sending the money abroad. The indictment alleged that International had also committed tax fraud by failing to report the profits as taxable income. The offenses involved in these alleged frauds were used as the predicates for RICO charges. (Since the Rich indictment, and, in particular, after the Princeton Newport case, Department of Justice guidelines have explicitly directed U.S. Attorneys not to use tax fraud as a RICO predicate in cases like these.)

In addition, the indictment charged AG, International, Rich and Green with trading with an "enemy" of the United States by dealing with Iran during the hostage crisis -- though in fact transactions involving a foreign corporation (such as AG) and its U.S. agents were clearly exempt from the regulation. These charges were highlighted

in the press release announcing the indictment, and the press connected the charges to the 1980 hostage crisis.

We respectfully contend that, despite the uproar of the investigation, the indictment itself turned out to be deficient in its central arguments. The indictment alleged tax fraud, but if the payments to AG were properly considered as costs of obtaining domestic oil, there was no tax error, let alone tax fraud. According to scrupulous, independently arrived at analyses of the case by Professors Martin Ginsburg and Bernard Wolfman, the tax treatment of all the payments to AG was proper. In their view, International's tax returns and the treatment of the income as foreign source were accurate reflections of practices that were not only legal but clearly so, and further, the government probably could not even have won a civil tax case.

In addition to the tax charges, the indictment was full of language implying that the defendants were also guilty of various energy misdeeds -- but the same indictment made no actual energy violation charges against them. In a letter to the Court, the prosecutors expressly affirmed that they were not charging any of the defendants with any crimes of miscertification. The indictment did charge that International had fraudulently used the mails when it filed its energy returns, but there was no direct, independent charge that the defendants had violated the PAM rule. This decision on the prosecutors' part was understandable: Mail

fraud charges were not only comparatively simple ones to prove but, just as important, could serve as predicate offenses for RICO counts. Energy violations did not have such glamorous possibilities. Moreover, as we have seen, the state of the energy regulations made it virtually impossible to prosecute anyone successfully on energy charges.

But if AG and International's energy practices were not illegal, they were not making the excess profits referred to in the indictment. If International was not making the excess profits, there was no energy fraud in reporting to DOE that there had been compliance with the PAM rule. So there was no energy fraud and, as we have seen, no tax fraud. But without these frauds, there were none of the predicate crimes that the prosecutors had cited as justifications for RICO charges.

Up until the time of the indictment, Rich's legal problems, large as they were, had not caused the businesses fatal trouble. But the inclusion of RICO in the September indictment affected them as traumatically as the threat of RICO had affected Rich himself months before. Along with the RICO charges came a comprehensive freeze on American assets. More serious, the prospect of RICO's third-party forfeitures made it impossible to place any limits on the hazards that other companies ran in dealing with AG or International.

Most important of all, the taint carried by the word "racketeer" swiftly frightened away major trading partners -- particularly abroad, where the term is still taken in its traditional sense. Shortly after the indictment, the Internal Revenue Service took the highly unusual step of making a jeopardy assessment of more than ninety million dollars against International without having audited its books. Yet by the time of this piling-on, AG and International were already collapsing. A corporate guilty plea followed inevitably.

The approximately one hundred fifty million dollars paid by International in taxes, penalties, fines and other charges was, said the U.S. Attorney, the largest sum in the history of the criminal tax laws. Mr. Giuliani displayed a check at the photo opportunity for the press. International and AG were, following the guilty pleas, allowed to conduct their business in the United States and throughout the world free of restraint or interference.

The error at the heart of the prosecution's case was its view that the offshore foreign oil transactions, which initiated and were essential to the other oil movements in these trades, in fact did not justify the sums remitted offshore. The prosecution built its case on the legally erroneous premise that the offshore transactions were completely unrelated to the domestic transactions despite clear

documentary evidence to the contrary. Erroneously dismissing the initiating offshore foreign oil transactions as though they were nonexistent, it fashioned alleged violations of law. On this foundation, energy and tax fraud charges were advanced. On top of the alleged energy and tax fraud, mail and wire fraud charges were erected. These predicate offenses, in turn, became the foundation for charges of RICO violations.

Meanwhile, some of the defense counsel, with a view colored by their own mistrust of the motives and conduct of the prosecution, took defensive steps that were viewed with suspicion and gave substantial ammunition to anyone who wanted to picture their clients as men who thought they had "stolen" their own car. Prosecution and defense hardly began to discuss the facts of the case. The dispute and the accompanying threats and publicity ballooned beyond all legitimate proportion.

The case involves many disturbing features, but at its core are transactions which were not criminal. It employed an unprecedented use of RICO that resulted in the defendants' capitulation, without trial, to the government's charges. We know that we have a heavy burden in satisfying the U.S. Attorney that he should reexamine this case. We know that the task of persuasion will take time and resources. But the circumstances of the case, the consequences

of its outcome, and the extraordinarily important questions of criminal law enforcement it poses, justify considering such a review.

Citation Found Document Rank 1 of 1 Database
 20 U.S. Op. Atty. Gen. 330 1892 WL 269 (U.S.A.G.) USAG
 (Cite as: 20 U.S. Op. Atty. Gen. 330)

United States Attorney General

AMNESTY.--POWER OF THE PRESIDENT.

March 9, 1892.

*330 The President has the constitutional power, without Congressional authority, to issue a general pardon or amnesty to classes of foreigners. The question of the President's pardoning power reviewed and the authorities collated. Various proclamations of general amnesty appended.

The PRESIDENT.

SIR:

A petition has been presented to you, praying you to issue a pardon or amnesty to all persons residing in Utah Territory, who have been guilty of polygamy, unlawful *331 cohabitation or adultery as denounced by the acts of March 22, 1882 (22 Stat., 30), and March 3, 1887 (24 Stat., 635). You have asked the opinion of the Attorney-General upon the question whether you have the constitutional power, without Congressional authority, to issue such a general pardon or amnesty. Upon this question the following is respectfully submitted:

Section 2 of Article II of the Constitution, in defining the powers of the President, provides that 'he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.'

It has been decided by the Supreme Court that the power herein conferred upon the President is unlimited (ex parte Garland, 4 Wall., 333). The pardon may be granted before or after conviction, and absolutely or upon conditions. The ground for the exercise of the power is wholly within the discretion of the Executive. He may, therefore, if he thinks fit, pardon an offender because his offense is one of many like offenses, arising from a widespread, popular feeling and without regard to the character or the particular circumstances of the individual. He may, for the same reason, grant, by separate acts of pardon, immunity from punishment to each of a thousand such offenders. If he may do so, it is difficult to see why he does not exercise the same power, when by public proclamation he extends a pardon to ten thousand offenders, without naming them, but describing them as persons committing, or participating in, the same kind of offenses.

It is said that the power to grant pardons is a power to examine the circumstances of each case and then confer immunity on the offender. If the right to pardon were dependent on the existence of any particular grounds in the case of each offender, the argument, it seems to me, would be of more force. There is, however, no such restriction on its exercise. The ground may be as properly one which has equally and the same application to ten thousand or a hundred thousand cases, as one which is peculiar to the case under

20 U.S. Op. Atty. Gen. 330
(Cite as: 20 U.S. Op. Atty. Gen. 330, *331)

consideration. If so, does not the contention in favor of the narrower view become an argument in favor of a formality rather than a substantial and logical distinction? No one will deny that the President, without Congressional *332 authority, may issue separate pardons to every individual of the thousands of Mormons who have lived in polygamy in Utah. Only those would have to be omitted whose position is so obscure, or humble, that the President can not learn their names. Does not the power of amnesty, therefore, depend only on the question whether pardons can be made sufficiently definite in respect to the beneficiaries by a description other than by name? If the grantor is certain, the extent of the grant is certain, and the grantees are so described that they can be made certain, what is the inherent difference between the power involved in the grant of an individual pardon, and that in an amnesty to a class of persons to each one of whom the power to grant separate pardon, for a reason applicable to all, is conceded?

It is suggested that offenders can not be pardoned as a class any more than they can be tried and convicted as a class. This argument is not of force unless there is an analogy between a sentence of conviction and a pardon. The sentence is a judgment supported by a verdict rendered by a jury, on lawful evidence and full hearing, with the issue of the accused's guilt or innocence clearly defined. A pardon is a gracious act of mercy resting on any ground which the Executive may regard as sufficient to call for its exercise.

There is no hearing of evidence; there is no issue made. The recital in the act of pardon may show a ground which in law and logic would be wholly irrelevant to the guilt or character of the offender, and not in the slightest degree affect the validity of the pardon. State policy may require the Executive to grant it. Such considerations show the absence of any parallel between the trial of an offender and the exercise of Executive clemency in his case, and wholly destroys an analogy which would require the same procedure in both.

But it is urged against this view that it intrusts too great a power to the Executive. In what way? It only enables him to do that in one act which he might do by a thousand. The power which the Executive exercises is still the pardoning power, and that the Constitution gives him. It is no argument against its exercise that it may be abused. That is true of every power intrusted to the Executive.

On principle, it seems to me, therefore, the unlimited *333 power to grant pardons for all offenses against the United States, except in cases of impeachment, includes power to issue a general pardon or amnesty to any class of offenders.

Practice and authority confirm this view. Alexander Hamilton, in the seventy-third number of the Federalist, referring to this clause of the Constitution, said:

'But the principal argument for reposing the power of pardoning in this case in the Chief Magistrate is this: In seasons of insurrection or rebellion there are often critical moments when a well-timed offer of pardon to the insurgents or rebels may restore the tranquility of the commonwealth and which, if suffered to pass unimproved, it may never be possible afterwards to recall. The dilatory process of convening the Legislature or one of its branches, for the purpose of obtaining its sanction to the measure, would frequently be the occasion of

20 U.S. Op. Atty. Gen. 330
 (Cite as: 20 U.S. Op. Atty. Gen. 330, *333)

letting slip the golden opportunity.'

Such language leaves no doubt that in the mind of this, one of the greatest of the framers and expounders of the Constitution, the pardoning power included the authority to offer and grant pardon and amnesty to a whole body of insurgents or rebels, i. e., to a class of offenders. This language was quoted and used by Mr. Justice Story in his work on the Constitution. (Sec. 1500 et seq.)

The practice, contemporaneous with the adoption of the Constitution, supports the existence of the power of the President to grant amnesty without legislative sanction. In 1794 President Washington issued a proclamation extending pardon to the whisky insurrectionists, and Gen. Lee, as Commander-in-Chief of the United States forces, issued a similar proclamation in the name of the President, and by his authority. Copies of these proclamations are appended. Governor Mifflin, of Pennsylvania, acting under a constitutional authority conferred in the same words as that of the President, issued a similar proclamation of pardon (also appended) to the insurgents for their offenses against the State of Pennsylvania. President Adams issued a proclamation of pardon to the same insurgents in 1800, a copy of which is appended. President Madison granted pardon by proclamation to a class of offenders known as the 'Barataria' pirates, who were a large band of men engaged in smuggling *334 and violations of the revenue and navigation laws of the United States. I have appended a copy of this proclamation. By the thirteenth section of the act of July 17, 1862 (12 Stat., 592), the President was authorized, at any time thereafter, by proclamation, to extend to persons participating in the then existing rebellion pardon and amnesty, with such exceptions and conditions as he should deem expedient. On December 8, 1863 (12 Stat., 737), President Lincoln issued a proclamation offering pardon and amnesty to the rebels. The recitals of this proclamation show that he did not admit that he had not the power to issue such a proclamation, without Congressional authority, but that he distinctly asserted the contrary. The two recitals on this subject are as follows: 'Whereas, in and by the Constitution of the United States, it is provided that the President shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment and * * *

'Whereas * * * laws have been enacted by Congress * * * declaring that the President was thereby authorized at any time thereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions, and at such times and on such conditions as he may deem expedient for the public welfare, and whereas the Congressional declarations for limited and conditional pardon accords with well-established judicial exposition of the pardoning power,' etc.

President Johnson issued several limited pardon proclamations of this character, and then in January, 1867 (14 Stat., 377), Congress repealed the amnesty section of the act of 1862. Thereafter, on September 7, 1867 (15 Stat., 699), he issued another limited and conditional pardon proclamation. On July 4, 1868 (15 Stat., 702), he issued a full and absolute pardon by proclamation to all rebels, except those who were under an indictment for treason, and by a proclamation of December 25, 1868 (15 Stat., 711), he extended full, absolute, and unconditional pardon to all who had taken part in the rebellion. President Johnson on July 3, 1866, issued a proclamation extending pardon to all deserters

20 U.S. Op. Atty. Gen. 330
 (Cite as: 20 U.S. Op. Atty. Gen. 330, *334)

who should return to their colors. A copy of this order is appended. Again, on October 10, 1873, President Grant *335 issued a proclamation pardoning all deserters who should return to the Army, which is also in the appendix.

We thus see that the contemporaneous exposition of the Constitution and the contemporaneous practice under it by the early Presidents, continued down to the period after the war, support the view that the power to grant pardons includes the power to grant pardons to a class by proclamations describing the class by the offense committed. The practice has been fully sustained by the Supreme Court of the United States.

In *ex parte William Wells* (18 How., 307) the question was whether the Constitution gave the President the power to commute a sentence of death to imprisonment for life. This is held to be a conditional pardon and within the power of the Executive. Referring to the significance of the word 'pardon,' Justice Wayne says, on page 310:

'In the law it has different meanings, which were as well understood when the Constitution was made as any other legal word in the Constitution now is. Such a thing as a pardon without a designation of its kind is not known in the law. Time out of mind, in the earliest books of the English law, every pardon has its particular denomination. They are general, special, or particular, conditional or absolute, not necessary in some cases, and in some grantable, of course.'

And, again, referring to the power under the Constitution, the same justice says:

'The real language of the Constitution is general, that is, common to the class of pardons, or extending the power to pardon to all kinds of pardons known to the law as such, whatever may be their denomination.'

The necessary effect of this language would seem to be that the power to pardon given the President includes the authority to issue general pardons.

In *ex parte Garland* (4 Wall., 333) the question was whether a statute which excluded from practice in the courts attorneys who had participated in the rebellion would operate to exclude one who had received full pardon for his offenses before trial. It was held that it could not. Mr. Justice Field delivered the opinion of the court and said, referring to the pardon clause of the Constitution:

'The power thus conferred is unlimited, with the exception *336 stated--i. e., in cases of impeachment. It extends to every offense known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken or during their pendency, or after conviction or judgment. This power of the President is not subject to legislative control; Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders. The benign prerogative of mercy reposed in him can not be fettered by any legislative restrictions.'

In *United States v. Padelford* (9 Wall., 531) the effect of President Lincoln's proclamation of December 8, 1863, was under consideration, with respect to which the court say:

'This proclamation, if it needed legislative sanction, was fully warranted by the act of July 17, 1862, which authorized the President at any time thereafter to extend pardon and amnesty to persons who had participated in the rebellion, with such exceptions as he might see fit to make. That the President had power,

20 U.S. Op. Atty. Gen. 330
 (Cite as: 20 U.S. Op. Atty. Gen. 330, *336)

if not otherwise, yet with the sanction of Congress, to grant a general conditional pardon has not been seriously questioned. And this pardon, by its terms, included restoration of all rights of property, except as to slaves and as against the intervening rights of third persons.'

Here is an intimation that in the mind of the court there was good ground for the contention that no legislative sanction was needed for the issuance by the Executive of a general conditional pardon.

In the case of the United States v. Klein (13 Wall., 128) the Chief Justice referred to the amnesty clause of the act of July 17, 1862, as follows:

'The suggestion of pardon by Congress, for such it was, rather than authority, remained unacted on for more than a year.'

Again, after referring to the proclamation of general conditional pardon issued while the amnesty clause of the act of July 17, 1862, was in force, the Chief Justice described the three proclamations issued by President Johnson after its repeal, the last one of which, as we have seen, conferred full pardon, unconditionally, on all participating in the rebellion, and then said:

'It is true that the section of the act of Congress which purported to authorize the proclamation of pardon and *337 amnesty by the President was repealed on January 21, 1867; but this was after the close of the war, when the act had ceased to be important as an expression of the legislative disposition to carry into effect the clemency of the Executive, and after the decision of this court that the President's power of pardon 'is not subject to legislation;' that Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders.'

Again, on page 147:

'It is the intention of the Constitution that each of the great coordinate departments of the Government--the legislative, executive and the judicial--shall be, in its sphere, independent of the others. To the Executive alone is intrusted the power of pardon, and it is granted without limit. Pardon includes amnesty. It blots out the offense pardoned, and removes all its penal consequences.'

It is perfectly clear from these extracts that in the opinion of the court the proclamation of absolute pardon, December 25, 1868, was entirely within the constitutional power of the President, though it may be admitted that it was not necessary to the conclusion in the Klein case, that it should be so decided.

In the case of Armstrong v. The United States (13 Wall., 154), however, the rights of the claimant against the United States rested solely on the proclamation of December 25, 1868, and the absolute and unconditional pardon thereby conferred and those rights were sustained.

Said the Chief Justice:

'The proclamation of the 25th of December granted pardon unconditionally and without reservation. This was a public act of which all courts of the United States are bound to take notice and to which all courts are bound to give effect. The claim of the petitioner was preferred within two years. The Court of Claims, therefore, erred in not giving the petitioner the benefit of the proclamation.'

This is an express holding that the proclamation of absolute and general pardon and amnesty is within the power of the President without legislative

20 U.S. Op. Atty. Gen. 330
 (Cite as: 20 U.S. Op. Atty. Gen. 330, *337)

authority or sanction. This ruling has been followed in *Pargoud v. The United States* (13 Wall., 156); *Carlisle v. The United States* (16 Wall., 147); *Knute v. The United States* (95 U. S., 149).

*338 The only authority which can be cited against this view is the report of the Judiciary Committee of the Senate on the right of the President to issue the proclamation of December 25, 1868. This will be found in the bound volume of Senate Reports of the Fortieth Congress, third session, No. 239. They reported for adoption by the Senate the following resolution:

'Resolved, That in the opinion of the Senate the proclamation of the President of the United States of the 25th of December, 1868, purporting to grant general pardon and amnesty to all persons guilty of treason and acts of hostility to the United States during the late rebellion, with restoration of rights, etc., was not authorized by the Constitution or laws.'
 And accompanied their recommendation with an argument in support thereof. Arguments on the subject by Senator Ferry and Senator Conkling will be found in Congressional Globe, third session Fortieth Congress, Part I., pp. 168, 438. I can not find that the resolution which was reported February 17, 1869 (Cong. Globe, 3d session 40th Cong., 1381), was ever adopted by the Senate. As the validity of the proclamation here condemned has been since four times sustained by the Supreme Court, the committee report can not now be considered an authority of weight.

A very full discussion of the power of the President to grant a general pardon or amnesty to a class of offenders will be found in the American Cyclopaedia, 1873, under the head of 'Amnesty.' There will be found a reference to the prerogative of the English Crown in granting pardons and an explanation of the statutes of amnesty passed by Parliament which clearly shows that the power existing in the Crown included power to issue general pardons. I have already taken too much space, and I forbear to discuss this aspect of the subject.

The same view has been taken in some of the State courts where acts of general amnesty passed by the State legislatures have been held invalid on the ground that such acts are an invasion of the pardoning power, which is exclusively vested in the Executive, by language in the State constitution similar to that of the Federal Constitution. See *State v. Sloss* (25 Mo., 291); *The State v. Fleming* (7 Humphreys, *339 Tenn, 152); *Haley v. Clark* (26 Ala., 439); see also *People v. Moore*, (62 Mich., 496).

It is submitted that reason, practice, and authority established the constitutional power of the Executive, without legislative sanction, to issue proclamations extending pardon or amnesty to classes of offenders.

There are appended copies of the proclamations of general pardon and amnesty to which reference has been made in the foregoing opinion, for the reason that they are not found in the regular publications of the Statutes at Large, and some of them are not recorded in the State Department.

Very respectfully,

WM. H. TAFT,
 Solicitor-General.

20 U.S. Op. Atty. Gen. 330
 (Cite as: 20 U.S. Op. Atty. Gen. 330, *339)

I concur in this opinion.

W. H. H. MILLER.

PROCLAMATION GRANTING PARDON TO THE WESTERN INSURGENTS.

[Sparks' Life of Washington, vol. 12, p. 134, 135.]

Whereas the commissioners, appointed by the President of the United States to confer with the citizens in the western counties of Pennsylvania, during the late insurrection which prevailed therein, by their act and agreement, bearing date the 2d day of September last, in pursuance of the powers in them vested, did promise and engage, that, if assurances of submission to the laws of the United States should be bona fide given by the citizens resident in the fourth survey of Pennsylvania, in the manner and within the time in the said act and agreement specified, a general pardon should be granted, on the 10th day of July then next ensuing, of all treasons and other indictable offences against the United States, committed within the said survey before the 22d day of August last, excluding therefrom, nevertheless, every person who should refuse or neglect to subscribe such assurance and engagement in manner aforesaid, or who should after such subscription violate the same, or wilfully obstruct, or attempt to obstruct, the execution of the acts for raising a revenue on distilled spirits and stills, or be aiding or abetting therein;

And whereas, I have since thought proper to extend the said pardon to all persons guilty of the said treasons, misprisions of treason, or otherwise concerned in the late insurrection within the survey aforesaid, who have not since been indicted or convicted thereof, or of any other offense against the United States;

*340 Therefore be it known, that I, George Washington, President of the United States, have granted, and by these presents do grant, a full, free, and entire pardon to all persons (excepting as is hereinafter excepted, of all treasons, misprisions of treason, and other indictable offenses against the United States, committed within the fourth survey of Pennsylvania before the 22nd day of August last past, excepting and excluding therefrom, nevertheless, every person who refused or neglected to give and subscribe the said assurances in the manner aforesaid (or having subscribed, hath violated the same), and now standeth indicted or convicted of any treason, misprision of treason, or other offense against the said United States; hereby remitting and releasing unto all persons, except as before excepted, all penalties incurred, or supposed to be incurred, for, or on account of, the premises.

In testimony whereof I have hereunto set my hand, and caused the seal of the United States to be affixed, this tenth day of July, in the year of our Lord one thousand seven hundred and ninety-five, and the twentieth year of the independence of the said United States.

GEORGE WASHINGTON.

GENERAL LEE'S PROCLAMATION OF PARDON.

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20 U.S. Op. Atty. Gen. 330
 (Cite as: 20 U.S. Op. Atty. Gen. 330, *340)

[Pennsylvania Archives, Vol. IV, pp. 479-80].

By Henry Lee, Governor of the Commonwealth of Virginia, Major-General therein,
 and Commander in Chief of the Militia Army, in the service of the United
 States.

A Proclamation.

By virtue of the powers and authority in me vested by the President of the United States, and in obedience to his benign intentions therewith communicated, I do, by this, my proclamation, declare and make known to all concerned, that a full, free, and entire pardon (excepting and providing as hereafter mentioned) is hereby granted to all persons residing within the counties of Washington, Allegheny, Westmoreland, and Fayette, in the State of Pennsylvania, and in the county of Ohio, in the State of Virginia, guilty of treason, misprision of treason against the United States, or otherwise directly or indirectly engaged in the wicked and unhappy tumults and disturbances lately existing in those counties, excepting, nevertheless, from the benefit and effect of this pardon, all persons charged with the commission of offenses against the United States, and now actually in custody or held by recognizance to appear and answer for such offenses at any judicial court or courts, excepting also, all persons avoiding fair trial by abandonment of their homes; and excepting, moreover, the following persons, the atrocity of whose conduct renders it proper to mark them by name for the purpose of subjecting them, with all possible certainty, to the regular course of judicial proceedings, and whom all officers, civil and military, are required to endeavor to apprehend and brought to justice, to-wit: Benjamin Parkinson, Arthur Gardner, John Holcraft, Daniel Hamilton, Tho. Lapsley, William Miller, Edward Cook, Edward Wright, Richard *341 Holcraft, David Bradford, John Mitchell, Alexander Fulton, Thomas Spiers, William Bradford, Geo. Parker, Wm. Hanna, Edward Magner, Jr., Thos. Hughes, David Lock, Ebenezer Gallagher, Peter Lyle, John Shields, William Hay, William McElhenny, Tho. Patten, Stephenson Jack, Patrick Jack, and Andrew Highlands, in the State of Pennsylvania; and William Sutherland, Robert Stephenson, William McKinley, John Moore, and John McCormick, of Ohio county, in the State of Virginia.

Provided, That no person who shall hereafter willfully obstruct or attempt to obstruct the execution of any of the laws of the United States, or be in any wise aiding or abetting therein, shall be entitled to any benefit or advantage of the pardon hereinafter granted: And provided also, That nothing herein contained shall extend, or be construed to extend, to the remission or mitigation of any forfeiture of any penalty incurred by reason of infractions of, or obstructions to, the laws of the United States for collecting a revenue upon distilled spirits and stills.

Given under my hand, at headquarters, in Elizabeth Town, this twenty-ninth day of November, seventeen hundred and ninety-four.

HENRY LEE.

By order of the commander in chief.

20 U.S. Op. Atty. Gen. 330
 (Cite as: 20 U.S. Op. Atty. Gen. 330, *341)

G. K. TAYLOR, Aid-de-Camp.

GOVERNOR MIFFLIN'S PROCLAMATION OF PARDON

[Pennsylvania Archives, Vol. IV, pp. 536-39.]

WEDNESDAY, August 26, 1795.

The President of the United States having by his proclamation, dated the ___ day of August, instant, thought proper to extend the pardon of the Government of the United States to all persons who have been guilty of the treasons or misprisions of treason in his said proclamation mentioned, or who have been otherwise concerned in the late insurrection within the four western counties of this State, who have not since been indicted or convicted thereof, the Governor this day took the same into consideration, and being desirous on his part to pursue a like policy, as well on account of its humanity as for the sake of preserving uniformity in the proceedings of the General and State Governments in relation to the same important object, accordingly issued his proclamation in the words following, to wit:

Pennsylvania, ss:

In the name and by the authority of the Commonwealth of Pennsylvania, by Thomas Mifflin, Governor of the said Commonwealth:

A Proclamation.

Whereas at the commencement of the late insurrection in the western part of this State, constituting the fourth survey thereof, I deemed it expedient to attempt a vindication of the violated authority of the laws and the restoration of peace, harmony, and order by the influence of reason and lenity upon the minds of the deluded and refractory insurgents;

*342 And whereas the better to promote so desirable an object I appointed, authorized, and employed the Hon. Thomas McKean, Chief Justice of this Commonwealth, and Maj. Gen. William Irvine (with full confidence in their wisdom, prudence, and patriotism), as commissioners, to confer with the said insurgents, and on behalf of the Government of Pennsylvania to promise to them and every of them an act of pardon and oblivion for all past transgressions upon receiving a satisfactory assurance of a future submission to the laws;

And whereas the said commissioners in pursuance of the trust thus reposed in them did, by an instrument under their hands bearing date the twenty-fourth day of August, in the year one thousand seven hundred and ninety-four, promise upon certain terms and conditions of submission to the laws of this State and of the United States, to be made in the manner and within the time in the said instrument specified, that if the people of the said western counties should keep peace and be of good behavior until the first day of June, now last past, an act of free and general pardon and oblivion of all treasons, insurrections, arson, riots, and other offenses inferior to riots, committed, perpetrated,

20 U.S. Op. Atty. Gen. 330
 (Cite as: 20 U.S. Op. Atty. Gen. 330, *342)

counseled, or suffered by any person or persons complying with the terms and conditions aforesaid, within the counties by the said commissioners specified, since the fourteenth day of July, in the year one thousand seven hundred and ninety-four, should be granted so far as the said offenses concerned the State of Pennsylvania or the government thereof.

And whereas it appears by a proclamation heretofore issued by the President of the United States that he has thought proper to extend the pardon of the Government of the United States to all persons who have been guilty of treasons or misprisions of treason in his said proclamation specified, or have been otherwise concerned in the said insurrection within the said survey, but who have not since been indicted or convicted thereof, and I am desirous, on my part, to pursue a like policy, as well on account of its humanity as for the sake of preserving uniformity in the proceedings of the General and State Governments, in relation to the same important object: Therefore, I, Thomas Mifflin, governor of the Commonwealth of Pennsylvania, have granted and by these presents do grant a full, free, and entire pardon to all persons (not included in the exception hereinafter declared) of all treasons, insurrections, arsons, riots, and other offenses inferior to riots, committed within the said fourth survey, between the said fourteenth day of July and the twenty-second day of August, in the year one thousand seven hundred and ninety-four, and which may have been and are indictable offenses against the said State of Pennsylvania, together with a free and entire remission and release of all fines, forfeitures, and penalties consequent thereon, excepting and excluding always, nevertheless, from all the benefit and advantage or any claim to the benefit and advantage of the pardon hereby granted every person who has either refused to give the assurance of submission stipulated and required as aforesaid, or who, having given the same, shall afterwards have deviated therefrom, and now actually stands indicted or convicted of any offense against the State of Pennsylvania.

*343 Given under my hand and the great seal of the State, at Philadelphia, the twenty-sixth day of August, in the year of our Lord one thousand seven hundred and ninety-five and of the Commonwealth the twentieth.

THOMAS MIFFLIN.

By the Governor.

A. J. DALLAS,

Secretary of the Commonwealth.

PROCLAMATION GRANTING PARDON TO THE PENNSYLVANIA INSURGENTS, MAY 21, 1800.

[From the Life and Works of John Adams, Vol. IX, pp. 178, 179.]

Whereas the late wicked and treasonable insurrection against the just authority of the United States of sundry persons in the counties of Northampton, Montgomery, and Bucks, in the State of Pennsylvania, in the year 1799, having been speedily suppressed, without any of the calamities usually attending

20 U.S. Op. Atty. Gen. 330
 (Cite as: 20 U.S. Op. Atty. Gen. 330, *343)

rebellion, whereupon peace, order, and submission to the laws of the United States were restored in the aforesaid counties, and the ignorant, misguided, and misinformed in the counties have returned to a proper sense of their duty, whereby it is become unnecessary for the public good that any future prosecutions should be commenced or carried on against any person or persons by reason of their being connected in the said insurrection:

Wherefore be it known that I, John Adams, President of the United States of America, have granted, and by these presents do grant, a full, free, and absolute pardon to all and every person or persons concerned in the said insurrection, excepting as hereinafter excepted, of all treasons, misprisions of treason, felonies, misdemeanors, and other crimes by them respectively done or committed against the United States in either of the said counties before the twelfth day of March, in the year one thousand seven hundred and ninety-nine, excepting and excluding therefrom every person who now standeth indicted or convicted of any treason, misprision of treason, or other offense against the United States, whereby remedying and releasing unto all persons, except as before excepted, all pains and penalties incurred or supposed to be incurred for or on account of the premises.

Given, etc.

JOHN ADAMS.

[From the Archives of the State Department.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Among the many evils produced by the wars, which, with little intermission, have afflicted Europe, and extended their ravages into other quarters of the globe, for a period exceeding twenty years, the dispersion of a considerable portion of the inhabitants of different counties, in sorrow and in want, has not been the least injurious to human happiness, nor the least severe in the trial of human virtue.

It had been long ascertained that many foreigners flying from the *344 dangers of their own home, and that some citizens forgetful of their duty, had cooperated in forming an establishment on the Island of Barrataria, near the mouth of the river Mississippi, for the purposes of a clandestine and lawless trade.

The Government of the United States caused the establishment to be broken up and destroyed; and having obtained the means of designating the offenders of every description, it only remained to answer the demands of justice by inflicting an exemplary punishment.

But it has since been represented that the offenders have manifested a sincere penitence; that they have abandoned the prosecution of the worse cause for the support of the best, and particularly that they have exhibited in the defense of New Orleans unequivocal traits of courage and fidelity. Offenders who

20 U.S. Op. Atty. Gen. 330
 (Cite as: 20 U.S. Op. Atty. Gen. 330, *344)

have refused to become associates of the enemy in the war upon the most seducing terms of invitation, and who have aided to repel his hostile invasion of the territory of the United States, can no longer be considered as objects of punishment, but as objects of a generous forgiveness.

It has therefore been seen with great satisfaction that the general assembly of the State of Louisiana earnestly recommend those offenders to the benefit of a full pardon; and in compliance with that recommendation, as well as in consideration of all the other extraordinary circumstances of the case, I, James Madison, President of the United States of America, do issue this proclamation, hereby granting, publishing, and declaring a free and full pardon of all offenses committed in violation of any act or acts of the Congress of the said United States touching the revenue, trade, and navigation thereof, or touching the intercourse and commerce of the United States with foreign nations, at any time before the eighth day of January, in the present year one thousand eight hundred and fifteen, by any person or persons whomsoever, being inhabitants of New Orleans and the adjacent country, or being inhabitants of the said Island of Barataria and the places adjacent: Provided that every person claiming the benefit of this full pardon, in order to entitle himself thereto, shall produce a certificate in writing from the governor of the State of Louisiana stating that such person has aided in the defense of New Orleans and the adjacent country during the invasion thereof as aforesaid.

And I do hereby further authorize and direct all suits, indictments, and prosecutions for fines, penalties, and forfeitures against any person or persons who shall be entitled to the benefit of this full pardon forthwith to be stayed, discontinued, and released. And all civil officers are hereby required, according to the duties of their respective stations, to carry this proclamation into immediate and faithful execution.

Done at the city of Washington the sixth day of February, in the year one thousand eight hundred and fifteen, and of the Independence of the United States the thirty-ninth.

(Signed) JAMES MADISON.

By the President:

(Signed) JAMES MONROE,

Acting as Secretary of State.

*345 General Orders, No. 43.]

WAR DEPARTMENT,

ADJUTANT--GENERAL'S OFFICE,

Washington, July 3, 1866.

OFFER OF PARDON TO DESERTERS FROM THE REGULAR ARMY WHO SURRENDER.

20 U.S. Op. Atty. Gen. 330
 (Cite as: 20 U.S. Op. Atty. Gen. 330, *345)

By direction of the President, all deserters from the regular Army who voluntarily join their regiments or surrender themselves at any military post or recruiting rendezvous before the 15th of August, 1866, will be returned to duty without trial or punishment, on condition that they make good the time lost by desertion, and forfeit all pay and allowance for the time of their absence.

Such deserters as, under this order, surrender themselves at any other place than the stations of their regiment will be subject to assignment to other regiments, as if they were unattached recruits.

By order of the Secretary of War:

E. D. TOWNSEND,

Assistant Adjutant-General.

Official:

ASSISTANT ADJUTANT-GENERAL.

General Orders, No. 102.]

WAR DEPARTMENT,

ADJUTANT-GENERAL'S OFFICE,

Washington, October 10, 1873.

The President of the United States commands it to be made known that all soldiers who have deserted their colors, and who shall, on or before the 1st day of January, 1874, surrender themselves at any military station, shall receive a full pardon, only forfeiting the pay and allowances due them at the time of desertion; and shall be restored to duty without trial or punishment on condition that they faithfully serve through the term of their enlistment.

By order of the Secretary of War.

E. D. TOWNSEND,

Adjutant-General.

Official.

ASSISTANT ADJUTANT-GENERAL.

20 U.S. Op. Atty. Gen. 330, 1892 WL 269 (U.S.A.G.)
 END OF DOCUMENT

Citation	Found Document	Rank 1 of 1	Database
Pres. Proc. No. 6518			PRES
1992 WL 388556 (Pres.)			
(Cite as: 57 FR 62145)			

Proclamation 6518

Grant of Executive Clemency

December 24, 1992

*62145 By the President of the United States of America

A Proclamation

Today I am exercising my power under the Constitution to pardon former Secretary of Defense Caspar Weinberger and others for their conduct related to the Iran-Contra affair.

For more than 6 years now, the American people have invested enormous resources into what has become the most thoroughly investigated matter of its kind in our history. During that time, the last American hostage has come home to freedom, worldwide terrorism has declined, the people of Nicaragua have elected a democratic government, and the Cold War has ended in victory for the American people and the cause of freedom we championed.

In the mid 1980's, however, the outcome of these struggles was far from clear. Some of the best and most dedicated of our countrymen were called upon to step forward. Secretary Weinberger was among the foremost.

Caspar Weinberger is a true American patriot. He has rendered long and extraordinary service to our country. He served for 4 years in the Army during World War II where his bravery earned him a Bronze Star. He gave up a lucrative career in private life to accept a series of public positions in the late 1960's and 1970's, including Chairman of the Federal Trade Commission, Director of the Office of Management and Budget, and Secretary of Health, Education, and Welfare. Caspar Weinberger served in all these positions with distinction and was admired as a public servant above reproach.

He saved his best for last. As Secretary of Defense throughout most of the Reagan Presidency, Caspar Weinberger was one of the principal architects of the downfall of the Berlin Wall and the Soviet Union. He directed the military renaissance in this country that led to the breakup of the communist bloc and a new birth of freedom and democracy. Upon his resignation in 1987, Caspar Weinberger was awarded the highest civilian medal our Nation can bestow on one of its citizens, the Presidential Medal of Freedom.

Secretary Weinberger's legacy will endure beyond the ending of the Cold War. The military readiness of this Nation that he in large measure created could not have been better displayed than it was 2 years ago in the Persian Gulf and today in Somalia.

As Secretary Weinberger's pardon request noted, it is a bitter irony that on the day the first charges against Secretary Weinberger were filed, Russian President Boris Yeltsin arrived in the United States to celebrate the end of the Cold War. I am pardoning him not just out of compassion or to spare a 75-year-

Pres. Proc. No. 6518
(Cite as: 57 FR 62145, *62145)

old patriot the torment of lengthy and costly legal proceedings, but to make it possible for him to receive the honor he deserves for his extraordinary service to our country.

Moreover, on a somewhat more personal note, I cannot ignore the debilitating illnesses faced by Caspar Weinberger and his wife. When he resigned as Secretary of Defense, it was because of his wife's cancer. In the years since he left public service, her condition has not improved. In addition, since that time, he also has become ill. Nevertheless, Caspar Weinberger *62146 has been a pillar of strength for his wife; this pardon will enable him to be by her side undistracted by the ordeal of a costly and arduous trial.

I have also decided to pardon five other individuals for their conduct related to the Iran-Contra affair: Elliott Abrams, Duane Clarridge, Alan Fiers, Clair George, and Robert McFarlane. First, the common denominator of their motivation--whether their actions were right or wrong--was patriotism. Second, they did not profit or seek to profit from their conduct. Third, each has a record of long and distinguished service to this country. And finally, all five have already paid a price--in depleted savings, lost careers, anguished families--grossly disproportionate to any misdeeds or errors of judgment they may have committed.

The prosecutions of the individuals I am pardoning represent what I believe is a profoundly troubling development in the political and legal climate of our country: the criminalization of policy differences. These differences should be addressed in the political arena, without the Damocles sword of criminality hanging over the heads of some of the combatants. The proper target is the President, not his subordinates; the proper forum is the voting booth, not the courtroom.

In recent years, the use of criminal processes in policy disputes has become all too common. It is my hope that the action I am taking today will begin to restore these disputes to the battleground where they properly belong.

In addition, the actions of the men I am pardoning took place within the larger Cold War struggle. At home, we had a long, sometimes heated debate about how that struggle should be waged. Now the Cold War is over. When earlier wars have ended, Presidents have historically used their power to pardon to put bitterness behind us and look to the future. This healing tradition reaches at least from James Madison's pardon of Lafitte's pirates after the War of 1812, to Andrew Johnson's pardon of soldiers who had fought for the Confederacy, to Harry Truman's and Jimmy Carter's pardons of those who violated the Selective Service laws in World War II and Vietnam.

In many cases, the offenses pardoned by these Presidents were at least as serious as those I am pardoning today. The actions of those pardoned and the decisions to pardon them raised important issues of conscience, the rule of law, and the relationship under our Constitution between the government and the governed. Notwithstanding the seriousness of these issues and the passions they aroused, my predecessors acted because it was time for the country to move on. Today I do the same.

Some may argue that this decision will prevent full disclosure of some new key fact to the American people. That is not true. This matter has been investigated exhaustively. The Tower Board, the Joint Congressional Committee charged with

Pres. Proc. No. 6518
(Cite as: 57 FR 62145, *62146)

investigating the Iran-Contra affair, and the Independent Counsel have looked into every aspect of this matter. The Tower Board interviewed more than 80 people and reviewed thousands of documents. The Joint Congressional Committee interviewed more than 500 people and reviewed more than 300,000 pages of material. Lengthy committee hearings were held and broadcast on national television to millions of Americans. And as I have noted, the Independent Counsel investigation has gone on for more than 6 years, and it has cost more than \$31 million.

Moreover, the Independent Counsel stated last September that he had completed the active phase of his investigation. He will have the opportunity to place his full assessment of the facts in the public record when he submits his final report. While no impartial person has seriously suggested that my own role in this matter is legally questionable, I have further requested that the Independent Counsel provide me with a copy of my sworn testimony to his office, which I am prepared to release immediately. And I understand Secretary Weinberger has requested the release of all of his notes pertaining to the Iran-Contra matter.

*62147 For more than 30 years in public service, I have tried to follow three precepts: honor, decency, and fairness. I know, from all those years of service, that the American people believe in fairness and fair play. In granting these pardons today, I am doing what I believe honor, decency, and fairness require.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, pursuant to my powers under Article II, Section 2, of the Constitution, do hereby grant a full, complete, and unconditional pardon to Elliott Abrams, Duane R. Clarridge, Alan Fiers, Clair George, Robert C. McFarlane, and Caspar W. Weinberger for all offenses charged or prosecuted by Independent Counsel Lawrence E. Walsh or other member of his office, or committed by these individuals and within the jurisdiction of that office.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of December, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.

GEORGE BUSH
Pres. Proc. No. 6518, 57 FR 62145, 1992 WL 388556 (Pres.)
END OF DOCUMENT

M. KILPAT FILE

JACK QUINN
[REDACTED]
WASHINGTON, D.C. [REDACTED]

Eric

11/8/99

C.O.S.

Dan Margolis

all third redaction

Send letter to Mary Jo - not heavy
on me - cc EH + JR (Lecroth)

once we get, we'll call her and
say you shd do it.

be reasonable + conciliatory

Prison

Wynston, Texas

get long. record as DC

in experience.



ARNOLD & PORTER

WASHINGTON, D.C.

NEW YORK
DENVER
LOS ANGELES
LONDON

JACK QUINN

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

EXHIBIT
2

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 2

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

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 3

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

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 4

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.

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 5

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.

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 6

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.

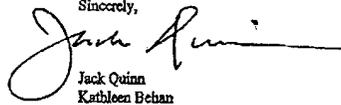
In essence, we believe that there are very real and important legal policy issues raised by the indictment – issues that should have been, but regrettably were not, forthrightly presented to your Office, or the Department of Justice's Tax Division or Criminal Division, at the time of the indictment. 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.

ARNOLD & PORTER

Honorable Mary J. White
December 1, 1999
Page 7

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,

A handwritten signature in black ink, appearing to read "Jack Quinn", with a long horizontal flourish extending to the right.

Jack Quinn
Kathleen Behan

Cc: The Honorable Eric Holder
The Honorable James Robinson
The Honorable Loretta Collins Angrett

in its crude oil trading activities was not merely to maintain adequate levels of suitable crude oil for its refinery operations, but also to realize substantial profits from resales of crude oil. ARCO therefore imposed on its customers the payment of a premium as a condition to its offer to sell domestic crude oil.

In order to camouflage its prohibited profit on these sales, ARCO devised several schemes, each with two common elements: (1) every sale by ARCO was "linked" or "tied" to another transaction in which ARCO received some financial consideration or concession from its trading partner; and (2) each sale of domestic crude oil was invoiced at ARCO's posted price for that crude oil.

Thus, for each of the 48,000,000 barrels of domestic price-controlled crude oil sold and invoiced at the posted price in the transactions described herein, the purchaser gave additional consideration, in the form of a discount or a premium on other barrels of crude oil, which was not recorded on ARCO's books as a profit on the sale of the domestic price-controlled crude oil.

As evidenced by ARCO's internal memoranda and other documents cross-referencing tie-ins, as well as by affidavits of participants to them, the financial concessions ARCO received were acknowledged by ARCO and its trading partners to be

consideration for ARCO's sales of domestic crude oil. For example, at least two of ARCO's customers, CRR and MARC RICH INTERNATIONAL, accounted for them on their books as costs of the domestic crude oil which they purchased.

These transactions were devised and executed in violation of the restrictions of the DOE's crude oil price regulations at §212.183(b) and were expressly prohibited by 10 C.F.R. §210.62(c): ARCO made use of "premiums, discounts...[and] tie-in agreements" as means to obtain prices higher than permitted by the regulations. These transactions, which had the effect of contravening and circumventing the DOE regulations, also violated 10 C.F.R. § 205.202. The total amount received by ARCO in violation of 10 C.F.R. §212.183(b), 210.62(c) and 205.202 was \$239,948,207, exclusive of interest.

VII. AUDIT AND INVESTIGATIVE FINDINGS

A. BACKGROUND AND METHODOLOGY

During the audit period from August 1, 1977 through January 27, 1981, ARCO owned and operated four refineries located at Cherry Point, Washington; Carson, California; Houston, Texas; and Philadelphia, Pennsylvania. The refineries had a total oil refining capacity of 793,000 barrels a day. ARCO's supplies of crude oil were delivered to the refineries by both pipeline and ship.

During the audit period, ARCO had contracts with eleven crude oil resellers pursuant to which ARCO sold 48,251,710 barrels of domestic price-controlled crude oil.^{7/} As a condition of the sale of each of these barrels of domestic price-controlled crude oil to the eleven resellers, their foreign affiliates or surrogates, ARCO required each reseller to pay additional consideration for the price-controlled crude oil either on purchases of foreign crude oil from ARCO or on sales of exempt foreign or domestic crude oil to ARCO.

Beginning in August 1977 ARCO imposed upon these resellers the requirement that a premium be paid for each of these price-controlled sales by ARCO. The commitment to pay this premium, or additional consideration, was a condition precedent imposed by ARCO on the receipt by each of the eleven resellers of these barrels of domestic price-controlled crude oil. The premium was paid to ARCO through "linked", or "tied-in", transactions, proposed and arranged by ARCO, in which exempt foreign crude oil was either sold to or purchased from ARCO or in which exempt domestic crude oil was sold to ARCO, all at prices which were calculated by ARCO.

Specifically, during the violation period, the resellers were required to furnish to ARCO premiums in these contingent transactions, totalling \$239,948,207. ^{8/} Neither ARCO nor its trading

^{7/} See Schedule A.

^{8/} See Schedule B.

Marc Ried

Eric —

Spoke to M.J.

She has taken it herself
and is reviewing it personally
he'll do what he can

She didn't sound like her

Grand was up



860

JACK QUINN

2/28/00

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.

MR FILE
JACK QUINN

Eric Holden »

Did research. Russian
people did neg. - But
they were cooperating and
agreed to coop.

Dead?

Yeah, think so. We're all
sympathetic. Equities on your
side.

talked about it last night.

got ventured @ 3x

MSW → Russ





U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mello Building
One Saint Andrew's Place
New York, New York 10007

February 2, 2000

Jack Quinn, Esq.
Kathleen Behan, Esq.
Arnold & Porter
[Redacted]
Washington D.C. [Redacted]

Re: United States v. Marc Rich, et al.
SI 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

PERCIB-BAYENS, M. J.
EXHIBIT
6

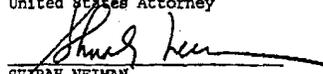
years from lawyers representing Mr. Rich urging our Office to dismiss the charges against him. Indeed, in 1987, an Assistant in this Office met with Mr. Rich's counsel and listened to the same presentation by Professor Martin D. Ginsburg referenced in your letter regarding the merits of the tax charges. 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:


SHYRA NEIMAN
Deputy United States Attorney
Tel.: [REDACTED]

cc: Eric H. Holder, Jr., Deputy Attorney General
James K. Robinson, Assistant Attorney General
Paula M. Junghans, Acting Assistant Attorney General

Appointment (Attended by) \ 1/31/01 - Page 1	
Monday - 11/20/00 to Sunday - 11/26/00	
<p>Monday - 11/20/00</p> <p>7:30AM-7:30AM Stevens' dinner - Cancelled 8:10AM-9:30AM Larry King 8:30AM-10:00AM Staff Meeting 10:00AM-10:00AM RFK Board 1:30PM-2:00PM Peter Rich - Call 2:30PM-3:00PM Federico Pollicio - Call 3:00PM-4:00PM Arthur Levitt 4:00PM-6:00PM Portatvision/Nextel - Cancelled 5:00PM-6:00PM Inside Politics</p>	<p>Thursday - 11/23/00</p> <p>8:00AM-8:00AM Thanksgiving</p>
<p>Tuesday - 11/21/00</p> <p>9:00AM-10:30AM Dentist - Cancelled 9:30AM-12:00PM Fannie Mae Board Meeting 10:00AM-11:00AM RFK Human Rights Awards Ceremony - Cancelled 12:00PM-1:00PM Martin Macwan Reception - Cancelled 2:15PM-2:15PM Eric Holder 3:00PM-3:45PM Sheila Murphy - Cancelled 5:00PM-6:00PM Portatvision - Call 6:10PM-8:30PM Larry King</p>	<p>Friday - 11/24/00</p>
<p>Wednesday - 11/22/00</p> <p>8:00AM-8:00AM Katie's Birthday 10:00AM-11:00AM Verizon Meeting w/ Jeff</p>	<p>Saturday - 11/25/00</p>
	<p>Sunday - 11/26/00</p>



867

April Moore

From: Jack Quinn
Sent: Tuesday, November 21, 2000 11:10 AM
To: April Moore
Subject: RE: Urgent

Better let both kitty and bob know that holder wants to see me, so I'll
join them about 315. Where is that mtg?

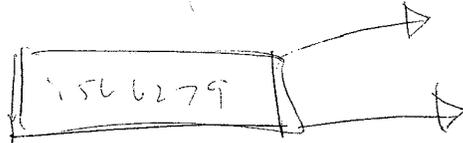
Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)



Beta - should have returned

Bruce - must be guilty

Case - find compelling evidence
in favor



⊛ still injecting guilt



Italien - no personal prob
here for SD
personal family - not
strongly subj.

WHILE YOU WERE OUT

TO: _____ DATE _____
TIME _____ AM PM

M. ^{DEPT} DEPT RICH

OF _____

PHONE _____
AREA CODE NUMBER EXTENSION

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

TELEPHONED <input type="checkbox"/>	CAME TO SEE YOU <input type="checkbox"/>
PLEASE CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>
WILL CALL AGAIN <input type="checkbox"/>	URGENT <input type="checkbox"/>
RETURNED YOUR CALL <input type="checkbox"/>	WILL FAX YOU <input type="checkbox"/>

MESSAGE
urgent - fax / response

OPERATOR _____



CARBONLESS

23-021 200 SETS
23-421 400 SETS



Facsimile Transmission Sheet

PIPER MARBURY RUDNICK & WOLFE LLP New York, New York [REDACTED] www.piperrudnick.com PHONE [REDACTED] FAX [REDACTED]		SENDER'S INFORMATION Robert F. Fink robert.fink@[REDACTED] PHONE [REDACTED] FAX [REDACTED]	
To:	Ms. Denise Rich		
Fax:	[REDACTED]		
cc:	Jack Quinn, Esq.		
Company:	Quinn Gillespie & Associates LLC		
Phone:	[REDACTED]		
Fax:	[REDACTED]		
Date:	December 6, 2000		
Number of Pages (including fax sheet):	3		
Original <input type="checkbox"/> will / <input checked="" type="checkbox"/> will not follow.			
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Comments:

Dear Denise:

Here is a copy of your letter reflecting Jack Quinn's suggested changes. He thought Ilona and Danny's letter was fine. I understand Avner is seeing you tonight, and I will ask him to bring the original for your signature. I will try to locate your daughters.

Best regards, and thanks again,

RFF



DENISE RICH
[REDACTED]
[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 States 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

12/08/00 14:41 FAX ██████████

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

873

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 Pinus 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.



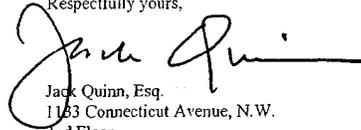
Despite this, Mr. Rich's and Mr. Green's efforts at meaningful dialogue with prosecutors over the last two decades have been rebuffed -- unless Mr. Rich and Mr. Green first come to the United States for an arraignment. A fair trial, however, appears highly unlikely: the prejudicial press coverage -- 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.
1163 Connecticut Avenue, N.W.
2nd Floor
Washington, D.C. 20009

cc: Beth Nolan, Esq.
Bruce Lindsey, Esq.

JACK QUINN

Beck -

I am told
that Barack also
discussed the
Mare Rice matter
with the POTUS.

JQ



Pressure Is Again Emerging To Free Jonathan Pollard

By DAVID JOHNSTON

WASHINGTON, Dec. 12 — As President Clinton nears the end of his time in office, he is facing a new round of pressure to free Jonathan Jay Pollard, the convicted spy whose life sentence has become a battleground between Jewish leaders and intelligence officials.

Administration officials said Prime Minister Ehud Barak of Israel raised the issue with President Clinton on Monday, and the president essentially restated the official position on the matter, telling Mr. Barak he would review the issue along with other clemency requests.

But the officials said Israel and Jewish leaders in the United States would probably continue to press Mr. Clinton to commute Mr. Pollard's sentence before his presidency ran out. Senior law enforcement and intelligence officials were just as likely to maintain their strong opposition to freeing Mr. Pollard, a civilian naval intelligence analyst who in 1987 was sentenced to life in prison as a spy for Israel.

A Clinton administration official traveling today with the president in Ireland said that the case was not under review. "From time to time, Prime Minister Barak has raised this issue, but there's nothing new," the official said. "That is not under active consideration."

American Jewish leaders have long lobbied on Mr. Pollard's behalf, and in New York earlier this year, Hillary Rodham Clinton was pressed during her successful race for the Senate to support clemency. She endorsed an improvement in Mr. Pollard's confinement conditions, but did not support releasing him.

In Israel, the case has been championed by both Labor and Likud Party governments. But if Mr. Pollard is released, Mr. Barak, who faces an election as early as Febru-

ary, would probably claim the victory as his accomplishment, saying it was the product of a relationship that he nurtured with the White House.

The president considers pardon and clemency issues throughout the year, but often announces decisions at the holiday season. They are rarely announced earlier, particularly in an election year.

In recent days, Mr. Pollard's lawyers have filed a motion in Federal District Court here seeking to have Mr. Pollard's sentence vacated. "We have advised the court that we have requested President Clinton to grant him clemency to time served," said Elliot Lauer, a lawyer for Mr. Pollard.

Today, government officials said that the White House had given no indication that Mr. Clinton planned to reopen the Pollard case.

Even so, one official who opposes clemency said that such a review was expected despite White House denials. He added that a concession to Mr. Pollard's supporters in the waning days of Mr. Clinton's presidency, when such actions are almost risk-free politically, would still arouse deep resentment among law enforcement and intelligence officials.

The Pollard case has been hotly debated for years. Two years ago, the case nearly shattered peace negotiations at the Wye Plantation in Maryland when Benjamin Netanyahu, Israel's prime minister at the time, demanded that Mr. Pollard be freed. George L. Tenet, the director of the Central Intelligence Agency, threatened to resign if Mr. Clinton acceded to the Israeli demand. In the end, Mr. Clinton refused to free Mr. Pollard.

At times Mr. Clinton has seemed poised to grant some form of clemency, as a gesture to promote the Mid-



Jonathan Jay Pollard during an interview in federal prison in 1998.

dle East peace effort. He has considered clemency for Mr. Pollard on at least three occasions, in 1993, 1996 and 1998, and once ordered a separate reassessment of the case, which concluded that Mr. Pollard had seriously damaged national security.

Some officials said that Mr. Clinton, who wields exclusive clemency authority, could weigh a variety of options, among them, shortening Mr. Pollard's sentence or allowing him to be transferred to an Israeli prison, where Mr. Pollard, who obtained Israeli citizenship in 1995, would almost certainly soon be released.

Law enforcement and intelligence agencies have vigorously opposed such a step, saying that Mr. Pollard's crimes were far too serious to provide any basis for clemency. Each time, faced with unequivocal opposition, Mr. Clinton has backed away from the case.

Mr. Pollard, who worked at the Navy's Anti-Terrorism Alert Center in Suitland, Md., has said he was punished too severely; he says he obtained information that the United States should have been supplying to its ally. But American officials have said he betrayed vital secrets to the Israelis, who did not cooperate fully with investigators or return all the documents Mr. Pollard provided them.

In an interview, Joseph E. diGenova, the prosecutor in the Pollard case, reflected the unyielding view of many government officials. "This is a decision of such gravity that it will taint this president's legacy forever," he said. "It is absolutely indefensible from either a legal or humanitarian standpoint to grant clemency to this American citizen who had done the gravest kind of damage

JACK QUINN

Bruce -

I am told
that Barack
also raised the
Mace Rice matter
with the President,
as has at least
one other person
who was told that
you and I should
discuss it.

Great to see
you in Belfast! JQ



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Associated Press

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Quinn Gillespie
ATTORNEYS AT LAW

December 19, 2000

Mr. Bruce Lindsey
The White House
2nd Floor, West Wing
Washington, DC 20502

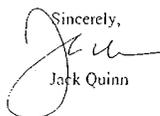
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Still, much has been made of their absence and it is one of the principal excuses given by the U.S. Attorney's Office for its refusal even to hear highly respected independent legal scholars who view the central tax portion of the indictment as defective.

I look forward to speaking with you further.

Best personal regards.

Sincerely,

Jack Quinn



WHILE YOU WERE OUT

TO Jack DATE 1/3
M Beth Nolan TIME 11:30 AM PM

OF _____
PHONE _____
FAX _____ PAGER _____
MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE _____

_____ *AGM*
OPERATOR

 CARBONLESS 23-021 200 SE 23-421 400 SE

EXHIBIT
16

Jack Quinn

MAR 10 2001

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. Giuliani.

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 charged 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

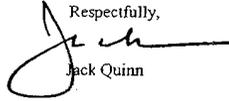


indicted). At the time, many, and perhaps most, of the entities in the oil trading business were engaged in similar efforts to avoid the impact of the price control regulations. Yet there were no indictments for any of the transactions even remotely resembling the linked transactions that are the subject 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

April Moore

From: Jack Quinn
Sent: Wednesday, January 03, 2001 4:58 PM
To: April Moore
Subject: FW: Status of application.

file mr

-----Original Message-----

From: Jack Quinn
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 "reassessment" 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, finally, 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.

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Quinn Gillespie
Associates, LLC

December 19, 2000

Mr. Bruce Lindsey
The White House
2nd Floor, West Wing
Washington, DC 20502

Dear Bruce:

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I look forward to speaking with you further.

Best personal regards.

Sincerely,

Jack Quinn

887

Quinn Gillespie
OF ASSOCIATES LLC

January 10, 2001

Deputy Attorney General Eric Holder
Department of Justice
901 E Street, NW
Washington, DC 20004

Dear Eric:

I hope you can say you agree with this letter. Your saying positive things, I'm told, would make this happen.

Thanks for your consideration.

Sincerely,

Jack
Jack Quinn

1133 Connecticut Avenue NW • Fifth Floor • Washington, DC 20036 •
www.quinn-gillespie.com



Jack Quinn

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.

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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

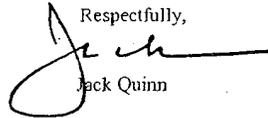
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Our pardon petition is meritorious. No one other than you can and will resolve this matter. His may not be the only injustice out there, but that cannot be a reason not to correct this one. I hope you will.

Best regards.

Respectfully,

A handwritten signature in black ink, appearing to read "Jack Quinn". The signature is fluid and cursive, with a large initial "J" and "Q".

Jack Quinn

Copy to BETH NOLAN
This is FYE, further
to the point that
no one else was
persecuted - JQ

MEMORANDUM

TO: Scooter Libby
FROM: Mark Ehlers
DATE: June 10, 1988
RE: Review of DOE Administrative and DOJ Criminal Enforcement Proceedings

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

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)

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

(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)

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 EPA 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.

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 producers⁶ have been brought civilly.⁷ In the leading case along these lines [Getty Oil], DOE

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)

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 "violation" 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.

** 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)

897

JACK QUINN

MULTI-ADDRESS FACSIMILE TRANSMITTAL SHEET		
RECIPIENTS Beth Nolan Bruce Lindsey Betty Currie	RECIPIENTS' FAX # 'S [REDACTED] [REDACTED]	RECIPIENTS' PHONE # 'S
SENDER Jack Quinn	SENDER'S TELEPHONE #	
NUMBER OF PAGES (INCLUDING COVER) 3	DATE January 18, 2001	
RE:	YOUR REFERENCE NUMBER:	
Confidential		
<small>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: 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 US Mail.</small>		

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE
NOTES/COMMENTS

1133 CONNECTICUT AVENUE, NW • SUITE 500 • WASHINGTON, DC 20036
PHONE: [REDACTED] • FAX: [REDACTED]



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

William Jefferson Clinton
January 18, 2001
Page 2

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,

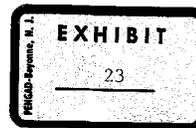


Jack Quinn

M. RICH FILE

JACK QUINN

- | | |
|-------------------------|--|
| 1. bk | 15. 6/w |
| 2. MR | 16. untemp.
advice |
| 3. statements | |
| 4. skepticism | 17. stayed away
RCW/5x5 |
| 5. wrong | |
| 6. you | 18. why now |
| 7. not RV | 19. wrong to
sit
no tax
disparate |
| 8. price controls | 20. request |
| 9. swaps | |
| 10. DoE view | 21. were
off |
| 11. Footnote | |
| 12. SD view | |
| 13. escalation - EDW | |
| 14. ARW PRO | |



JACK QUINN

- unusual
 - but not unworthy
 - never was a case
 - * fee * Rev * fund
 - stayed away - publicity
 - CTS/RUDY SAY OVERREACTION
 - will submit to some civil processes in Ariz, others somebody else.
 - controversial / defensible
 - limitation could since that time
 - Ken Starr

Iran- Lance

 - inequity
 - bias - civil Ten
 - Israel
- CONSIDERED



902

Jack Quinn

January 19, 2001

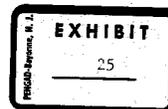
President William Jefferson Clinton
Washington, D.C.

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 absence.

Respectfully yours,

Jack
Jack Quinn



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 then 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@██████████]
 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 Finky) 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:

① Doson:

Congrats

It is good

Happy we could help

CBS
Bobby Clark

②

③

Vince - fine

Kate will shed

③

Warden

Thought you'd know the case out

there said "needed, leaving

towards,"

get warm out there

S.D. split to Simon find to
keep her down

EXHIBIT
27

wait for index warrant. Then
contact SA - ask if they want
documents. Include a note
that IRS, Intrepid etc allow
him to travel.

Can I send you references?

Thank you very much - very good job.

Jack Quinn

From: Avner [azulrich@██████████]
Sent: Tuesday, January 23, 2001 6:44 AM
To: Fink, Robert - NY; quinn jack; gkekst; behan kathleen
Cc: Rich, Marc
Subject: supporters list - media

I would also like to add that the list of supporters who addressed potus is "wall to wall" politically, and they come from the entire spectrum and walks of life. This should drown any attempts to target specifically anyone. We have jews and non jews - from Spain, Switzerland, etc., and even a palestinian minister of health.

The last letr from A Burg (Speaker of the Knesset) & Israel Singer - (President of the WJC), which is not included in the petition book and was sent directly to potus reflect israel & Diaspora communities.

You may judge from my comments what worries me and that we should do all possible to avoid it taking a political twist or focussing on top names - which the media would love to do. This more serious than me being disappointed personally about anything.

1/29/01



Jack Quinn

From: Avner Azulay [azulrich@██████████]
Sent: Wednesday, January 24, 2001 4:02 PM
To: 'Gershon Kekst'; Jack Quinn; Fink, Robert - NY
Cc: Rich, Marc; Kathleen_Behani@██████████
Subject: Globes

The PM spokesman confirmed to the Globes that Barak talked with Clinton some time ago about pardoning MR - as an acknowledgement of his contribution to the well being of the Jewish people in Israel and Diaspora as well to its national security. From another sources they mentioned that Clinton received supporting funds from Israel Singer, A. Burg, Ehud Olmert, Yaakov Neeman, the Chief Rabbi of France, the King of Spain, Shlomo Ben Ami etc. He denied that Barak received any political contributions.

1/29/01



Jack Quinn

From: Jack Quinn
Sent: Friday, January 26, 2001 9:28 AM
To: April Moore
Cc: Jeff Connaughton; Peter Mirijanian; Scott Hynes
Subject: Courier details

Imp we pin this down today. First, how do we prove that address we used is where all hand deliveries are required to go? Second, did delivery envelope say "DOJ"?

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)



Jack Quinn

From: Scott Hynes
Sent: Friday, January 26, 2001 9:40 AM
To: April Moore; Jack Quinn; Marla Zometsky
Cc: Jeff Connaughton; Peter Mirijanian
Subject: RE: Courier details

We should all try to huddle this morning about next steps - Peter should be available at 11:00am - maybe then?

-----Original Message-----

From: April Moore
Sent: Friday, January 26, 2001 9:38 AM
To: Jack Quinn; Marla Zometsky
Cc: Jeff Connaughton; Peter Mirijanian; Scott Hynes
Subject: RE: Courier details

Letter and envelope both addressed to DOJ.
Courier service says that make deliveries to that address often. She is speaking to the actual delivery person to flesh out further details but feels strongly that there is specific protocol that would have been followed (like going straight to the mailroom) in any case.

-----Original Message-----

From: Jack Quinn
Sent: Friday, January 26, 2001 9:28 AM
To: April Moore
Cc: Jeff Connaughton; Peter Mirijanian; Scott Hynes
Subject: Courier details

Imp we pin this down today. First, how do we prove that address we used is where all hand deliveries are required to go? Second, do delivery envelope say "DOJ"?

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)



Jack Quinn

From: Jack Quinn
Sent: Friday, January 26, 2001 9:39 AM
To: April Moore; Maria Zometsky
Cc: Jeff Connaughton; Peter Mirjanian; Scott Hynes
Subject: RE: Courier details

Jeff, shd we get affidavit from them?

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)



911



RE-PETE COURIER SERVICES, INC.

1412 5TH STREET, N.W.
WASHINGTON, D.C. 20011

January 26, 2001

VIA FACSIMILE [REDACTED]

Jack Quinn, Esq.
ATTN: April Moore
1133 Connecticut Avenue, N.W.
Suite 500
Washington, DC 20036

Dear Mr. Quinn:

This letter is in response to our earlier conversation regarding a missing package. Re-Pete Courier Services was dispatched to your office on January 10, 2001 and requested to deliver a package to the Department of Justice at 901 E Street, N.W. This building is a secured building and my courier was directed to a central drop point. He dropped the package there and the package was signed by K. Gray. See attached copy of the manifest which shows the signature.

Apparently, the package never made it to its destination and K. Gray says the package was never received. Other than the attached copy of the signature page and the word of my courier that the package was indeed delivered, I have no other evidence. It seems clear to me, however, that this should be enough to support my position.

Please do not hesitate to contact me if you need further information; and please keep me informed of the outcome of this situation. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Ernest Peterson".

Ernest Peterson



01/25/01 17:57

REPEL COURIER SERVICE

CUSTOMER ACTIVITIES
01/16/01-01/16/01

Page:

ticket	Ref.	date	time	PICK-up	delivery	Price
104224	000 44	01/16/01	12:30	1133 CONN AVE-5TH	DEPT JUSTICE 901 E ST DOWNTOWN	5.82
Totals:						5.82
Grand Totals:						5.82

Acct # 1133 -- DUDMAN, GILLESPIE & ASC Times 12:30 Dates 01/16/01
 Tickets 104224 Callers PATRICIA
 References: 000 44

Pickups: 000 Delivs: DEPT JUSTICE
 1133 CONN AVE-5TH 000 901 E ST DOWNTOWN DT

Round Trip? N Others /

Signature: K. GRAY

Weights 6.00 Pieces 0 Base \$ 5.50
 Driver's 4 Extras \$ 0.00
 Oper : -MHC- TOTAL \$ 5.82

913

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]
[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.



A0507

ARNOLD & PORTER

Mr. Marc Rich
July 21, 1999
Page 2

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.

A0508

ARNOLD & PORTER

Mr. Marc Rich
July 21, 1999
Page 3

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.

A0509

Empfangen: 22. 7. 99 21:47: [redacted] -> ++; Seite 0
07/22/99 15:32 FAX [redacted] R.F. FINK ->>> MARC PRIVATE-ZUG 006/007
07/21/99 WED 21:06 FAX [redacted] 01

ARNOLD & PORTER

Mr. Marc Rich
July 21, 1999
Page 4

Once again, let me say how pleased we are that you have engaged Arnold & Porter in this matter.

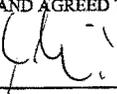
Sincerely yours,

ARNOLD & PORTER



Kathleen A. Behan, Esq.

ACCEPTED AND AGREED TO:

MARC RICH 

Dated: 21. 7. 99

917

ARNOLD & PORTER
555 TWELFTH STREET, N.W.
WASHINGTON, D.C. 20004-1202

NEW YORK
DENVER
LOS ANGELES
LONDON

KATHLEEN A. BEHAN

FACSIMILE

January 16, 2001

Mr. Marc Rich
c/o Robert Fink, Esq.
Piper Marbury, Rudnick & Wolfe
1251 Avenue of the Americas
New York, NY 10020

Dear Mr. Rich:

Enclosed is our statement in the amount of \$51,533.02 representing legal fees and disbursements accrued for the twelve-month period from January 1, 2000 to December 31, 2000 for the pending matter. These fees represent several months of preparation of the pardon petition and related matters billed at our standard hourly rates. Because only a minimum amount of work was done on this account in the first part of the year, we previously deferred billing. The firm requests prompt payment within 30-45 days. If you have any questions, please feel free to contact me.

Thank you for your consideration in this matter.

Sincerely,



Kathleen A. Behan



A0511

ARNOLD & PORTER

555 TWELFTH STREET, N.W.
WASHINGTON, D.C. 20004-1206NEW YORK
DENVER
LOS ANGELES
LONDON

STATEMENT

FACSIMILE

Marc Rich

Invoice # 849299
(15280.002)
DOJ Negotiations

January 16, 2001

For Legal Services Rendered through December 31, 2000 \$ 50,133.75

Disbursements Recorded through December 31, 2000:

Air Delivery Services	23.72	
Courier	23.03	
Duplicating	585.15	
Local Transportation	12.00	
Meal Allowance	20.00	
Meetings & Functions	84.06	
Postage	3.20	
Telecopy	15.75	
Telephone	58.08	
Transportation Allowance	3.70	
Westlaw Research	570.58	
		1,399.27

TOTAL AMOUNT DUE \$ 51,533.02

A0512

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] [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 on 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.

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 # 849299

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	

A0515

922

ARNOLD & PORTER

REMITTANCE COPY

Marc Rich

Invoice # 849299
(15280.002)
DOJ Negotiations

January 16, 2001

For Legal Services Rendered through December 31, 2000 \$ 50,133.75

Disbursements Recorded through December 31, 2000:

Air Delivery Services	23.72	
Courier	23.03	
Duplicating	585.15	
Local Transportation	12.00	
Meal Allowance	20.00	
Meetings & Functions	84.06	
Postage	3.20	
Telecopy	15.75	
Telephone	58.08	
Transportation Allowance	3.70	
Westlaw Research	570.58	
		1,399.27
TOTAL AMOUNT DUE		\$ 51,533.02

REMITTANCE COPY

Remit to:

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555 Twelfth Street, N.W.
Washington, D.C. 20004-1202

A0516



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New York, NY 10020-1104
www.piperrudnick.com

PHONE [REDACTED]
FAX [REDACTED]

Marc Rich
024052-000004
Invoice #1092702

Page 4

11/16/00	R. Fink	Review material from Mr. A. Azulay; telephone conversation with Ms. K. Behan; telephone conversation with Mr. M. Steinhardt; meet with Mr. G. Kekst; telephone conversation with Ms. Behan; telephone conversation with Mr. J. Quinn; emails with Mr. Azulay.	3.10
11/17/00	R. Fink	Telephone conversations with Mr. A. Azulay; telephone conversation with Mr. M. Rich; telephone conversation with Ms. K. Behan; telephone conversation with Mr. S. Hill; telephone conversation with Mr. J. Quinn; telephone conversation with Mr. C. Meltzer; work on agenda.	4.50
11/19/00	R. Fink	Numerous telephone conversations with Mr. A. Azulay regarding response to article and petition; work on agenda; draft	5.50
		REDACTED	
11/20/00	R. Fink	Telephone conversations and emails with Mr. A. Azulay; telephone conversations with Ms. K. Behan; emails with Ms. Behan; work on piece on K	5.00
		REDACTED	
11/21/00	R. Fink	Travel to and meet with Mr. J. Quinn and Ms. K. Behan; conference call with Mr. A. Azulay; memorandum to Mr. M. Rich.	7.50



* Legal services in Illinois are provided by Piper Marbury Rudnick & Wolfe, an Illinois general partnership.

924

REDACTED

-----Original Message-----
From: Rich, Marc [SMTP:merc.rich@██████████]
Sent: Monday, November 27, 2000 8:14 AM
To: Robert Fink (E-mail)
Cc: Avner Azulay (E-mail)
Subject: Application

Dear Bob:

My current thinking is for Kitty/Quinn to make the application principally in my name but at the end also stating that there's also PG who should be given the same consideration and that some letters concerning PG are also being submitted. I hope that this addition will not detract significantly from the main objective and that everybody will be satisfied.

Best regards

Marc



PWE&N 00094A

Hepworth, Michael - NY

From: Fink, Robert - NY
Sent: Monday, November 27, 2000 3:49 PM
To: 'Jack Quinn'
Cc: 'Marc Rich'; 'Avner Azulay'; 'Kitty Behan'
Subject: RE:

Thanks.

-----Original Message-----

From: Jack Quinn [SMTP:JQuinn@██████████]
Sent: Monday, November 27, 2000 3:27 PM
To: 'Fink, Robert - NY'; Jack Quinn; 'Kitty Behan'
Cc: 'Marc Rich'; 'Avner Azulay'
Subject: RE:

POTUS: Beth Nolan, the White House Counsel (she worked for me when I was there; is a former George Washington Law Prof and an expert on legal ethics); conceivably Bruce Lindsey, Beth's Deputy, but more importantly a very close confidant of the Pres from Arkansas and someone whose law practice was in labor relations, and undoubtedly one or two junior people in the Counsel's ofc who handle pardons.

-----Original Message-----

From: Fink, Robert - NY [mailto:robert.fink@██████████]
Sent: Monday, November 27, 2000 3:19 PM
To: 'Jack Quinn'; 'Kitty Behan'
Cc: 'Marc Rich'; 'Avner Azulay'
Subject:

Who will receive the petition and who else can we expect to read it and react to it? Is there some thing we (or I) can be doing to get some additional information on them? Frankly, it may affect how the letters are written and it certainly should have an impact on the petition itself. Moreover, the more I think about it the more I believe we will need to describe the case and the background. Otherwise, everything will seem unconnected. We have several pieces on the case and its background and now have several letters that deal with some of the critical issues. (And, as a result, evidence that we could not be heard.) Should we be drafting a piece which can be part of the petition or an exhibit which deals with the matters that are likely to be raised about the case? If so, let's discuss this on Wednesday (if not sooner) so we can get something which we can use if we decide it is best.
 Bob

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Micciulli, Rosemary - NY

From: The Rich Foundation [richfd@██████████]
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 Vaclav Havel and Elie Wiesel were to be awarded was cancelled due to Havel's sickness.



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 10:30 AM
To: 'Jack Quinn'
Cc: 'Kitty Behari'; 'Avner Azulay'
Subject: Denise

I spoke to Denise who is willing to send the new letter, but she said she will be at the WH tomorrow evening. She wanted to know how we suggest it be delivered and I told her you would call her to discuss.

Can you please call her at [REDACTED]

Meanwhile I will send her the new cover letter and another copy of her last letter.

Bob



PMR&W 00070

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: teleocon 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@██████████]
Sent: Tuesday, December 19, 2000 4:44 PM
To: kathleen_Behan@██████████
Cc: robert.fink@██████████
Subject: teleocon 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 dignatiries,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?Wwil it make any difference?. Burg is on very friendly terms with Hilary and knows potus from previous contacts.Pse advise/comments.Thanks & regards-Avner



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

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-kekst@
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 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.

Gershon

-----Original Message-----

From: Fink, Robert - NY [mailto:robert.fink@
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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PMR&W 00159

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.

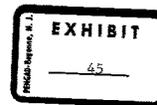
Frankly, I think we benefit from not having the existence of the petition known, and do not want to contact people who are unlikely to really make a difference but who could create press or other exposure. By this analysis, I would probably pass on having Michael contact Morganthau, but, in any event, 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 10:22 AM
To: 'Gershon Kekst'
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 decision 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



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 8:28 AM
To: quinn jack; Fink, Robert - NY
Cc: Rich, Marc; behan katherine
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



PMR&W 00080

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@██████████]
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@██████████]
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@██████████]
 > **Sent:** Wednesday, December 27, 2000 4:56 AM
 > **To:** quinn jack; behan kathleen; gershon-kekst@██████████
 > **Cc:** Fink, Robert - NY; Rich, Marc
 > **Subject:** PG- proposal
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 > aspects/difficulties which might be brought to potus by the lawyers - and
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 > 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
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 > PG believes that making the decision easier for MR - shall in the
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 > above proposal/idea.
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 > 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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PMR&W 00081

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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.
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 > 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.

1



PMR&W 00083

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 warned 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 Rucy problem. I wasn't able to connect with Eric yesterday. Will try again on Tuesday. Best. And happy New Year.



PMR&W 00089

Fink, Robert - NY

From: Fink, Robert - NY
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: 12/29/00 4:18 PM
Subject: Re:

Bob, happy 2001 to you Margie & the rest of the tribe.

----- Original Message -----
From: Fink, Robert - NY <robert.fink@...>
To: Avner Azulay <azulay@...>
Cc: Marc Rich <marc.rich@...>
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
- >

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PMR&W 00091

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 verbally and financially by supported strongly by the Jewish right wing in the US. Is there anything you can do about it?

----- Original Message -----

From: Fink, Robert - NY <robert.fink@...>
 To: 'Avner Azulay' <azulrich@...>
 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

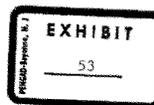
> -----Original Message-----

> 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@...>
 > To: 'Avner Azulay' <azulrich@...>
 > Cc: 'Marc Rich' <marc.rich@...>
 > Sent: Thursday, December 28, 2000 9:11 PM



PMR&W 00094

>
 >
 >> 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
 >>
 >

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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 prefer to talk today, Monday, I am at home. [REDACTED]
[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:
>



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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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@████████████████████]
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 6:45 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



> To: 'Avner Azulay'
> Cc: 'Marc Rich'
> Subject:
>
> 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

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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@; J.Quinn@; kathleen_Behan@; 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, Edger 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.



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, January 02, 2001 6:21 PM
To: 'Avner Azulay'; 'Marc Rich'
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



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:Prazulrich@
 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@
 To: 'Avner Azulay' <azulrich@
 <marc.rich@
 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.

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> Best regards, Bob
>

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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 2:29 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 because after Mr's mtgs this wknd - we expect repeat calls from here and 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
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> both of whom he has already discussed this matter.
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> the morning.
> Naturally, I will keep you posted.
> Best regards, Bob
>

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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@...]
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@...>
To: <robert.fink@...>
Cc: <azulrich@...> <Kathleen_Behan@...>
Sent: Wednesday, January 03, 2001 00:21
Subject: RE:

- > I'll be glad to do it. Perhaps I shd have a chat with both 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)
- >
- >



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, January 03, 2001 4:40 PM
To: 'Avner'
Cc: 'Marc Rich'; 'Jack Quinn'
Subject: RE: Status of application.

I just got off the phone with Jack who had just gotten off the phone with the WH counsel. He will send an email update, but I can tell you that it does not sound too late for these calls. JQ specifically dwelled on the high level and deep support MR was getting from Israel as a ground for consideration. So do not let up.
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.
- > Best regards, Bob
- >

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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@...]
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@...]
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

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PMR&W 00158

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Wednesday, January 10, 2001 11:20 AM
To: Jack Quinn
Subject: FW: update

REDACTED

-----Original Message-----

From: Avner Azulay [SMTP:azulrich@██████████]
Sent: Wednesday, January 10, 2001 10:59 AM
To: Jack Quinn
Cc: Fink, Robert - NY; Kathleen_Behan@██████████; 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 Milk is not getting it.

3.I shall meet her and her friend next week - she will provide more details.



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@██████████]
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@██████████]
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



PMR&W 00163

958

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

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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:azulnic@ [REDACTED]]
Sent: Friday, January 12, 2001 5:16 PM
To: jquinn@ [REDACTED]; marc.rich@ [REDACTED]; robert.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 made no concrete promise.

Rabin has a telecon date with potus on Monday.
Regards-Avner



Fink, Robert - NY

From: Fink, Robert - NY
Sent: Tuesday, January 16, 2001 10:29 AM
To: 'Jack Quinn'; Fink, Robert - NY
Cc: 'azulrich@
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

Original Message—
From: Jack Quinn [SMTP:JQuinn@
Sent: Tuesday, January 16, 2001 8:48 AM
To: robert.fink@
Cc: 'azulrich@
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 00167

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



PMR&W 00169

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:azulay@██████████]
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.



PMR&W 00171

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



PMR&W 00180

Fink, Robert - NY

From: Jack Quinn [JQuinn@██████████]
Sent: Monday, January 22, 2001 1:12 PM
To: 'Fink, Robert - NY'
Subject: RE: Pardon document

re press calls, the question of fee might come up. as i think you know, marc is not obligated to pay me anything. whether he will or not, i do not know and have never discussed it with him. anything he might later choose to pay is voluntary. i felt he had paid me well in 99 and that i had an obligation to see this through to the end.

-----Original Message-----
From: Fink, Robert - NY [mailto:robert.fink@██████████]
Sent: Monday, January 22, 2001 10:58 AM
To: 'Jack Quinn'
Subject: RE: Pardon document

screen down if you can. Are you on a real computer?

> -----Original Message-----
> **From:** Jack Quinn [SMTP:JQuinn@██████████]
> **Sent:** Monday, January 22, 2001 10:59 AM
> **To:** 'Green, G. Michael'; 'marc.rich@██████████'
> **Cc:** Jack Quinn; robert.fink@██████████
> 'kathleen_behan@██████████'
> **Subject:** RE: Pardon document

> i didn't get any attachment
>
> -----Original Message-----
> **From:** Green, G. Michael [mailto:GreenM@██████████]
> **Sent:** Monday, January 22, 2001 10:44 AM
> **To:** 'marc.rich@██████████'; robert.fink@██████████
> **Cc:** 'quinn@██████████'; 'robert.fink@██████████';
> 'kathleen_behan@██████████'
> **Subject:** Pardon document

> Here is the master pardon warrant signed by President Clinton on Saturday.
> According to Roger Adams, the Pardon Attorney with whom I spoke this
> morning, an individualized pardon for Messrs. Rich and Green will be
> forthcoming.

> -----Original Message-----
> **From:** FAX Dispatcher
> **Sent:** Monday, January 22, 2001 10:09 AM
> **To:** Green, G. Michael
> **Subject:** FW: Fax Receipt ██████████

> -----Original Message-----
> **From:** Fax monitor
> **Sent:** Monday, January 22, 2001 10:15 AM
> **To:** FAX Dispatcher
> **Subject:** Fax Receipt ██████████

>
> INBOUND FAX NOTIFICATION
>

> You have received an inbound fax.
>
> Date: 1/22/01
> Time: 10:14:00



PMR&W 00185

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 then 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 will 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 the 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 Denise) 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?



PMR&W 00191

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Monday, January 22, 2001 7:13 PM
To: 'Avner Azulay'
Cc: 'Jack Quinn'; 'Kitty Behan'; 'Gershon Kekst'; 'Mike Green'
Subject: RE:

Actually everyone agreed that I should tell the true story because the impression is that this was all paid for by DR. I was told to show the petitions which include the letters, and a reporter called me and said he was told Barak supported this and asked if it were true. I told him it was, although I did not know when he called or who may have spoken to him or exactly why he was supportive. I have done the same when asked if DR supported it. It will come out and it does not pay to hide what happened. People will only think the worse. Any way, I am sorry you are disappointed but I can't get away from the phones and people here wanted a no name answering questions who knew about the case. That Bob

-----Original Message-----

From: Avner Azulay [SMTP:azulrich@
Sent: Monday, January 22, 2001 7:06 PM
To: Fink, Robert - NY; 'Kitty Behan'; 'Jack Quinn'; 'Mike Green'; 'Gershon Kekst'
Cc: 'Marc Rich'
Subject: Re:

The Bloomberg local reporter called my office and home - and I have no obligation to return his calls. Bob should do the same with others. I am afraid this has a potential of getting out of hand.

----- Original Message -----

From: Fink, Robert - NY <robert.fink@
To: 'Avner Azulay' <azulrich@
 <'Kathleen Behan' <Kathleen.Behan@
 'Jack Quinn' <jquinn@
 'Mike Green' <Green.M@
 'Gershon Kekst' <gershon-kekst@
Cc: 'Marc Rich' <marc.rich@
Sent: Monday, January 22, 2001 11:11 PM

> 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. 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
 >

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 at <http://www.piperrudnick.com/>



PMR&W 00194

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@...]
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 opinions. 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@...>
To: 'Fink, Robert - NY' <robert.fink@...>; 'Avner Azulay' <azulrich@...>; 'Kitty Behan' <Kathleen_Behan@...>
Jack Quinn <JQuinn@...>; 'Mike Green' <Greening@...>
'Gershon Kekst' <gershon-kekst@...>
Cc: 'Marc Rich' <marc.rich@...>
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 this is my best judgment.
> I'd
> do it with the NY Times. In the next hour or so. Is that possible?
>



PMR&W 00195

Fink, Robert - NY

From: Avner [azuirich@██████████]
Sent: Tuesday, January 23, 2001 6:17 AM
To: Fink, Robert - NY; gkekst; quinn jack; behan kathleen
Cc: Rich, Marc
Subject: list of supporters

I propose that if asked - we should provide the media with the full list of supporters with institutions, countries, professions - including MR & PG's - and not highlight, specify or separate the barak name and others .

I also don't think we have to answer whether the expressions of support were made by phone calls or in writing - at one time or another. You don't have to know that.

About Denise - I think we are exaggerating the relation with the Democrat party etc.. Our answer doesn't have to be apologetic , although divorced she is still the mother of MR's daughters and they are still grandparents of their common grand children.



1251 Avenue of the Americas
New York, New York 10020-1104
www.piperradnick.com

PHONE [REDACTED]
Fax [REDACTED]

ROBERT F. FINK

robert.fink@[REDACTED]
PHONE [REDACTED]
FAX [REDACTED]

December 4, 2000

BY HAND

Ms. Ilona Rich
[REDACTED]
New York, New York [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

Facsimile Transmission Sheet

PIPER MARBURY RUDNICK & WOLFE LLP	
[REDACTED] New York, New York 10020-1104 www.piperrudnick.com	SENDER'S INFORMATION Robert F. Fink robert.fink@[REDACTED] PHONE [REDACTED] FAX [REDACTED]
PHONE [REDACTED] FAX [REDACTED]	
To:	Kathleen A. Behan, Esq.
Company:	Arnold & Porter
Phone:	[REDACTED]
Fax:	[REDACTED]
Date:	December 7, 2000
Number of Pages (including fax sheet):	

Original will / will not follow.

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- Attempt to transmit fax until _____ (please indicate time). If transmission not confirmed, please notify me.
- Continue faxing until 8:00 p.m. If transmission not confirmed, discontinue and notify me.

24052-4 Signature _____

Comments:

Dear Kitty:

Here are copies of additional originals that came in yesterday afternoon and today.



971

DENISE RICH

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 States 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

PMR&W 00337

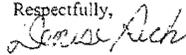
so hard to get anyone to think that Marc was not a criminal. I can tell you, he did not get the benefit of the doubt. His innocence was never presumed. There has been nothing quite like this case -- it is unique.

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,

A handwritten signature in cursive script that reads "Denise Rich".

Denise Rich

973



azulrich@ [REDACTED] 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 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 Weisel 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.

-I gave GK a copy of my updated long list of potential supporters (Bob - please fax a copy to Kitty), and reported on my contacts with DR's friend. I expect to receive a priority list from these to work on.

-GK pointed out that Prof. Itamar Rabinovitch 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 for implementing this project with a dead line should be decided upon with JQ.

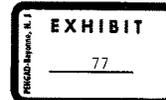
-I also raised the idea that "a task force" under his guidance and strategy should be established to make sure we make good use of the time and means available. I understood from GK that he shall undertake this project.

-GK is meeting Bob on Thursday, shall contact JQ and decide on how to proceed.

Regards,
Avner

Bob, please transfer a copy to GK. I don't have his email or fax.

 - ALTERNATIVE.HTM



A0542

11/16/2000 16:58
09/20/98 THE 11:34 FAX

QUINN GILLESPIE

PAGE 02
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THE WHITE HOUSE
WASHINGTON
January 26, 1996

RECEIVED
DEPT OF JUSTICE

'96 JAN 29 PZ 23

PARDON ATTORNEY

MEMORANDUM FOR JAMIE N. 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 recidivism 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.



A0556

11/16/2000 16:58
05/20/99 THU 11:35 FAX

MINN GILLESPIE

PAGE 03
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2

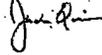
- 2) Cases committed long ago when the individual was very young and which do not involve major crimes.
- 3) Cases not involving major crimes in which the individual has clearly turned his or her life around by making sustained and significant contributions to the community since being released from 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

A0557

976



robert.fink@ [REDACTED] on 11/19/2000 03:18:55 PM

To: jquinn@ [REDACTED], gershon-kekst@ [REDACTED], Kathleen
Behan/Atty/DC/ArnoldAndPorter@ [REDACTED]
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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- GBFV01!.DOC



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.

979

12/05/00 12:24 FAX [REDACTED] R.F. FINK +--+ BEHAN DIRECT @002/003
Von: [REDACTED] ++; 05.12.00 16:08; JctFax #134; Seite 1/2
An: BOB FINK Fax-Nr.: [REDACTED] cc FRU/05.12.2000

MARC RICH + CO HOLDING GMBH

TELEFAX

To: Piper Marbury Rudnick & Wolfe
Attn: Mr Robert Fink
Telefax No: [REDACTED]
From: Mr. Marc Rich
Date: 5 December 2000 Number of Pages: 2

Letter from the Mayor and Vice Mayor of The City Council of Zug

Dear Bob

I've just received the attached letter from the Mayor and Vice Mayor of Zug. You can tell that it's not exactly what I asked for. I don't know if you want to use this letter as it is or if you would like me to try to get some changes.

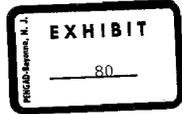
Regards

Marc

44

In case reception is incomplete or illegible please call [REDACTED]
[REDACTED] Switzerland

Telephone [REDACTED] Telefax [REDACTED]



A0664

980

12/05/00 12:24 FAX [REDACTED] ++;
Von:

R. F. FINK --- BEHAN DIRECT @003/003
05.12.00 18:08; JetFax_#134; Seite 2/2

DER STADTRAT VON ZUG

To Mr.
Marc Rich
[REDACTED]

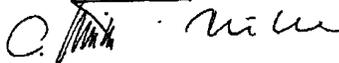
Zug, December 5, 2000

Dear Mister Rich

On your own request the City Council of Zug confirms the following:

- Mr. Marc Rich is known to the City Council of Zug for many years as an international businessman and chairman of different firms registered in Zug. As a head of this companies Mr. Marc Rich always fulfilled his obligations and his duties to the City of Zug.
- The City Council of Zug is also aware of the fact that Mr. Marc Rich has been very charitable for many years within important projects.

Kind regards
THE CITY COUNCIL OF ZUG
The Mayor The Vice Mayor



Christoph Luchsinger Toni Gügler

A0665

 Kathleen Behan
12/07/2000 02:49 PM

To: JQuinn@
cc:
Subject: Re: exec order 12834 

Is your trip to Nireland business or politics or both? Take me with!



A0756



robert.fink@ [REDACTED] on 12/19/2000 11:19:58 AM

To: jquinn@ [REDACTED]
cc: Kathleen Behan/Atty/DC/ArnoldAndPorter@ [REDACTED] GreenM@ [REDACTED] azulrich@ [REDACTED]
Subject: Letter to Bruce Lindsey

I cannot find what I thought I remembered in the way of a document, which still might exist. I suggest you write something like this:

I just wanted to follow up on an issue you raised in our conversation on the subject of a pardon for Marc Rich and Pinky Green. You were concerned that they are fugitives; and I told you they are not. Here is why. Marc Rich and Pincus Green were 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 (which was the full wrath of the US Attorneys office in New York under Rudy Giuliani). This is 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 Attorneys office issued a superceding indictment, in neither case did the office even suggest that their continued absence was an offense; and our review of the law in the area (18 USC 1073) makes clear 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 Office for its refusal to even hear highly respected independent legal scholars who view the tax portion of the indictment as defective.

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A0824



JQuinn@ [REDACTED] on 12/21/2000 03:16:41 PM

To: robert.fink@[REDACTED], szulrich@[REDACTED]
 cc: JQuinn@[REDACTED], Kathleen Behan/Atty/DC/ArnoldAndPorter@[REDACTED]
 Subject: RE: teleocon 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: teleocon 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: teleocon 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 dignataries,ambassadors etc. . I
 > don't know what his reaction would be to such a request ,and before I give
 > it a try - is this worthwhile 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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 Thank you.

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A0831

984



richrd@ [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.PYI.



- ALTERNATIVE.HTM



A0842

985



JQuinn@ [redacted] on 12/25/2000 01:45:29 PM

To: richfrd@[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 tomorrow. 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 F. 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

986



azulrich@ [REDACTED] on 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



A0845

987



robert.fink@[REDACTED] on 12/26/2000 11:12:49 AM

To: jquinn@[REDACTED]
cc: Kathleen Behan/Atty/DC/ArnoldAndPorter@[REDACTED] marc.rich@[REDACTED]
azulrich@[REDACTED]

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)?

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A0846



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



A0850



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 earliest 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

990



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 EL.

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 morning 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



A0854

991



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 positive!) - 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



A0865



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



A0866

993



azulrich@ [REDACTED] 01/12/2001 05:03:45 PM

Please respond to azulrich@ [REDACTED]

To: jquinn@ [REDACTED] marc.rich@ [REDACTED] robert.fink@ [REDACTED] Kathleen
Behan/Atty/DC/ArnoldAndPorter@ [REDACTED]

cc:

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 made no concrete promise.

Rabin has a telecon date with potus on Monday.
Regards-Avner



A0877

994



azulrich@ [REDACTED] on 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 to NY:
1. we have a CFM that the king of spain talked to potus. He reports a positive conversation. No concrete sayings.
2. our FM talked to sandy berger a few days ago and shall check with him again if he talked to potus.
See you soon.



A0881

PERISCOPE®

Newsweek 2/12/01 PARDONS P. 6

Scuffling in the Shadows of the Clinton Years

IT WAS A BELATED BID TO wipe the slate clean. Last week Bill and Hillary Clinton offered to pay for nearly half the \$190,000 in gifts they took with them and agreed to pick up a large part of the rent for Bill's high-priced Manhattan office. But one problem won't disappear so easily: lingering questions about the last-minute pardon of fugitive financier Marc Rich.

This week two congressional committees open hearings into why Clinton decided to circumvent Justice Department guidelines and help Rich. Likely to be star witnesses: former deputy attorney general Eric Holder Jr. and former White House counsel Jack Quinn, the man hired by Rich to lobby Clinton for a pardon. Quinn maintains that he kept Holder and Justice well informed throughout the process.



Clinton, out of office but still on the defensive; Holder (inset)

Holder has so far declined to comment, but colleagues say he is furious that Quinn is now trying to portray him as complicit in the pardon. "They [Rich's lawyers] circumvented the process and now they're trying to pin this on

Eric," a source close to Holder told NEWSWEEK. The source says Holder disputes a Quinn e-mail to Rich on Jan. 22, two days after the pardon. In the message, which was released last week, Quinn says Holder had complimented him for do-

ing a "good job" in obtaining the pardon. Holder's defense: the comment was sarcastic, not congratulatory. Nonetheless, Holder now acknowledges that in the post-pardon conversation, he asked Quinn to hire two of his departing Justice Department aides.

For his part, Quinn has turned to some strange bedfellows to help him prepare for the upcoming hearings. NEWSWEEK has learned. Among them: husband-and-wife Republican ex-prosecutors Joseph diGenova and Victoria Toensing, and David Bossie, the former Capitol Hill investigator who has made a career out of pursuing the Clintons. One likely interrogator: Indiana Rep. Dan Burton, Bossie's former boss.

AUTOMOBILES Chrysler Hits the Write-Off Road

CHRYSLER'S NASCENT turnaround efforts are already hitting some potholes. Suppliers are resisting the 5 percent price cut Chrysler imposed Jan. 1—a few have even recalled part-loaded trucks bound for the automaker's factories. Chrysler's workers are fretting over the 26,000 job cuts announced last week and Wall



Zetsche found 'surprises'

Street, skeptical that Chrysler has sliced deep enough, is predicting 2001 losses will exceed \$2 billion.

The road ahead will get even steeper when Chrysler details its financial situation Feb. 26. Company sources told NEWSWEEK that the automaker will write off between \$2 billion and \$3 billion to cover restructuring costs for plant closings, early retirements and severance packages. That will push Chrysler's bottom line even deeper into the red. Chrysler's new CEO Dieter Zetsche wouldn't confirm the big write-off, but admits that the company's problems are more severe than even he initially realized. "There were quite some surprises for all of us when we finally got the total clear picture," says Zetsche.

CONVENTIONAL WISDOM

Endless Charm Offensive Edition

All the forced harmony in Washington is driving the C.W. nuts. If this honeymoon goes on much longer, we'll volunteer to return punts in the NFL.

C. W.

- Bush** ◆ Making all the right moves—and still getting plenty of sleep. Who said this job was so hard?
- Clintons** ◆ They cry uncle and pay for some pressies and office rent. But what's with her hair?
- Dems** ◆ *Cajones*-challenged senators manage 42 votes against Ashcroft. Next time try action.
- Kaddafi** ◆ Henchman convicted for Lockerbie, but everyone knows who's really guilty.
- 'Survivor'** ◆ Buff Outback edition gets bogacious ratings. Hope the cow brats wasn't from England.
- '51 Giants** ◆ Turns out puffed-in signs helped Bobby Thompson. The Giants stole the pennant!



FROM TOP: STEPHEN CHERRIN/AP; MICHAEL SMITH/NEWSWEEK; REBECCA COON/SPX

PRESIDENT CLINTON ON PARDONS

“[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.”



- The NewsHour with Jim Lehrer, September 23, 1996

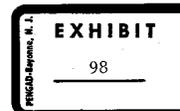
**Letters Expressing Support for the
Pardon of Mr. Marc Rich**

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



**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
Arich 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 Transplantation Biology Weizmann Institute of Science, Rehovot



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The New York Post

January 27, 2001, Saturday

SECTION: All Editions; Pg. 007

LENGTH: 332 words

HEADLINE: CHARITIES DUPED INTO PARDON AID FOR FAT CAT

BYLINE: MARILYN RAUBER and BRIAN BLOMQUIST Post Correspondents

BODY:

WASHINGTON - Several charity leaders said yesterday their thank-you notes for donations from fugitive financier Marc Rich were used without their knowledge to help get him a presidential **pardon**.

"I certainly had no knowledge it was going to be used as an endorsement - that was not its intent," Cliff Sanderlin, director of Seattle's Fred Hutchinson Cancer Research Center, said of his August **letter** thanking **Rich** for his "generous **support** . . . in the war against cancer."

"I feel somewhat annoyed. I don't **know** the man, and I don't **know** anything about him, whether he's worth pardoning or not. It's just surprising to me," he told The Post.

The letter was one of many similar gift acknowledgments included by Rich's lawyers in the pardon petition sent to then-President Clinton.

Rich, one of the FBI's most-wanted fugitives, fled to Switzerland before he was indicted in 1983 on charges of illegally trading with Iran and concealing more than \$100 million in taxable income.

Clinton's 11th-hour pardon has sparked a firestorm - and House Republicans have asked for a probe into whether the pardon was given as a favor to Rich, a big Israel booster, and his ex-wife, Denise, a Democratic fat-cat contributor.



Rich's lawyers turned to Clinton after New York federal prosecutors for years refused to make a deal, according to the pardon documents.

Marlene Post, chairwoman of Birthright Israel, was one letter-writer who did explicitly ask Clinton to pardon Rich, even though she knew nothing about the indictment.

Several charity leaders whose letters were used without their permission declined to criticize Rich, who has given millions of bucks to charitable groups in Israel and the United States.

Michael Schneider, executive veep of the Manhattan-based American Jewish Joint Distribution Committee, said he "had no idea" why the Rich Foundation asked for a written acknowledgment of gifts that "benefited the population of Israel," but said he was not angry.

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January 26, 2001, Friday, Late Edition - Final

SECTION: Section A; Page 15; Column 5; National Desk

LENGTH: 1080 words

HEADLINE: Some Used in **Pardon** Effort Were Unaware of Purpose

BYLINE: By ALISON LEIGH COWAN

BODY:

When a big donor called in November seeking a letter acknowledging his largesse, Jonathan Halevy, the head of Shaare Zedek Medical Center in Jerusalem, did what he always does. He obliged.

But Mr. Halevy was never told, he said yesterday, that his brief testimonial would be one of 52 such letters used to help persuade President Clinton to **pardon Marc Rich** as one of his last acts in office. And now, he said, he feels misled.

"I'm obliged, if I got a donation from someone, to confirm that I got it in writing," Mr. Halevy said last night from his home. "But I think it would be very fair to tell me this was the purpose."

Mr. Halevy said Avner Azulay, the head of the Rich Foundation in Tel Aviv, called about two months ago and asked him to acknowledge the foundation's gifts. The stated reason, Mr. Halevy said, was that the foundation was preparing a "book in honor of Mr. Rich and the foundation." As the head of one of Israel's most important charities, Mr. Halevy said, he gets such requests often, thought nothing of it, and dispatched a letter, dated Nov. 30.

Several other people whose letters were in the petition put before the president on Dec. 11 said they, too, knew nothing about the quiet but furious efforts made



to obtain a **pardon** for Mr. Rich, a financier who has lived abroad for 17 years rather than face trial in the United States for tax fraud and other crimes.

Criticism to the **pardon** has poured in from many corners, partly because Mr. Rich's former wife, Denise, is a close friend of Mr. Clinton and partly because the application was sent directly to the White House by Jack Quinn, a former White House counsel who works for Mr. Rich, bypassing the normal channels through the Justice Department. Ms. Rich and Mr. Quinn made personal appeals to President Clinton to grant the **pardon** before prosecutors were aware that a **pardon** of a noted fugitive was being considered.

Mr. Quinn, who has been widely criticized for using his government connections to win a long-shot **pardon**, refused to say yesterday how much he would be paid, insisting that it was within his normal rates. "The fee figures of \$5 million to \$10 million are absolutely and unequivocally false," he said through a spokesman, referring to figures being repeated by other lawyers.

Ms. Rich has hired Martin R. Pollner, a former federal prosecutor and senior partner at Loeb & Loeb, as her lawyer in the matter. Just yesterday, The Associated Press reported, Representative Dan Burton, Republican of Indiana, the chairman of the House Government Reform Committee, requested documents about the **pardon** from a wide range of sources in what could be the first of many such salvos.

Mr. Azulay, the foundation executive who collected many of the letters that were sent from prominent Israeli citizens about Mr. Rich's charitable activities, would not comment yesterday. Reached at his home, he said: "I can't hear you. Please call back." He then hung up. His phone registered repeated busy signals for the rest of the evening.

All 52 letters were described by the petition as "**Letters Expressing Support for the Pardon of Mr. Marc Rich.**" Yet Robert F. Fink, one of Mr. Rich's lawyers, acknowledged, "Not everyone was necessarily told it was going to be for a **pardon.**"

Indeed, only one of six letter writers reached last night said he knew the letter might be used in connection with Mr. Rich's legal problems. James S. Snyder, the director of the Israel Museum, who had visited with Mr. Rich in Zurich just before Thanksgiving, said Mr. Azulay asked him to write a letter summarizing Mr. Rich's philanthropy.

"He said it was connected with his long-standing case in the U.S.," said Mr. Snyder. "He didn't give me details."

Through his foundation, Mr. Rich has been "supportive of the museum for a long time, so it was not difficult," Mr. Snyder said.

In some cases, the authors of the letters and their representatives found it hard to believe that they were somehow involved in the **Marc Rich** saga. Jeff Kimball, director of public relations for Sacred Heart University in Fairfield,

Conn., asked, "How does peaceful little Sacred Heart University find itself in the middle of this story?"

Told that a letter from Sacred Heart's president, Anthony J. Cernera, was part of the **pardon** package, Mr. Kimball researched the matter and reported back that the president's letter was a routine thank-you written in acknowledgment of a \$25,000 gift Mr. Rich's foundation had made to the Center for Christian-Jewish Understanding at the university.

"And it seems like that letter got carried along somehow to the president of the United States," Mr. Kimball said, amazed that it had traveled halfway around the world and back.

"Wow," Mr. Kimball added. "So these letters were used as part of the petition for his **pardon**?" Mr. Kimball said Mr. Cernera could not be reached last night.

Teddy Kollek, a former mayor of Jerusalem who now works for the Jerusalem Foundation, wrote a letter as well. Mr. Kollek, too, said he knew nothing about a **pardon**. Not that he was miffed. "I have no complaint against it," he said. "He does a lot of charity in this country."

"I go by what he does here, and what he does here is totally positive."

Noting that he was nearing 90, Mr. Kollek was a bit frustrated that he could not remember exactly who had asked him to provide the testimonial. "I can't remember," he said. "But I don't think I ever wrote to President Clinton about a reprieve or about his sentence. This is not my business."

His lone complaint was that Mr. Rich was "supposed to be a very rich man" and that his gifts to the Jerusalem Foundation were "comparatively small."

"He could probably do much more," Mr. Kollek said.

Gila Almagor, an Israeli actress who is on the Tel Aviv City Council, said she not only knew nothing about a possible **pardon**, she also knew little about Mr. Rich's legal woes. "I never met Mr. Rich, never."

Still, Ms. Almagor wrote an appreciative letter in 1999 thanking Mr. Rich for being such an enthusiastic supporter of the local arts. "Every good idea, the Rich Foundation has supported it," she said. The Rich Foundation had her letter on file and forwarded it as well.

"I didn't know about any petition, but I'm glad President Clinton pardoned him," she said. If her letter "helped Mr. Rich, why not?" she asked. "In one part of the world someone is a saint, and in another part of the world he is what he is."

<http://www.nytimes.com>

FBI TEN MOST WANTED FUGITIVE

**BANK ROBBERY; UNLAWFUL FLIGHT TO AVOID PROSECUTION
- ARMED ROBBERY; THEFT FROM INTERSTATE SHIPMENT**

VICTOR MANUEL GERENA



Photograph taken in 1983 Age Enhanced Photograph

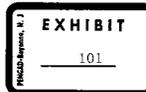
Aliases: Victor Ortiz and Victor M. Gerena Ortiz.

DESCRIPTION

Date of Birth:	June 24, 1958	Hair:	Brown
Place of Birth:	New York, New York	Eyes:	Green
Height:	5'6" to 5'7"	Complexion:	Dark/Medium
Weight:	160 to 169 pounds	Sex:	Male
Build:	Medium/Stocky	Race:	White
Occupation(s):	Machinist, security guard	Nationality:	American (Puerto Rican descent)
Scars and Marks:	He has a one-inch scar and a mole on his right shoulder blade.		
Remarks:	None		

CAUTION

VICTOR MANUEL GERENA IS BEING SOUGHT IN CONNECTION WITH THE ARMED ROBBERY OF APPROXIMATELY \$7 MILLION FROM A SECURITY COMPANY IN CONNECTICUT. HE ALLEGEDLY TOOK TWO SECURITY EMPLOYEES HOSTAGE AT GUNPOINT AND THEN HANDCUFFED, BOUND AND INJECTED THEM WITH AN UNKNOWN SUBSTANCE IN ORDER TO



1005

FBI Ten Most Wanted Fugitive - Victor Manuel Gerena

<http://www.fbi.gov/mostwant/topten/fugitives/gerena.htm>

FURTHER DISABLE THEM.

CONSIDERED ARMED AND EXTREMELY DANGEROUS.

IF YOU HAVE ANY INFORMATION CONCERNING THIS PERSON, PLEASE
CONTACT YOUR LOCAL FBI OFFICE OR THE NEAREST U.S. EMBASSY OR
CONSULATE.

REWARD

The FBI is offering a \$50,000 reward for information leading directly to the arrest of Victor Manuel Gerena.

May 1984
Poster Revised March 1999

[[View PDF Version](#)]

[[Ten Most Wanted Fugitives](#)] [[Most Wanted Page](#)] [[FBI Home Page](#)]

FBI TEN MOST WANTED FUGITIVE

MALICIOUSLY DAMAGED, BY MEANS OF AN EXPLOSIVE
DEVICE, BUILDINGS AND PROPERTY AFFECTING INTERSTATE
COMMERCE WHICH RESULTED IN DEATH AND INJURY

ERIC ROBERT RUDOLPH



Date of photograph unknown Date of photograph unknown Date of Sketch July 1998

Aliases: Bob Randolph, Robert Randolph, Bob Rudolph, Eric Rudolph and Eric R. Rudolph.

DESCRIPTION

Date of Birth:	September 19, 1966	Hair:	Brown
Place of Birth:	Merritt Island, Florida	Eyes:	Blue
Height:	5'11"	Complexion:	Fair
Weight:	165 to 180 pounds	Sex:	Male
Build:	Medium	Race:	White
Occupation(s):	Carpenter, roofer and handyman	Nationality:	American
Scars and Marks:	He has a noticeable scar on his chin.		
Remarks:	None		

CAUTION

ERIC ROBERT RUDOLPH IS CHARGED IN CONNECTION WITH THE
BOMBING OF A HEALTH CLINIC IN BIRMINGHAM, ALABAMA, IN WHICH A
POLICE OFFICER WAS KILLED AND A NURSE CRITICALLY WOUNDED. HE

1007

FBI Ten Most Wanted Fugitive - Eric Robert Rudolph

<http://www.fbi.gov/mostwant/top10/fugitives/rudolph.htm>

IS ALSO CHARGED IN CONNECTION WITH THE FATAL BOMBINGS AT CENTENNIAL OLYMPIC PARK IN DOWNTOWN ATLANTA, GEORGIA, THE DOUBLE BOMBINGS AT THE SANDY SPRINGS PROFESSIONAL OFFICE BUILDING NORTH OF ATLANTA, AND THE DOUBLE BOMBINGS AT THE OTHERSIDE LOUNGE IN MIDTOWN ATLANTA. THESE BOMB BLASTS INJURED MORE THAN 150 PEOPLE. RUDOLPH IS KNOWN TO OWN FIREARMS AND TO HAVE TARGETED LAW ENFORCEMENT.

CONSIDERED ARMED AND EXTREMELY DANGEROUS.

IF YOU HAVE ANY INFORMATION CONCERNING THIS PERSON, PLEASE CONTACT YOUR LOCAL FBI OFFICE OR THE NEAREST U.S. EMBASSY OR CONSULATE.

REWARD

The FBI is offering a \$1,000,000 reward for information leading directly to the arrest of Eric Robert Rudolph.

May 1998
Poster Revised April 2000

[[View PDF Version](#)] [[Centennial Olympic Park Bombing](#)]
[[Ten Most Wanted Fugitives](#)] [[Most Wanted Page](#)] [[FBI Home Page](#)]

**EDWARD BENNETT WILLIAMS
TO MARC RICH**

“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.’”

- from *The Man to See* by Evan Thomas

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:

Sec. 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

<http://www.usogc.gov/exorders/eo12834.html>



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 title 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 its agreement and as binding on me. I understand that the terms of this are in addition to an 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 rule-making, 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 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 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 1b) 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 negotiator" 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(R)).

(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 delegated 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 for 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 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.

THE WHITE HOUSE,
January 20, 1993.

ONE HUNDRED SEVENTH CONGRESS

Congress of the United States
House of RepresentativesCOMMITTEE ON GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143Majority (202) 225-5074
Minority (202) 225-5051
February 3, 2001

Carol Elder Bruce, Esq.
Tighe, Patton, Armstrong & Teasdale
1747 Pennsylvania Avenue, N.W., Suite 300
Washington, D.C. 20006

Re: Denise Rich

Dear Ms. Bruce:

As you know, the Committee on Government Reform is conducting an investigation into the pardons issued by former President Clinton to Marc Rich and Pincus Green. As part of that investigation, the Committee would like your client, Denise Rich, to answer a number of questions. When Committee staff were contacted by you on February 2, 2001, they requested an interview with Ms. Rich, and you made it clear that Committee staff would not likely be able to interview Ms. Rich in the near future. I understand that this is a stressful time for your client, and I do not wish to add to her discomfort unnecessarily. Therefore, I am submitting a number of written questions. If Ms. Rich can answer the questions in writing, by 12:00 p.m., February 8, 2001, it will greatly assist the Committee's inquiry. In addition, Ms. Rich's written responses may make it unnecessary for the Committee to call Ms. Rich as a witness at public hearings. If Ms. Rich fails to answer these questions, it will be necessary to subpoena her to testify before the Committee during the week of February 12, 2001.

Please have Ms. Rich answer the following questions:

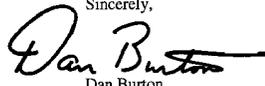
1. Were all political contributions made by you between 1992 and the present made with your own money?
2. Were you reimbursed for any political contribution made by you?
3. Were you ever provided with money by any individual so that you could make a political contribution?
4. Are you aware of any communications with Marc Rich or his advisers that suggested to you that either you or your children would benefit financially as a consequence of your support of Marc Rich's pardon?



5. Provide a listing of all bank account information, including the name of the bank and account number, for all accounts used to make political contributions to political candidates or political campaign committees, or the Presidential Library Foundation, the Clinton Presidential Foundation, the Clinton Legal Expense Trust, or the Presidential Legal Expense Trust, between 1992 and the present.
6. How much money have you given or pledged toward the Clinton library?
7. Did you ever discuss a presidential pardon with Marc Rich? If so, describe the substance, place and time of such discussions.
8. Did you ever discuss a presidential pardon with any adviser to, employee of, or attorney to, Marc Rich? If so, describe the substance, place and time of such discussions.
9. Describe all contacts you have had with President Bill Clinton regarding your former husband, Marc Rich.
10. Did you ever discuss a pardon for Marc Rich with President Clinton? If so, describe the substance, place and time of such discussions.
11. Did you ever discuss a pardon for Marc Rich with any other White House staff? If so, describe the substance, including the place and time, of such discussions.
12. Did you ever discuss a pardon for any other individual with President Clinton or any other White House staff? If so, please describe the substance, the identity of the individual seeking the pardon, and the place and time of such discussions.
13. Please list all gifts that you have given either to former President Clinton or to Senator Hillary Rodham Clinton.
14. Did you provide an initial draft of your letter in support of Mr. Rich's pardon to any of his attorneys? If not, did they provide the initial draft of the letter supporting Mr. Rich's pardon to you?

Please provide written answers to the foregoing questions, signed by Ms. Rich, by 12:00 p.m. February 8, 2001. If you have any questions about this matter, please contact the Committee's Chief Counsel, James C. Wilson, at (202) 225-5074.

Sincerely,


Dan Burton
Chairman

cc: The Honorable Henry A. Waxman, Ranking Minority Member

1018

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.



1019

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.



1020

Jack Quinn

From: Jack Quinn
Sent: Tuesday, January 23, 2001 6:42 PM
To: 'azulrich@'; 'robert.fink@'; 'Kathleen_Behan@'; 'gershon-kekst@'; 'marc.rich@'
Cc:
Subject: Re: media

Avner, potus himself is saying in his frustration about the press coverage that good people like the FM supported this.

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)



1021

Jack Quinn

From: Jack Quinn
Sent: Wednesday, January 24, 2001 12:51 PM
To: Kekst, Gershon, Fink, Robert
Subject: Giuliani

I recall hearing that denise was asked by him to support him, not hillary, in the senate race. she declined. shouldn't the nytimes know this? from whom?



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
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@nytimes.com'; 'Jack Quinn'; 'Kitty Behan'; 'Mike Green'
 > **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 >>

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/>



1023

JACK QUINN

Bob —

Please let me
know how you react
to the attached.

Obviously, Marc
may want to wait
to see if Mary
Jo shuts the door
again.

Happy New Year

Jack



1025

THURSDAY, APRIL 29

HOURL				
8:00				
8:15				
8:30				
8:45				
9:00	Chris - Gym			
9:15				
9:30				
9:45				
10:00				
10:15	Kerry/Kimberly			
10:30				
10:45				
11:00	Eric Holder - Room 4111			
11:15	Annie			
11:30				
11:45				
12:00				
12:15				
12:30	Beth Dozoretz -			
12:45	Rachael			
1:00				
1:15				
1:30				
1:45				
2:00				
2:15				
2:30				
2:45				
3:00	Congressman Gerderson			
3:15	2304 Rayburn			
3:30	Nat			
3:45				
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4:15				
4:30				
4:45				
5:00				
5:15				
5:30				
5:45				
6:00				
6:15				
6:30	Tahira Justice Center Dinner			
6:45	Massoner mayflower hotel			
7:00				
NOTES				

EXHIBIT
112

1026

MEMORANDUM

October 6, 1999

TO: M Rich Team
FROM: Lewis Libby
RE: Negotiations with Fugitives

Attached are charts reflecting publicly reported cases involving negotiations between federal or state authorities and fugitives. These cases may prove helpful if we wish to argue that the USG should forego the SDNY "policy" of not negotiating with fugitives or that the invocation of the policy is itself a defensive tactic to avoid the real and (for the government) embarrassing issue: there was no false tax or energy reporting.

Most of these involve cases with some profile that appear in the press, so there are likely to be additional instances. However, as ours is a high profile case, this subset is an interesting one. In addition, as these are often based on press reporting, there may be some need for additional verification or details if we decide to pursue this line of argument.

125659.103 10/06/99 2:27 PM



Selected Reported Plea Bargains with Domestic and International Fugitives

Tab	Fugitive & Date	Was Plea Negotiated w/ Fugitive?	Agreement while a Fugitive?	Jurisdiction	Offense
	Claude Griffin - 1983	Yes. Case in which Griffin was a witness reports that "Griffin fled to Honduras and began negotiations which led to a plea bargain with the government." (<i>U.S. v. Nichols, 750 F.2d 1260 (5th Cir. 1983)</i>).	Yes. He was not indicted for his first two drug smuggling trips, but was indicted for two later trips and served six years.	Federal (I.a.)	Drug Smuggling
	Kathleen Soliah - 1989	Yes, plea was negotiated but not settled. She was captured in 1999, however "she attempted to negotiate a surrender in 1989 through her lawyer. But the negotiations failed because she requested complete immunity."	No. She was captured.	Federal (Cal.)	Conspiracy to commit murder (SLA).
	Robert S. Benedicto - 1990	Yes. He (a reported "crony" of Ferdinand Marcos) avoided arrest by fleeing to Hong Kong, Spain and then Venezuela. He gave up ownership of a bank with assets of \$150 million to the Philippine government and pled guilty to wire fraud in exchange for being dropped from the case.	Yes. Transferred bank ownership to the Manila government in exchange for the U.S. dropping racketeering and conspiracy charges. He remained a fugitive while this deal was struck.	Federal (Cal. and N.Y. (Manhattan U.S. District Court))	Indicted as co-conspirator for fraud to embezzlement; also racketeering charges against him.
	Nahum Vaskevitch - 1991 to 1994	Yes. He was indicted in 1991 for insider trading. His attorneys began negotiating with the SEC and the US Attorney's office in Manhattan. In 1992 he was given "safe passage" (temporary immunity) to return to New York and debrief the government. He was then allowed to return to Israel while his attorney negotiated a settlement with the SEC and a guilty plea with the US Attorney in Manhattan.	Yes. He pled guilty to one count of conspiracy to trade on insider information and he agreed to settle SEC civil charges by paying \$2.8 million. He was sentenced to three months in prison (previously eligible for up to five years).	Federal (U.S. Attorney in Manhattan (S.D.N.Y. and S.E.C.))	Insider Trading
	Katherine Ann Power - 1993	Yes. She had a lawyer negotiate her plea while she was a fugitive. Her attorney stated she negotiated the plea with both the federal and state government. Another article states she "surrendered as part of a plea bargain with Massachusetts authorities." Still another article states that "[a]fter a year of negotiations, Power surrendered... and pleaded guilty to a reduced charge of manslaughter.	Yes. Pled guilty to manslaughter and armed robbery. No additional time for federal crime, served concurrent with state sentence.	Federal (Mass.) and Mass. (state court)	Bank robbery involving murder of police officer.

Possible or Questionable Instances of Government Plea Negotiation with Fugitives

Tab	Fugitive & Date	Was Plea Negotiated w/ Fugitive?	Agreement?	Jurisdiction	Offense
	Eldridge Cleaver - 1977	Some articles suggest that he returned to the U.S. under a plea bargain arrangement. ("[R]eturned to the United States in 1977 to surrender to the FBI under a deal." or "returned to the United States in 1977 under a plea-bargain agreement that spared him prison time..."). Other articles imply that he returned to the U.S. first and then surrendered and pled guilty ("came back to America in 1975 and worked out a deal, pleaded guilty to assault and was sentenced to community service.")	Pled guilty to an assault charge and attempted murder charges were dropped.	Oakland, CA (state court)	Assault, attempted murder.
	Bernardine Dohrn - 1980 (fugitive for 11 years)	Yes, but inconclusive as to when negotiations occurred. <i>Fortune</i> magazine indicated in 1995 that she gave herself up "after negotiating a deal without prison." Other articles indicate that Dohrn turned herself in after some charges were dropped (because of illegal electronic surveillance), and she initially pled not guilty but changed her plea after reaching a plea bargain.	Yes, 3 years probation	Chicago (state court)	Participation in "days of rage" street demonstration. On FBI Most Wanted List.
	Charles Yah Lin Trie - 1998	Yes, surrendered after negotiations took place. But he pled guilty after surrender.	Yes. He reached a plea agreement with the government after the first week of his trial. All charges were dropped in return for his guilty plea on the false statements charge.	DOJ	Fifteen count indictment obstructing justice, conspiring to defraud government, wire fraud, three counts of aiding and abetting the filing of false statements to the FEC.
	Martin Frankel - 1999	There were negotiations, but it is unclear what they were about. Government has denied discussing any "deals."	Arrested and awaiting extradition from Germany.	FBI/U.S., (U.S. Attorney in Bridgeport CT)	Wire fraud & money laundering.

1029

CONFIDENTIAL

CONFIDENTIAL
BACKGROUND
MEMORANDUM

M. Rich Files

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.

Handwritten note:
 x N.I.
 fact
 they were
 advised

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 and the GDI, 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 Quric (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 Rische, 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, Rische, 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 subsided.

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, GOF 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 GOF 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.

1037

WHILE YOU WERE OUT

TO Jack DATE 1/2
TIME 3:40 AM PM

M. NICK GESS
DEPT _____
OF _____
PHONE _____
AREA CODE _____ NUMBER _____ EXTENSION _____
FAX _____ PAGER _____
MOBILE _____ E-MAIL _____

TELEPHONED <input type="checkbox"/>	CAME TO SEE YOU <input type="checkbox"/>
PLEASE CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>
WILL CALL AGAIN <input type="checkbox"/>	URGENT <input type="checkbox"/>
RETURNED YOUR CALL <input type="checkbox"/>	WILL FAX YOU <input type="checkbox"/>

MESSAGE
calling at Holder's
suggestion
jo

AM
OPERATOR



CARBONLESS

23-021 200 SETS
23-421 400 SETS

EXHIBIT
115

WHILE YOU WERE OUT

TO Jack DATE 11/16

TIME 5:24 AM PM

M Eric Holder

OF _____

PHONE _____
AREA CODE NUMBER EXTENSION

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

TELEPHONED <input type="checkbox"/>	CAME TO SEE YOU <input type="checkbox"/>
PLEASE CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>
WILL CALL AGAIN <input type="checkbox"/>	URGENT <input type="checkbox"/>
RETURNED YOUR CALL <input type="checkbox"/>	WILL FAX YOU <input type="checkbox"/>

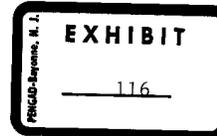
MESSAGE _____

AM
 OPERATOR



CARBONLESS

23-021 200 SETS
23-421 400 SETS



WHILE YOU WERE OUT

TO: Jack DATE: 11/16

TIME: 5:24 AM PM

M: Eric Holder

OF: _____

PHONE: _____
AREA CODE NUMBER EXTENSION

FAX: _____ PAGER:

MOBILE: _____ E-MAIL: _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL DO YOU	<input type="checkbox"/>

MESSAGE: _____

AM
OPERATOR



CARBONLESS

23-021 200 SETS
23-421 400 SETS

EXHIBIT

117

FRIGAD-Expos, N. J.

WHILE YOU WERE OUT

TO Jack DATE 12/5
TIME 11:25 AM PM

M Denise Rich
OF _____
PHONE _____ AREA CODE _____ NUMBER _____ EXTENSION _____
FAX _____ PAGER _____
MOBILE _____ EMAIL _____

TELEPHONED	<input type="checkbox"/>	WANT TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE
Urgent fax/response
my Rich pardon thr
to Clinton

APM
OPERATOR

 CARBONLESS 23-021 200 SETS
23-421 400 SETS

EXHIBIT
118

1041

WHILE YOU WERE OUT

TO: JACK DATE: 12/8

TIME: 6:29 AM PM

M: DEPT Lindsay

OF: [REDACTED]

PHONE: [REDACTED]

FAX: _____ PAGER: _____

MOBILE: _____ E-MAIL: _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE _____

AW
OPERATOR

 CARBONLESS 23-021 200 SETS
23-421 400 SETS

EXHIBIT
119

Date 12-18-99 10:30

To Jack

WHILE YOU WERE OUT

M Cris Holder

Of _____

Phone _____

Area Code		Phone Number	
Telephoned	Returned Call	Left Package	
Please Call	Was In	Please See Me	
Will Call Again	Will Return	Important	

Message

Signed ME

AVERY FORM NO. 50-736 PRINTED IN USA



Date 12-13 Hour 8:10
To Jane
WHILE YOU WERE OUT
M Bernie Wolfman
Of _____
Phone _____
Area Code _____ Phone Number _____

Telephoned	Returned Call	Left Package
Please Call	Was In	Please See Me
Will Call Again	Will Return	Important

Message
1/2 hr late
because of
plane

Signed MZ

EVERY FORM NO. 50-736 PRINTED IN USA



1045

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)
[REDACTED] (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



100

01/22/01 MON 17:55 FAX

1046

Bernard J. Deila

Washington, D.C.

(Home) (Office)

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.

Bernard J. Delia

Page 2

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

Bernard J. Delia

Page 3

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

01/22/01 MON 17:56 FAX

000

1049

December 13, 2000

TO: Eric Holder
FROM: Nick Gess *N.G.*
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

005

01/22/01 MON 17:56 FAX

1050

NICHOLAS MICHAEL GESS

WASHINGTON, DC

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).

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

1052

FRIDAY, OCTOBER 22

HOUR			
8:00			
8:15			
8:30			
8:45			
9:00	Federico Pettigoni - Hay Adams		
9:15			
9:30			
9:45			
10:00			
10:15			
10:30			
10:45	Kitty Behan		
11:00			
11:15			
11:30			
11:45			
12:00	Eric Holder - 701		
12:15	(Reservation under Holder)		
12:30	Anne		
12:45			
1:00			
1:15			
1:30			
1:45			
2:00			
2:15			
2:30			
2:45			
3:00			
3:15			
3:30			
3:45			
4:00			
4:15			
4:30			
4:45			
5:00	with Party for Cheryl		
5:15			
5:30			
5:45			
6:00			
6:15			
6:30			
6:45			
7:00			
NOTES			



1053

THURSDAY, DECEMBER 9

HOUR				
8:00				
8:15				
8:30				
8:45				
9:00	Marsha Nabitan			
9:15	Park Hyatt			
9:30				
9:45				
10:00				
10:15				
10:30				
10:45				
11:00				
11:15				
11:30				
11:45				
12:00	Ellen Wilk	edellis (sub) Suss + elant		
12:15	Lin Cohen	-701		
12:30	Cathy Anderson			
12:45				
1:00				
1:15				
1:30				
1:45				
2:00	Dickson 240 w/ Bruce			
2:15	Melinda Kasper			
2:30				
2:45				
3:00				
3:15				
3:30				
3:45	Call Eric Holder			
4:00				
4:15				
4:30	Laura Appen			
4:45	Strawls			
5:00				
5:15				
5:30				
5:45				
6:00	Burboz Griffith + Rogers - Christmas Open House			
6:15	1375 PA Ave			
6:30				
6:45				
7:00				
NOTES				

EXHIBIT
125

1054

10/05/99 17:50 FAX [REDACTED] R.F. FINK +--+ BEHAN DIRECT 001/009

Facsimile Transmission Sheet

PIPER & MARBURY L.L.P. 1251 AVENUE OF THE AMERICAS NEW YORK, NEW YORK 10020-1104 [REDACTED] r.fink@	
To:	Kathleen Behan, Esq.
Company:	Arnold & Berle
Phone:	
Fax:	
From:	Robert F. Fink
Phone:	[REDACTED]
Fax:	
Date:	Oct 5, 1999
Number of Pages (including fax sheet):	9

Original will / will not follow.

The information contained in this facsimile message is confidential and, if addressed to our client or certain counsel, is subject to the attorney-client or work product privilege, and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the U. S. Postal Service.

For internal use only:

If confirmation has not been received by 7:30 p.m., Support Services should:

- Send my facsimile to its recipient by courier for next day delivery, and notify me. (Provide address and details on reverse of this form.)
- Attempt to transmit fax until _____ (please indicate time), if transmission not confirmed, please notify me.
- Continue faxing until 8:00 p.m. If transmission not confirmed, discontinue and notify me.

Signature _____

Comments:

Please see attached,

Newy1:110028:1422/99
1-16

- 1 -



10/05/99 TUE 17:50 ITX/RX NO 7277

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 Korach¹
 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 donor to artistic and cultural institutions in Israel. A partial list of his beneficiaries: the Nissan Netiv Acting Studio; the Be'er Sheva Theater; the Beit Tzvi Acting School; the Geshet 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

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 \$4 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

"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".

1062

02/08/01 THU 10:50 FAX

02/08/01



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

FAX COVER SHEET

DATE: 2/8/01

TO: Jim Wilson, Mike Gray

PHONE NO. _____

FAX NO. [REDACTED]; [REDACTED]

FROM: FAITH BURTON

PHONE NO. [REDACTED]

FAX NO. [REDACTED]

NO. OF PAGES: _____ (EXCLUDING COVER)

COMMENTS: Eric Holder's phone logs for 1/19 & 1/22-

EXHIBIT
127

(Revised 1/22/71, 11:24AM)

COMPLETED	IN	OUT	NAME/OFFICE	PHONE	MESSAGE
	1/19 9:45		Beth Nolan	[REDACTED]	
Im	1/19 9:50	1/19 10:15	Duke Short, Chief of Staff Senator Thurman	[REDACTED]	Urgent! re Dir. Marshall
	1/19 9:50	1/19 10:25	David Ogden	[REDACTED]	Urgent! have him interrupted
	1/19 10:00	1/19 10:00	Shirah Neuman	[REDACTED]	
	1/19 10:00	1/19 10:00	Beth Nolan	[REDACTED]	
x	1/19 10:25	1/19	William T. Coleman, Jr. Melvony & Myers	[REDACTED]	
De x	1/19 11:15	1/19 10:29	Congrs. Eleanor Norton	[REDACTED]	
x		1/19 11:05	Sonnia Graham	[REDACTED]	
x		1/19 11:30	Nick Gess	[REDACTED]	
x		1/19 12:25	Beth Nolan	[REDACTED]	
x	1/19 12:44		Beth Nolan	[REDACTED]	
x		1/19 3:10	Beth Nolan	[REDACTED]	

cc = call log
 in = in word
 web = will call back
 cu = take off per FAX

(Revised 1/23/01, 9:11AM)

COMPLETED	IN	OUT	NAME/OFFICE	PHONE #	MESSAGE
	1/22 9:03	1/22 10:30	Dan Kofsky	[REDACTED]	
	1/22 10:15	1/22 10:45	Barbara Underwood	[REDACTED]	
	1/22 9:40		Mike McCabe		
lw		1/22 9:44	Rev. Eugene Rivers	[REDACTED] [REDACTED] (cellphone)	
x	1/22 11:07	1/22 4:40	Dick Quinn	[REDACTED]	re employment for [REDACTED]
	1/22 1:20		Tom Strickland, USA - Colorado	[REDACTED]	re pending a death penalty case
x	1/22 1:40 1/22 3:00		Jamie Gorelick	[REDACTED]	she's reachable after 12:30pm
	1/22 3:40		Judge Ray Fisher	[REDACTED]	he wanted to talk to you while you're at AG
	1/22 3:44		Jim Welch, FBI	[REDACTED]	
	1/22 3:12		Zach Carter	[REDACTED]	
x	1/22 5:32		Al Gonzalez, Counselor to the POTUS		
	1/22 5:35		Robert Raben		

ca = called again
 lw = left word rvc = return your call
 wh = with call back oia = overlooked by system iis = info only x = call completed
 ia = take off per DAG lvm = left voicemail message

...and the broad power to grant
Reprieves and Pardons for Offenses
against the United States...

Wolfgang Ronsbeck

My Reasons for the Pardons

By William Jefferson Clinton

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.

1069

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

2101 L Street NW • Washington, DC 20037-1526

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/igd
Enclosures

1177 Avenue of the Americas • 41st Floor • New York, New York 10036-2714

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<http://www.dsma.com>



DSM0005

1070

December 15, 2000
Page 2

bcc: G. Michael Green
Barry Wm. Levine

1071

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

2101 L Street NW • Washington, DC 20037-1526

Tel: [REDACTED] • Fax: [REDACTED]

Writer's Direct Dial: [REDACTED]

E-Mail Address: [REDACTED]

October 3, 2000

VIA COURIER

Samuel T. Morison, Esq.
Office of the Pardon Attorney
U.S. Department of Justice
500 First Street, N.W., Suite 400
Washington, DC 20530-0001

Re: Response to Letter-Dated September 6, 2000 Regarding James B. Coppinger's Pardon Petition

Dear Mr. Morison:

This letter responds to your letter dated September 6, 2000 in which you requested additional information concerning Mr. James B. Coppinger's application for a presidential pardon.

With respect to paragraph 6 of the application, you have asked that Mr. Coppinger attempt to recall Ms. Clark's date and place of birth, her last known telephone number and address, and the month in which they obtained a divorce in 1984. Mr. Coppinger has not had any contact with Ms. Clark for approximately eleven or twelve years and does not know where she currently resides, nor does he recall the address or telephone number where she resided when he last had contact with her. Moreover, while he does not know Ms. Clark's date of birth, Mr. Coppinger believes that she was born in Chattanooga, Tennessee and that she lived in Chattanooga for at least some period after their divorce in 1984. Finally, despite every effort to do so, Mr. Coppinger simply cannot recall the precise month of their divorce.

With respect to paragraph 9 of the application, you have asked Mr. Coppinger to specify his place of residence between September 1983 and February 1984. During that period, Mr. Coppinger resided at a half-way house in connection with his sentencing for the offense for which he is currently seeking a pardon. This half-way house was located in Chattanooga, Tennessee, and Mr. Coppinger believes that it was called Cadas.

You have also asked Mr. Coppinger to select three of the character affidavits which he would like considered as his primary character references. Mr. Coppinger would like Earl Scudder, Mel Croner, and Max Fuller to be considered his primary character references. Mr. Fuller's character affidavit and letter were submitted as a supplement to his application on July 27, 2000. Mr. Fuller's affidavit and letter were not included among the executed application materials that you supplied to us with your letter dated September 6. Thus, in the event that you did not receive these materials, we have enclosed another copy herein.

1177 Avenue of the Americas • 41st Floor • New York, New York 10036-2714

Tel: [REDACTED] • Fax: [REDACTED]

<http://www.dsmo.com>

1201024 v1 POP5011.DOC

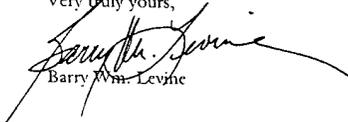
DSM0013

October 3, 2000
Page 2

Finally, regarding Mr. Coppinger's life after the completion of his sentence, he has focused his attention on being a devoted, attentive father and husband, and in building a thriving, well-respected business. As discussed in his pardon application, he has developed a very successful business which provides employment for about fifty-five employees. Mr. Coppinger's character references have testified that his outstanding character is illustrated by his devotion to his family and the way in which he treats his employees. In addition, Mr. Coppinger consistently ensures that his company, Transcommunications, supports many charitable organizations through numerous contributions each year. Indeed, between 1999 and the present, Transcommunications has made contributions totaling more than \$38,000. The company has contributed to great organizations such as the American Heart Association, March of Dimes, Muscular Dystrophy Association, and Special Olympics.

Please feel free to contact us or Mr. Coppinger directly if you need any additional information. We look forward to hearing from you with a decision on Mr. Coppinger's petition.

Very truly yours,



Barry Wm. Levine

BWL/jf
Enclosure

1073

DICKSTEIN SHAPIRO MORIN & OSINSKY LLP
2101 L Street NW • Washington, DC 20037-1526 • Tel [REDACTED] Fax [REDACTED]
Federal Tax ID [REDACTED]

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

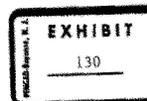
Timekeeper	Rate	Hours	Amount
M Green	350.00	9.00	3,150.00
P Kadzik	350.00	1.00	350.00
Totals		10.00	3,500.00

TOTAL FEES \$ 3,500.00

TOTAL FEES AND COSTS \$ 3,500.00

TOTAL DUE UPON RECEIPT \$ 3,500.00

1/5/0
29.



DSM0059

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 & Osinsky LLP
Acct [REDACTED] for Further credit to: Remitter Name. Please refer to invoice and matter number when remitting.
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1074

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				<u>\$ 3,500.00</u>

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

DSM0060

1075

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street NW • Washington, DC 20037-1526 • Tel [REDACTED] • Fax [REDACTED]
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	\$ <u>3,500.00</u>
TOTAL DUE UPON RECEIPT	\$ <u>3,500.00</u>

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DSM0061

1076

DICKSTEIN SHAPIRO MORIN & OSHIANSKY LLP
2101 L Street NW • Washington, DC 20037-1526 • Tel [REDACTED] • Fax [REDACTED]
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

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1077

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Invoice No. 2028257
M&P Securities
Page 2

Re: General
M0375.0000

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

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

DSM0063

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Invoice No. 2028257
M&P Securities
Page 3Re: General
M0375.0000

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	1.00
		REDACTED	
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

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Invoice No. 2028257
M&P Securities
Page 4Re: General
M0375.0000

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;	9.50
01/23/01	P Kadzik	REDACTED 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

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1080

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Re: General
M0375.0000

Invoice No. 2028257
M&P Securities
Page 7

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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1081

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street NW • Washington, DC 20037-1526 • Tel [REDACTED] • Fax [REDACTED]
Federal Tax ID [REDACTED]

REMITTANCE PAGE

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

Remit To:

Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street NW
Washington, DC 20037-1526
Attn. Accounts Receivable

FOR PROFESSIONAL SERVICES RENDERED through January 31, 2001:

OUTSTANDING BALANCE	\$ 3,500.00
PAYMENTS RECEIVED SINCE PREVIOUS STATEMENT	\$ <u>(3,500.00)</u>
BALANCE FORWARD	\$.00
TOTAL FEES	\$ 91,207.00
OTHER SERVICES AND EXPENSES	\$ <u>375.22</u>
TOTAL FEES AND COSTS	\$ <u>91,582.22</u>
TOTAL DUE UPON RECEIPT	\$ <u>91,582.22</u>

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Re: General
M0375.0000Invoice No. 20287
M&P Securi
Pag

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

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

Re: General
M0375.0000Invoice No. 2028257
M&P Securities
Page 6

Date	Attorney	Description	Hours
		JQ, KB, RFF, BR and AD; telephone conversation with LG; telephone conversation with RFF, JQ and AD; REDACTED telephone 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, J. 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

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

DSM0067



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& WOLFE LLP

1251 Avenue of the Americas
New York, NY 10020-1104
www.piperrudnick.com

PHONE: [REDACTED]
FAX: [REDACTED]

ATTORNEY COPY

FED ID: [REDACTED]

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

			<u>Hours</u>
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 s.	1.00
12/03/00	R. Fink	Work on n ; 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

REDACTED
REDACTED

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PMR&W 00021

1085



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MARBURY
RUDNICK
& WOLFE LLP*

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PHONE [REDACTED]
FAX [REDACTED]

FED ID [REDACTED]

Marc Rich
024052-000004
Invoice #1096528

Page 2

		conversations with Mr. M. Rich, Mr. A. Azulay, Ms. K. Behan; conference with Mr. M. Hepworth; telephone conversation with Mr. dePcciotti; telephone conversation with Mr. M. Green.	
12/04/00	M. Hepworth	Legal research; review draft documents; prepare draft correspondence; conference with Mr. Fink.	7.30
12/05/00	R. Fink	Travel to Washington, D.C.; meet with Ms. K. Behan and Ms. Behan and Mr. M. Green; telephone conversations with Mr. M. Rich; review letters; work on petition; telephone conversation with Mr. Green regarding	5.00
		REDACTED	
12/05/00	M. Hepworth	Legal research.	7.00
12/05/00	R. Mejia	Meeting with M. Hepworth and telephone conference with R. Fink regarding additional research on ; prepare and forward research documents to co-counsel in D.C.	1.80
		REDACTED	
12/06/00	R. Fink	Meet with Mr. A. Azulay; telephone conversation with Mr. M. Rich; telephone conversations with Mr. M. Green; telephone conversation with Ms. K. Behan; telephone conversation with Mr. J. Quinn;	5.30

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PMR&W 00022

1086



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FED ID [REDACTED]

Marc Rich
024052-000004
Invoice #1096528

Page 3

		facsimile to Ms. D. Rich; telephone conversation with Ms. Ilona Rich; work on petition.	
12/06/00	M. Hepworth	Review draft; legal research.	6.80
12/07/00	R. Fink	Work on letters and petition; telephone conversation with Mr. M. Rich.	5.20
12/07/00	M. Hepworth	Legal research; review draft documents; telephone conversation with Mr. Fink, Mr. Green, and Ms. Behan.	7.20
12/08/00	R. Fink	Meet with Mr. A. Azulay; review and revise letter; review and revise petition; telephone conversation with Mr. J. Quinn; conference with Ms. K. Behan, Mr. M. Green; travel to Washington, D.C.	6.00
12/08/00	M. Hepworth	Review draft documents; legal research; telephone conversation with Mr. Fink.	6.80
12/09/00	R. Fink	Work on petition and memorandum; telephone conversation with Mr. M. Hepworth; telephone conversation with Mr. M. Green.	2.80
12/09/00	M. Hepworth	Review draft; telephone conversation with Mr. Fink.	1.50

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PMR&W 00023



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Marc Rich
c/o Mr. Robert F. Fink
Piper Marbury Rudnick & Wolfe L.L.P.
1251 Avenue of the Americas
New York, NY 10020

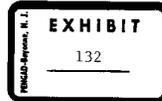
January 26, 2001
Invoice #1104869

For professional services rendered through December 31, 2000

1980 Taxes

			<u>Hours</u>
12/18/00	R. Fink	Emails with Mr. A. Azulay; telephone conversation with Mr. J. Quinn; telephone conversation with Ms. K. Behan; telephone conversation with Mr. M. Green; telephone conversations with Mr. G. Kekst and Mr. L. Urgenson; review files.	2.00
12/19/00	R. Fink	Emails with Mr. J. Quinn, Ms. K. Behan, Mr. M. Green, Mr. A. Azulay; telephone conversation with Ms. Denise Rich; draft letter for Ms. D. Rich and Mr. Quinn; review	3.00
12/20/00	R. Fink	Telephone conversation with Mr. M. Rich; telephone conversation with Ms. K. Behan.	.30
12/22/00	R. Fink	Telephone conversations with Mr. A. Azulay; telephone conversation with Mr. M. Rich; telephone conversation with Mr. J. Quinn; emails with Mr. Quinn and Ms. K. Behan; review materials from Mr. M. Rich; telephone conversation with Mr. M. Green.	1.80

REDACTED



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Marc Rich
024052-000004
Invoice #*****

Page 3

01/11/01	R. Fink	Email to Mr. M. Rich and Mr. A. Azulay; telephone conversation with Mr. J. Quinn; telephone conversations with Mr. Rich; telephone conversation with Mr. Azulay.	1.20
01/12/01	R. Fink	Long telephone conversation with Mr. A. Azulay; review pardon materials and effort.	2.50
01/16/01	R. Fink	Emails; email to Mr. M. Rich; telephone conversation with Mr. Rich; telephone conversation with Mr. M. Green; telephone conversation with Ms. D. Rich; telephone conversation with Mr. G. Kekst.	1.20
01/17/01	R. Fink	Meet with Mr. A. Azulay; meet with Mr. M. Hepworth.	2.10
01/17/01	M. Hepworth	Conference with Mr. Fink; review correspondence.	.40
01/18/01	R. Fink	Telephone conversation and meet with Mr. A. Azulay; telephone conversations with Mr. J. Quinn, Ms. K. Behan, Mr. M. Green, Mr. P. Rogers; Mr. A. Deutsch, Mr. M. Rich and Mr. P. Green; telephone conversation with Mr. Quinn; telephone conversation with Mr. Azulay.	5.00



PMR&W 00047

Marc Rich
 024052-000004
 Invoice #*****

Page 4

01/19/01	R. Fink	Telephone conversation with Mr. A. Azulay; telephone conversation with Mr. J. Quinn; telephone conversation with Mr. M. Green; telephone conversation with Mr. M. Rich; work on letter; several telephone conversations.	5.00
01/19/01	M. Hepworth	Conference with Mr. Fink.	.60
01/20/01	R. Fink	Many telephone conferences with Mr. M. Rich, Mr. J. Quinn, Mr. M. Green, Ms. K. Behan, Mr. A. Azulay, Mr. P. Green.	7.00
Total Hours			60.30
Total Fees			\$21,050.50

T I M E K E E P E R S U M M A R Y

<u>TIMEKEEPER</u>	<u>TITLE</u>	<u>HOURS</u>	<u>RATE</u>	<u>FEE\$</u>
R. Fink	Partner	40.10	425.00	17,042.50
M. Hepworth	Of Counsel	1.00	360.00	360.00
D. Schechtman	Associate	19.20	190.00	3,648.00
TOTALS		60.30		21,050.50

PMR&W 00048

1090



robert.fink@ [REDACTED] on 12/26/2000 05:25:32 PM

To: jquinn@ [REDACTED]
cc: marc.rich@ [REDACTED] azulrich@ [REDACTED] gershon-kekst@ [REDACTED] Kathleen Behan@ [REDACTED] GreenM@ [REDACTED]

Subject: <No 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.

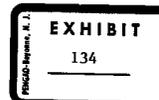
Thus, I think we (but mostly you and Avner) should discuss the possibility of a call from Denise and Abe (maybe together?), otherwise I would have you do what you are already doing, and volunteer our help if there are any questions raised by the WH lawyers or by the SDNY if it is contacted. To all, please feel free to comment. I am only giving my view with the goal of reaching a decision.

Bob

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Thank you.

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A0847

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Thursday, February 10, 2000 10:29 AM
To: 'azulrich@...'
Subject: RE: [REDACTED]

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.

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

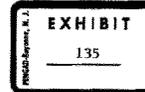
-----Original Message-----
From: Avner Azulay
Sent: Thursday, February 10, 2000 10:00 AM
To: Fink, Robert - NY
Subject: Re: [REDACTED]

I am not exactly surprised. I foresaw this answer from the moment I read JQ's fir. 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



1092

Fink, Robert - NY

From: Fink, Robert - NY
Sent: Thursday, February 17, 2000 12:03 PM
To: 'Marc Reich'
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

PMR&W 00701

1



1093

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 see 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
Sent: Saturday, March 18, 2000 2:11 AM
To: robert.fink
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 bureaucrat 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 NO1, with a well prepared script. IF it works we didn't lose the present opportunity - until now - which shall not repeat itself. If it doesn't - then probably Gershon's course of action shall be the one left option to start all over again. This is only for your info. Regards-AA

PMR&W 00729

1



1094

MEMORANDUM

October 6, 1999

TO: M Rich Team
FROM: Lewis Libby
RE: Negotiations with Fugitives

Attached are charts reflecting publicly reported cases involving negotiations between federal or state authorities and fugitives. These cases may prove helpful if we wish to argue that the USG should forego the SDNY "policy" of not negotiating with fugitives or that the invocation of the policy is itself a defensive tactic to avoid the real and (for the government) embarrassing issue: there was no false tax or energy reporting.

Most of these involve cases with some profile that appear in the press, so there are likely to be additional instances. However, as ours is a high profile case, this subset is an interesting one. In addition, as these are often based on press reporting, there may be some need for additional verification or details if we decide to pursue this line of argument.

125659.1.03 10/06/99 2:27 PM



Selected Reported Plea Bargains with Domestic and International Fugitives

Tab	Fugitive & Date	Was Plea Negotiated w/ Fugitive?	Agreement while a Fugitive?	Jurisdiction	Offense
	Claude Griffin - 1983	Yes. Case in which Griffin was a witness reports that "Griffin fled to Honduras and began negotiations which led to a plea bargain with the government." (<i>U.S. v. Nichols, 750 F.2d 1260 (5th Cir. 1985)</i>).	Yes. He was not indicted for his first two drug smuggling trips, but was indicted for two later trips and served six years.	Federal (La.)	Drug Smuggling
	Kathleen Soliah - 1989	Yes, plea was negotiated but not settled. She was captured in 1999, however "she attempted to negotiate a surrender in 1989 through her lawyer. But the negotiations failed because she requested complete immunity."	No. She was captured.	Federal (Cal.)	Conspiracy to commit murder (SLA).
	Robert S. Benedicto - 1990	Yes. He (a reported "crony" of Ferdinand Marcos) avoided arrest by fleeing to Hong Kong, Spain and then Venezuela. He gave up ownership of a bank with assets of \$130 million to the Philippine government and pled guilty to wire fraud in exchange for being dropped from the case.	Yes. Transferred bank ownership to the Manila government in exchange for the U.S. dropping racketeering and conspiracy charges. He remained a fugitive while this deal was struck.	Federal (Cal. and N.Y. (Manhattan U.S. District Court))	Indicted as co-conspirator for fraud to embezzlement, also racketeering charges against him.
	Nahum Vaskevitch - 1991 to 1994	Yes. He was indicted in 1991 for insider trading. His attorneys began negotiating with the SEC and the US Attorney's office in Manhattan. In 1992 he was given "safe passage" (temporary immunity) to return to New York and debrief the government. He was then allowed to return to Israel while his attorney negotiated a settlement with the SEC and a guilty plea with the US Attorney in Manhattan.	Yes. He pled guilty to one count of conspiracy to trade on insider information and he agreed to settle SEC civil charges by paying \$2.8 million. He was sentenced to three months in prison (previously eligible for up to five years).	Federal (U.S. Attorney in Manhattan (S.D.N.Y.) and S.E.C.)	Insider Trading
	Katherine Ann Power - 1993	Yes. She had a lawyer negotiate her plea while she was a fugitive. Her attorney stated she negotiated the plea with both the federal and state government. Another article states she "surrendered as part of a plea bargain with Massachusetts authorities." Still another article states that "[a]fter a year of negotiations, Power surrendered . . . and pleaded guilty to a reduced charge of manslaughter.	Yes. Pled guilty to manslaughter and armed robbery. No additional time for federal crime, served concurrent with state sentence.	Federal (Mass.) and Mass. (state court)	Bank robbery involving murder of police officer.

Possible or Questionable Instances of Government Plea Negotiation with Fugitives

Tab	Fugitive & Date	Was Plea Negotiated w/ Fugitive?	Agreement?	Jurisdiction	Offense
	Eldridge Cleaver - 1977	Some articles suggest that he returned to the U.S. under a plea bargain arrangement. ("[R]eturned to the United States in 1977 to surrender to the FBI under a deal." or "Returned to the United States in 1977 under a plea-bargain agreement that spared him prison time..."). Other articles imply that he returned to the U.S. first and then surrendered and pled guilty ("came back to America in 1975 and worked out a deal, pleaded guilty to assault and was sentenced to community service.")	Pled guilty to an assault charge and attempted murder charges were dropped.	Oakland, CA (state court)	Assault, attempted murder.
	Bernardine Dohm - 1980 (fugitive for 11 years)	Yes, but inconclusive as to when negotiations occurred. <i>Fortune</i> magazine indicated in 1995 that she gave herself up "after negotiating a deal without prison." Other articles indicate that Dohm turned herself in after some charges were dropped (because of illegal electronic surveillance); and she initially pled not guilty but changed her plea after reaching a plea bargain.	Yes, 3 years probation	Chicago (state court)	Participation in "days of rage" street demonstration. On FBI Most Wanted List.
	Charles Yah Lin Trie - 1998	Yes, surrendered after negotiations took place. But he pled guilty after surrender.	Yes. He reached a plea agreement with the government after the first week of his trial. All charges were dropped in return for his guilty plea on the false statements charge.	DOJ	Fifteen count indictment: obstructing justice, conspiring to defraud government, wire fraud, three counts of aiding and abetting the filing of false statements to the FEC.
	Martin Frankel - 1999	There were negotiations, but it is unclear what they were about. Government has denied discussing any "deals."	Arrested and awaiting extradition from Germany.	FBI/U.S., (U.S. Attorney in Bridgeport CT)	Wire fraud & money laundering.

“My reference to the intransigence of the Southern District was with respect to their unwillingness to sit down and meet with the tax professors and review the case and try to come to a resolution of it, at any time in the last decade or so.”

Jack Quinn Testimony
February 8, 2001
Committee on Government Reform

“... I think that both sides in this thing contributed to this impasse. I think that the then novel use of RICO in a situation like this was a sledgehammer that resulted in their failure to return and in the guilty pleas that came from the companies.”

Jack Quinn Testimony
February 8, 2001
Committee on Government Reform

“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.”

Jack Quinn Testimony
February 8, 2001
Committee on Government Reform



1100

CONFIDENTIAL

NOT A REPACTION → [REDACTED]

REPACTIONS ← [REDACTED]

DENISE RICH 1088

DATE July 15, 88 1-482/210 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
432 FIFTH AVENUE
NEW YORK, NY 10018-2710
BRANCH 211

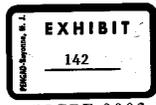
FOR [REDACTED] Denise Rich



↑
NOT A
REPACTION



← NOT A
REPACTION



WJCPF 0002

1101

CONFIDENTIAL

NOT A
REDACTION



NOT A
REDACTION



NUMBER OF THE
* For deposit only
Clinton Presidential
Foundation
By *[Signature]*
DO NOT SIGN/WRITE/STAMP BELOW THIS LINE
FORM 1041-100 (REV. 11-83)

REDACTION

DO NOT SIGN/WRITE/STAMP BELOW THIS LINE
FORM 1041-100 (REV. 11-83)

NOT A
REDACTION



WJCPF 0003

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
202-[Redacted]

REDACTION →



NOT A
↑
REDACTION

1103

CONFIDENTIAL

LAW OFFICES
WILLIAMS & CONNOLLY
725 TWELFTH STREET, N.W.
WASHINGTON, D. C. 20005

EDWARD RENEWETT WILLIAMS (1922-1998)
PAUL R. CONNOLLY (1922-1978)

NICOLE K. SELIGMAN
[REDACTED]
FAX [REDACTED]

July 22, 1998

VIA FEDERAL EXPRESS

Mr. James L. Rutherford
Cranford Johnson Robinson Woods
Capitol Center
303 West Capitol Avenue
Little Rock, Arkansas 72201-3593

PRIVILEGED & CONFIDENTIAL

Re: The William J. Clinton Presidential Foundation

Dear Skip:

Enclosed is the check I received from Beth Dozoretz.

[REDACTED]

Very truly yours,

Nicole

Nicole K. Seligman

NKS/mtp
Enclosure



WJCPF 0005

CONFIDENTIAL

100
DENISE RICH
1147
DATE AUG 7, 1977
BRANCH 21
100.00
William J. Clinton
for
one hundred thousand dollars
REPUBLIC NATIONAL BANK OF NEW YORK
45 FIFTH AVENUE
NEW YORK, NY 10018
DENISE RICH



WJCPF 0008

1105

CONFIDENTIAL

THE WILLIAM J. CLINTON PRESIDENTIAL FOUNDATION

May 23, 2000

Mrs. Beth Dozoretz
[Redacted]
Washington, DC 20016

Dear Beth:

Thank you again for your \$1,000,000 pledge to the William J. Clinton Presidential Foundation. We truly 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 still 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,

[Signature]
Skip Rutherford
President

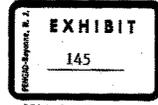
Enclosures

SR/pc

Someone from Mrs. Dozoretz's office phoned stating she intended to raise \$1 million, not give it personally.

Good to see you at Stephen's wedding.

Post Office Box 1104 / Little Rock, Arkansas 72203-1104



WJCPF 0025

1106

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

REPUBLIC NATIONAL BANK OF NEW YORK
PRIVATE BANKING AND INVESTMENTS DIVISION
482 NORTH AVENUE
NEW YORK, NY 10018-2708
BRANCH 211

FOR Donation Denise Rich



WJCPF 0031

1107

CONFIDENTIAL

THE WILLIAM J. CLINTON PRESIDENTIAL FOUNDATION

to Sharon 9/13

Skip,

Enclosed please find 100K from Denise Rich of New York as well as the donor information sheet you sent [redacted].

I'll keep them coming.

Bob

1147

DENISE RICH

DATE aug 7, 99 1-822210 BRANCH 211

William J Clinton 100,000

Foundation

one hundred thousand dollars

REPUBLIC NATIONAL BANK OF NEW YORK
PRIVATE BANKING AND INVESTMENT DIVISION
482 FIFTH AVENUE
NEW YORK, NY 10018-2108
BRANCH 211

Denise Rich

108

EXHIBIT
147

Post Office Box 1104 / Little Rock, Arkansas 72203-1104

WJCPF 0034

1108

CONFIDENTIAL

THE WILLIAM J. CLINTON PRESIDENTIAL FOUNDATION

DONOR INFORMATION SHEET

Name: Denise RICH
Street Address: [REDACTED]
City: NYC NY State: NY Zip: [REDACTED]
Phone: (Day) 112-[REDACTED] (Evening) [REDACTED]
Employer: self employed
Occupation: Songwriter

* * *

I certify that neither the President nor the First Lady directly solicited my contribution/pledge (pick one) of \$250.00 July 14, 99
(Date)

Signature: Denise Rich
Date: July 14, 99

Please return this form to the William J. Clinton Presidential Foundation,
P. O. Box 1104, Little Rock, AR 72203-1104. Thank You.



Post Office Box 1104 / Little Rock, Arkansas 72203-1104

CONFIDENTIAL

DER

Dear Beth
Thanks for
your help
Lots of love, Denise

Denise Rich
[REDACTED]
[REDACTED]
New York, NY [REDACTED]
2/2/ [REDACTED]

EXHIBIT
149

WJCPF 0037

ing federal fugitive, that defendant had provided him with shelter and false identification knowing that he was a state fugitive was admissible, since intent was at issue in the case, so that witness' testimony related to an issue other than defendant's character, and the probative value of the testimony outweighed its prejudicial effect. U.S. v. Burke, C.A.11 (Ga.) 1984, 738 F.2d 1225.

Even though agents and officers had probable cause to search apartment and were relying on statutory authority to arrest escaped convict, absent exigent circumstances justifying warrantless entry of defendant's apartment, seizure of escaped convict, who was found hiding in a closet, could not be used as evidence against

defendant in criminal action for harboring a fugitive. U. S. v. Adams, C.A.1 (Mass.) 1980, 621 F.2d 41.

9. Instructions

Court in prosecution for harboring and concealing, and conspiring to harbor and conceal, escaped federal prisoner did not err in instructing jury that words "harbor" and "conceal" refer to any physical act of providing assistance, including food, shelter and other assistance to aid prisoner in avoiding detection and apprehension. U. S. v. Kutas, C.A.9 (Or.) 1976, 542 F.2d 527, certiorari denied 97 S.Ct. 810, 429 U.S. 1073, 50 L.Ed.2d 790.

§ 1073. Flight to avoid prosecution or giving testimony

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.

(As amended Nov. 18, 1988: Pub.L. 100-690, Title VII, § 7020(b), 102 Stat. 4396; Sept. 13, 1994, Pub.L. 103-322, Title XXXIII, §§ 330004(19), 330016(1)(K), 108 Stat. 2142, 2147; Oct. 11, 1996, Pub.L. 104-294, Title VI, § 607(e), 110 Stat. 3511.)

HISTORICAL AND STATUTORY NOTES

1996 Amendments

Pub.L. 104-294, § 607(e), added provisions defining "State" for purposes of ci. (3).

1994 Amendments

Pub.L. 103-322, § 330004(19)(A), struck out "or which, in the case of New Jersey, is a high misdemeanor under the laws of said State," following "from which the fugitive flees."

Pub.L. 103-322, § 330004(19)(B), struck out "or which in the case of New Jersey, is a high misdemeanor under the laws of said State," following "under the laws of such place."

Pub.L. 103-322, § 330016(1)(K), substituted "fined under this title" for "fined not more than \$5,000".

1988 Amendment

Pub.L. 100-690 inserted "the Deputy Attorney General, the Associate Attorney General," after "the Attorney General".

Parental Kidnaping and Interstate or International Flight to Avoid Prosecution Under Applicable State Felony Statutes

Pub.L. 96-611, § 10, Dec. 28, 1980, 94 Stat. 3578, provided that:

"(a) In view of the findings of the Congress and the purposes of sections 6 to 10 of this Act set forth in section 302 (probably means section 7 of Pub.L. 96-611, set out as a note under section 1738A of Title 28, Judiciary and Judicial Procedure), the Congress hereby expressly declares its intent that section 1073 of title 18, United States Code (this section), apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable State felony statutes.

"(b) The Attorney General of the United States, not later than 120 days after the date of the enactment of this section [Dec. 28, 1980] (and once every 6 months during the 3-year period following such 120-day period), shall submit a report to the Congress with respect to steps taken to comply with the intent of the



18 § 1073

CRIMES

Pt. 1

Note 2

having been issued charging the offense the prosecution for which accused is alleged to have fled in interstate commerce. *Azzone v. U. S.*, D.C.Minn.1961, 190 F.Supp. 376.

This section making it a federal offense to move in interstate or foreign commerce with intent to avoid prosecution under state law is not unconstitutional, on ground that it nullifies and is inconsistent with provision of U.S.C.A.Const. Art. 4, § 2, cl. 2 to the effect that person who shall flee from justice and be found in another state, shall, on demand of executive authority of state from which he fled, be delivered up to be removed to state having jurisdiction of the crime, since this section does not relate to and is not based on such constitutional provision. *Lupino v. U. S.*, D.C.Minn.1960, 185 F.Supp. 363.

This section making it a federal offense to move in interstate or foreign commerce with intent to avoid prosecution under state law is not unconstitutional, on ground that it is so indefinite and uncertain as to be in violation of the due process clause of U.S.C.A.Const. Amend. 5; because one may be convicted of violating this section without any state process in form of indictment or warrant having been issued charging offense, prosecution for which accused is alleged to have fled in interstate commerce. *Id.*

Enactment of former section 408e of this title [now this section] making it a federal offense to pass from one state to another for purpose of escaping prosecution for crime was within power of Congress, since passage of a person from one state to another was "interstate commerce" within meaning of U.S.C.A.Const. Art. 1, § 8, cl. 3. *Simmons v. Zerbst*, D.C.Ga.1937, 18 F.Supp. 929.

Former section 408e of this title [now this section] making it a federal offense to pass from one state to another for purpose of escaping prosecution for crime was not unconstitutional, since only federal officers could be given authority to act over country as a whole, and withdrawal by Congress of facilities of interstate commerce from escaping criminals was an appropriate means to a proper end. *Id.*

Former section 408e of this title [now this section] was a proper exercise of regulation of "interstate commerce". *U. S. v. Miller*, D.C.Ky.1938, 17 F.Supp. 65.

Former section 408e of this title [now this section] did not violate U.S.C.A. Const. Amend. 10. *Id.*

Former section 408e of this title [now this section] was constitutional. *Hemans v. Mathews*, D.C.D.C.1946, 6 F.R.D. 3.

3. Construction

This section prohibiting traveling in interstate commerce to avoid giving testimony in certain criminal proceedings must be strictly construed. *Durbin v. U. S.*, 1954, 221 F.2d 529, 94 U.S.App.D.C. 414.

This section, providing for punishment of defendant who flees and travels in interstate commerce to avoid "prosecution" under laws of place from which he flees is a penal statute, and its language should be given a strict construction, the term "prosecution" in its strictest sense signifying proceedings instituted by appropriate process. *U. S. v. Rappaport*, D.C.Ill.1957, 156 F.Supp. 159.

4. Purpose

The general purpose of former section 408e of this title [now this section] was to assist in the enforcement of state laws, particularly by imposing penalties upon roving criminals who would be subject to extradition. *U. S. v. Brandenburg*, C.C.A.N.J.1944, 144 F.2d 656, 154 A.L.R. 1169. See, also, *Hemans v. U. S.*, C.C.A.Mich.1947, 163 F.2d 228, certiorari denied 68 S.Ct. 100, 332 U.S. 801, 93 L.Ed. 280, rehearing denied 68 S.Ct. 152, 332 U.S. 821, 93 L.Ed. 397.

Former section 408e of this title [now this section] in view of its legislative history, disclosed congressional intent to punish a fugitive who fled to escape prosecution for an actual crime as distinguished from an imaginary crime. *Id.*

Under this section providing that whoever travels in interstate commerce with intent to avoid prosecution under the laws of the place from which he flees shall be punished, Congress did not intend that there first should be some criminal action instituted by the state authorities from which the flight was made and it is only necessary that the crime be committed and that defendant travel in interstate commerce with intent to avoid prosecution. *U. S. v. Lupino*, D.C.Minn.1958, 171 F.Supp. 648.

The purpose of this section is neither to deny nor interfere with state extradition but merely to assist in the apprehension of fugitives. *State ex rel. Midlemas v. District Court of First Judicial Dist. in and for Lewis and Clark County*, 1951, 233 P.2d 1038, 125 Mont. 310.

1113

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 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@████████████████████]
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 lr. 1.5.00.doc

PMR&W 00153



1114



JQuinn@ [redacted] on 11/18/2000 11:39:32 AM

To: Kathleen Behan [redacted], robert.fink@ [redacted]
gershen-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



A0565

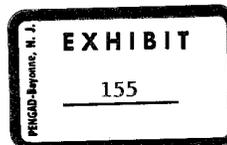
1116

JACK QUINN

FAX SA/PORUS TC
Gloria (for Beth)

(~~REDACTED~~)

TELL GLORIA TO
GET THIS TO ~~HER~~
BETH - ASAP



1118

WHILE YOU WERE OUT

TO: Jack DATE: 1/2

M: Beth Dozoretz TIME: 11:30 AM PM

OF _____

PHONE: _____
AREA CODE NUMBER EXTENSION

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

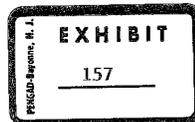
MESSAGE:
any news on the
matter?

OPERATOR: AFW



CARBONLESS

23-021 200 SETS
23-421 400 SETS



1119

WHILE YOU WERE OUT

TO: Jack DATE: 1/8

M: Beth Dozoretz TIME: 12:45 AM/PM

OF _____

PHONE: _____
AREA CODE _____ NUMBER _____ EXTENSION _____

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE _____

OPERATOR: AM

 CARBONLESS 23-021-200 SETS
23-421-400 SETS

EXHIBIT
158

1120

WHILE YOU WERE OUT

TO _____ DATE _____
TIME _____ AM PM
M. Betty Dozoretz
OF _____
PHONE _____ AREA CODE _____ NUMBER _____ EXTENSION _____
FAX _____ PAGER _____
MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE _____

OPERATOR _____



CARBONLESS

23-021 200 SETS
23-421 400 SETS



1121

WHILE YOU WERE OUT

TO: Jack DATE: 1/12

TIME: 4:30 AM PM

DEPT: Denise Rich

M: _____

OF: _____

PHONE: _____
AREA CODE NUMBER EXTENSION

FAX: _____ PAGER: _____

MOBILE: _____ E-MAIL: _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE

AM
OPERATOR



CARBONLESS

23-021 200 SETS
23-421 400 SETS



1122

WHILE YOU WERE OUT

TO Jack DATE 11/8
TIME 3:34 AM PM
M. Beth Dorevitz
OF _____
PHONE _____
FAX _____ PAGER _____
MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE _____

OPERATOR Alm

 CARBONLESS 23-021 200 SETS
23-421 400 SETS

REC'D - Register, K.I.
EXHIBIT
161

WHILE YOU WERE OUT

TO Jack DATE 1/19
 TIME 9:28 AM PM

M Beth Dozoretz

OF _____

PHONE _____
AREA CODE NUMBER EXTENSION

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

TELEPHONED <input type="checkbox"/>	CAME TO SEE YOU <input type="checkbox"/>
PLEASE CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>
WILL CALL AGAIN <input type="checkbox"/>	URGENT <input type="checkbox"/>
RETURNED YOUR CALL <input type="checkbox"/>	WILL FAX YOU <input type="checkbox"/>

MESSAGE
in place _____
reunited _____

if you need her _____ AM
 OPERATOR



CARBONLESS

23-021 200 SETS
23-421 400 SETS



1124

WHILE YOU WERE OUT

TO: Jack DATE: 1/23
TIME: 3:54 AM PM

M: Both

OF _____

PHONE: _____
AREA CODE NUMBER EXTENSION

FAX: _____ PAGER: _____

MOBILE: _____ E-MAIL: _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE
only @ # until 4:20

AM
OPERATOR

 23-021 200 SETS
23-421 400 SETS

EXHIBIT
163

1126

WHILE YOU WERE OUT

TO JACK DATE 1/23
TIME 1:35 AM PM

M Gerston
DEPT

OF _____

PHONE _____
AREA CODE NUMBER EXTENSION

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE _____

A/M
OPERATOR

23-021 200 SETS



1127

WHILE YOU WERE OUT

TO Jack DATE 1/14 AM PM
M Brian Doroletz TIME
OF _____
PHONE _____ AREA CODE _____ NUMBER _____ EXTENSION _____
FAX _____ PAGER _____
MOBILE _____ E-MAIL _____

TELEPHONED <input type="checkbox"/>	CAME TO SEE YOU <input type="checkbox"/>
PLEASE CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>
WILL CALL AGAIN <input type="checkbox"/>	URGENT <input type="checkbox"/>
RETURNED YOUR CALL <input type="checkbox"/>	WILL FAX YOU <input type="checkbox"/>

MESSAGE
Howard
Zubenstein feels that
unless

OPERATOR _____



CARBONLESS

23-921 200 SETS
23-421 400 SETS



WHILE YOU WERE OUT

TO Jack DATE 1/24
M Berston TIME 1:38 AM PM

OF _____

PHONE 1-212-461-1111
AREA CODE NUMBER EXTENSION

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE _____

afm
OPERATOR



CARBONLESS

23-021 200 SETS
23-421 400 SETS



WHILE YOU WERE OUT

TO Jack DATE 1/24
TIME 2:45 AM
DEPT Beth Dozoretz PM

M Beth Dozoretz
OF _____
PHONE _____
AREA CODE _____ NUMBER _____ EXTENSION _____
FAX _____ PAGER _____
MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE _____

AM
OPERATOR



23-021 200 SETS
23-421 400 SETS



1130

WHILE YOU WERE OUT

TO Jack DATE 11/25
TIME 9:16 AM PM

M Beth Duzovetz
OF _____
PHONE 414 555
AREA CODE NUMBER EXTENSION
FAX _____ PAGER _____
MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE
My times was
great today!

Alm
OPERATOR



CARBONLESS

23-021 200 SETS
23-421 400 SETS



1131

WHILE YOU WERE OUT

TO _____ DATE 1/26

M _____ DEPT Eric Holden TIME _____ AM PM

OF _____

PHONE _____ AREA CODE _____ NUMBER _____ EXTENSION _____

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

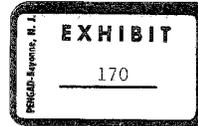
TELEPHONED <input type="checkbox"/>	CAME TO SEE YOU <input type="checkbox"/>
PLEASE CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>
WILL CALL AGAIN <input type="checkbox"/>	URGENT <input type="checkbox"/>
RETURNED YOUR CALL <input type="checkbox"/>	WILL FAX YOU <input type="checkbox"/>

MESSAGE _____

OPERATOR _____



23-021 200 SETS
23-421 400 SETS



WHILE YOU WERE OUT

TO: Jack DATE: 1/29

TIME: 5:26 AM PM

M: Both Dozoretz

OF _____

PHONE: _____
AREA CODE NUMBER EXTENSION

FAX: _____ PAGER: _____

MOBILE: _____ E-MAIL: _____

TELEPHONED <input type="checkbox"/>	CAME TO SEE YOU <input type="checkbox"/>
PLEASE CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>
WILL CALL AGAIN <input type="checkbox"/>	URGENT <input type="checkbox"/>
RETURNED YOUR CALL <input type="checkbox"/>	WILL FAX YOU <input type="checkbox"/>

MESSAGE: Till loves her
Wants good things
about her, she is getting
reputation all the sudden
higher in America

OPERATOR



1 SETS
1 SETS



WHILE YOU WERE OUT

TO Jack DATE 11/31
 TIME 9:49 AM PM

M. Batvi Dobozovetz
 OF _____
 PHONE _____
AREA CODE NUMBER EXTENSION
 FAX _____ PAGER _____
 MOBILE _____ E-MAIL _____

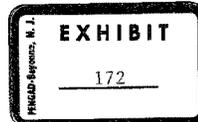
TELEPHONED <input type="checkbox"/>	CALL TO SEE YOU <input type="checkbox"/>
PLEASE CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>
WILL CALL AGAIN <input type="checkbox"/>	URGENT <input type="checkbox"/>
RETURNED YOUR CALL <input type="checkbox"/>	WILL FAX YOU <input type="checkbox"/>

MESSAGE
hearing lots of good
things about you
*especially hearing that
you are brilliant

OPAL



23-071 200 SETS
23-421 400 SETS



WHILE YOU WERE OUT

TO Jack DATE 2/1

TIME 12:59 AM PM

M Beth Dozoretz

OF _____

PHONE _____
AREA CODE NUMBER EXTENSION

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

TELEPHONED <input type="checkbox"/>	WANT TO SEE YOU <input type="checkbox"/>
PLEASE CALL <input type="checkbox"/>	WANTS TO SEE YOU <input type="checkbox"/>
WILL CALL AGAIN <input type="checkbox"/>	URGENT <input type="checkbox"/>
RETURNED YOUR CALL <input type="checkbox"/>	WILL FAX YOU <input type="checkbox"/>

MESSAGE just had
important conversation
she would like to share
with you

[Signature]
 RATOR



21 200 SETS
21 400 SETS



WHILE YOU WERE OUT

TO Jack DATE 8/11

M Beth Dozoretz TIME 5 AM PM

OF _____

PHONE _____ AREA CODE _____ NUMBER _____ EXTENSION _____

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CALL TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL ANSWER	<input type="checkbox"/>

MESSAGE

"I need Jack honey
It's Beth"

OPERATOR [Signature]

CARBONLESS 23-021 200 SETS
23-421 400 SETS

EXHIBIT
174

WHILE YOU WERE OUT

TO Jack DATE

M Danise Rich TIME AM PM

OF _____

PHONE _____
AREA CODE NUMBER EXTENSION

FAX _____ PAGER _____

MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CAME TO SEE YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL FAX YOU	<input type="checkbox"/>

MESSAGE _____

OPERATOR _____

 CARBONLESS 23-021 200 SETS
23-421 400 SETS

PHILAD. BYRONIA, N. J.
EXHIBIT
175

1137

WHILE YOU WERE OUT

TO Sack DATE 15
TIME 9:45 AM PM
M Beth Dozoretz
OF [REDACTED]
PHONE _____ AREA CODE _____ NUMBER _____ EXTENSION _____
FAX _____ PAGER _____
MOBILE _____ E-MAIL _____

TELEPHONED	<input type="checkbox"/>	CALL TO YOU	<input type="checkbox"/>
PLEASE CALL	<input type="checkbox"/>	WANTS TO SEE YOU	<input type="checkbox"/>
WILL CALL AGAIN	<input type="checkbox"/>	URGENT	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	WILL CALL YOU	<input type="checkbox"/>

MESSAGE _____

OPERATOR [Signature]

 CARBONLESS 23-06 200 SETS
23-421 400 SETS

EXHIBIT
176

1138

Marla Zometsky

From: Maria Zometsky
Sent: Wednesday, January 10, 2001 12:32 PM
To: Jack Quinn
Subject: RE: Potus call

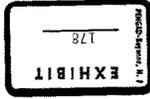
I just spoke to her. She will call me back with a time. I said I did not know the exact subject. Do you want me to tell her anything the next time she calls?

-----Original Message-----
From: Jack Quinn
Sent: Wednesday, January 10, 2001 12:30 PM
To: Marla Zometsky
Subject: Potus call

Pls call betty currie and ask her if I can possibly arrange a time to call the president for no more than 5 minutes. Anytime before next monday shd be fine. Thx

Sent from my BlackBerry Wireless Handheld (www.BlackBerry.net)





DSM&O PRIVILEGE LOG

DATE TIME	DOCUMENT TYPE	AUTHOR(S)	RECIPIENT(S)	CC(S)	DESCRIPTION	PRIVILEGE CLAIM
12/3/00 7:10 p.m.	e-mail	R. Fink	K. Behan	M. Rich, G. M. Green	communication regarding pardon petition	ac, wp
12/5/00 10:30 p.m.	e-mail	G. M. Green	K. Behan, R. Fink		communication regarding pardon petition	ac, wp
12/06/00 12:48 p.m.	e-mail	G. M. Green	K. Behan	R. Fink	communication regarding pardon petition	ac, wp
12/6/00 1:06 p.m.	e-mail	R. Fink/R. Mucciulli	G. M. Green		communication regarding pardon petition	wp
12/6/00 1:05 p.m.	e-mail	G. M. Green	R. Fink/R. Mucciulli		communication regarding pardon petition	wp
12/6/00 1:12 p.m.	e-mail	R. Fink/R. Mucciulli	G. M. Green		communication regarding pardon petition	wp
12/6/00 2:15 p.m.	e-mail	G. M. Green	K. Behan	R. Fink	communication regarding pardon petition	ac, wp
12/6/00 2:34 p.m.	e-mail	R. Fink	G. M. Green		communication regarding pardon petition	wp
12/6/00 2:37 p.m.	e-mail	K. Behan	G. M. Green	R. Fink	communication regarding pardon petition	wp
12/6/00 6:05 p.m.	e-mail	R. Fink	J. Quinn, K. Behan, G. M. Green	M. Hepworth	communication regarding pardon petition	wp
12/6/00 6:55 p.m.	e-mail	R. Fink	G. M. Green		communication regarding pardon petition	wp

DATE TIME	DOCUMENT		AUTHOR(S)	RECIPIENT(S)	CC(S):	DESCRIPTION	PRIVILEGE CLAIM
	TYPE						
12/6/00 6:38 p.m.	e-mail		R. Fink	G. M. Green		communication regarding pardon petition	wp
12/6/00 7:17 p.m.	e-mail		K. Behan	R. Fink	J. Quinn, G. M. Green, Hepworth, M.	communication regarding pardon petition	wp
12/6/00 7:22 p.m.	e-mail		K. Behan	R. Fink	J. Quinn, G. M. Green, M. Hepworth, C. Man	communication regarding pardon petition	ac, wp
12/6/00	facsimile		R. Fink	G. M. Green		communication regarding pardon petition	wp
12/8/00 9:23 am	e-mail		G. M. Green	K. Behan	R. Fink	communication regarding pardon petition	ac, wp
12/26/00 12:19 p.m.	e-mail		R. Fink	J. Quinn	G. M. Green	communication regarding pardon petition	ac, wp
12/26/00 3:04 p.m.	e-mail		J. Quinn	R. Fink	G. M. Green	communication regarding pardon petition	ac, wp
1/2/01 6:07 p.m.	e-mail		R. Fink	J. Quinn	G. M. Green	communication regarding pardon petition	wp
1/5/01 1:27 p.m.	e-mail		R. Fink	J. Quinn, K. Behan	G. M. Green	communication regarding pardon petition	ac, wp
1/5/01	facsimile		G. M. Green	J. Quinn		communication regarding pardon petition	wp
1/5/01 6:44 p.m.	e-mail		G. M. Green	P. Kadzik		communication regarding pardon petition	wp
1/18/01 2:18 p.m.	e-mail		R. Micciulli	K. Behan, G. M. Green, R. Fink		communication regarding pardon petition	ac, wp

DATE TIME	DOCUMENT TYPE	AUTHOR(S)	RECIPIENT(S)	CC(S):	DESCRIPTION	PRIVILEGE CLAIM
1/18/01 3:23 p.m.	e-mail	D. Brown	G. M. Green, R. Fink		communication regarding pardon petition	wp
1/18/01 3:45 p.m.	e-mail	R. Fink	K. Behan, G. M. Green		communication regarding pardon petition	wp
1/18/01 4:13 p.m.	e-mail	K. Behan	R. Fink	G. M. Green	communication regarding pardon petition	wp
1/18/01 4:41 p.m.	e-mail	D. Brown	A. Moore	K. Behan, "kwnn" (Quinn's aol address), G. M. Green, R. Fink	communication regarding pardon petition	wp
1/18/01 5:03 p.m.	e-mail	G. M. Green	P. Kadzik		communication regarding pardon petition	wp
1/18/01 5:04 p.m.	e-mail	G. M. Green	P. Kadzik		communication regarding pardon petition	wp
1/18/01 5:14 p.m.	e-mail	A. Moore	K. Behan, "kwnn" (J. Quinn), G. M. Green, R. Fink	D. Brown	communication regarding pardon petition	wp
1/18/01	facsimile	G. M. Green	R. Fink, K. Behan, P. Rodgers		communication regarding pardon petition	wp
1/29/01	facsimile	R. Fink	G. M. Green		communication regarding pardon petition	ac
1/29/01	letter	G. M. Green	Roger C. Adams	J. Quinn, K. Behan, R. Fink	communication regarding pardon	wp

DATE TIME	DOCUMENT TYPE	AUTHOR(S)	RECIPIENT(S)	CC(S):	DESCRIPTION	PRIVILEGE CLAIM
DOCUMENTS PRODUCED IN REDACTED FORM						
12/11/01 11:23 a.m.	e-mail	G. M. Green	P. Kadzik		communication regarding pardon petition	wp
1/3/01 5:51 p.m.	e-mail	R. Fink	J. Quinn	G. M. Green	communication regarding pardon petition	wp
1/5/01 6:02 p.m.	e-mail	A. Moore	R. Fink	K. Behan	communication regarding pardon petition	wp
1/22/01 10:44 a.m.	e-mail	G. M. Green	P. Kadzik		communication regarding pardon	wp



MARC RICH - PRIVILEGE LOG - AMENDED as of 2/07/01

BATES NO.	DATE TIME	DOCUMENT TYPE	AUTHOR	RECIPIENT	CC:	DESCRIPTION	PRIVILEGE CLAIM
PMR&W 0439	12/06/00 10:58 AM	E-mail	Robert Fink	Jack Quinn	Rosemary Micciulli (Mr. Fink's secretary)	Comments regarding letter	Work Product
PMR&W 0440	12/18/00 6:10 PM	E-mail	Robert Fink	Rosemary Micciulli		Instructions regarding letter	Work Product
PMR&W 0441	12/18/00 11:20 AM	E-mail	Robert Fink	Jack Quinn		Comments regarding letter	Work Product
PMR&W 0442	12/19/00 11:11 AM	E-mail	Jack Quinn	Robert Fink		[Attached to 12/19/00 11:20 am] Comments regarding third-party contact with President; client statements	Work Product
PMR&W 0443	12/22/00 3:24 PM	E-mail	Robert Fink	Jack Quinn; Kitty Behan		Comments regarding third-party contact with President; client statements	Attorney-Client/Work Product
PMR&W 0444	12/26/00 12:19 PM	E-mail	Robert Fink	Jack Quinn	Mike Green	Comments regarding contacting third party; client statements	Attorney-Client/Work Product
PMR&W 0445	12/27/00 11:11 AM	E-mail	Robert Fink	Jack Quinn	Kitty Behan	Comments regarding contacting third party	Work Product
PMR&W 0446	12/28/00 10:18 AM	E-mail	Robert Fink	Marc Rich		Comments regarding contacting third party	Attorney-Client/Work Product
PMR&W 0447	12/28/00 10:49 AM	E-mail	Robert Fink	Jack Quinn		Comments regarding contacting third party	Work Product
PMR&W 0448	12/29/00 3:41 PM	E-mail	Robert Fink	Jack Quinn		Comments regarding contacting third party	Work Product
PMR&W 0449	12/28/00 6:46 PM	E-mail	Jack Quinn	Robert Fink		[Attached to 12/18/00 3:41 PM] Comments regarding contacting third party	Work Product
PMR&W 0450	12/06/00 3:37 PM	E-mail	Robert Fink	Jack Quinn		Comments regarding contacting third party	Work Product

BATES NO.	DATE TIME	DOCUMENT TYPE	AUTHOR	RECIPIENT	CC:	DESCRIPTION	PRIVILEGE CLAIM
PMR&W 00402	12/20/00 12:41 PM	E-mail	Jack Quinn	Robert Fink		[Attached to 12/20/00 2:37 PM] Comments regarding third-party contacts with President; comments regarding contact with DOJ	Work Product
PMR&W 00404	1/5/01 11:20 AM	E-mail	Robert Fink	Jack Quinn		Comments regarding third-party contacts with President	Work Product
PMR&W 00405	1/5/01 5:11 PM	E-mail	Robert Fink	Jack Quinn		Comments regarding third-party contact with President	Work Product
PMR&W 00162	1/10/01 11:20 AM	E-mail	Robert Fink	Jack Quinn		Comments regarding letter	Work Product
PMR&W 00165	1/16/01 11:17 AM	E-mail	Robert Fink	Marc Rich		Comments regarding strategy	Work Product
PMR&W 00405	1/18/01 3:45 PM	E-mail	Robert Fink	Kitty Beilan; Mike Green		Comments regarding draft of letter to President	Work Product
PMR&W 00405	1/18/01 3:23 PM	E-mail	Donna Brown	Mike Green		[attached to 1/18/01 3:45 PM] Comments regarding review of draft letter	Work Product
PMR&W 00405	1/19/01 6:08 PM	E-mail	Robert Fink	Jack Quinn		Comments regarding communication to President	Work Product
PMR&W 00407	1/21/00 11:21:00	Faxsimile	Robert Fink	Marc Rich		Letter regarding draft petition	Attorney-Client/Work Product
PMR&W 00410	1/23/00 00:41:0	Faxsimile	Robert Fink	Pincus Green		Fax regarding draft petition	Attorney-Client/Work Product
PMR&W 00415	1/23/00 00:41:5	Faxsimile	Robert Fink	Marc Rich/Claire Signer		Fax regarding draft petition	Attorney-Client/Work Product
PMR&W 00416	1/23/00 00:41:6	Faxsimile/Letter	Pincus Green	Robert Fink		Fax and letter regarding draft petition	Attorney-Client/Work Product
PMR&W 00422	1/25/00 00:42:2	Faxsimile	Robert Fink	Marc Rich; Pincus Green		Fax regarding draft petition	Attorney-Client/Work Product



PRIVILEGE LOG
JACK QUINN

No.	Date/Time	Document Type	Author/Sender	Addressees	Description/Topic	Privilege
1.	01/23/01 7:41am	Email	Marc Rich	Robert Fink and Jack Quinn	Contact information	Attorney-Client Communication
2.	01/23/01 6:40pm	Email	Jack Quinn	Marc Rich	Discussion Regarding Press Inquiry	Attorney-Client Communication
3.	01/23/01 3:56pm	Email	Marc Rich	Robert Fink and Jack Quinn	Discussion Regarding Press Inquiry	Attorney-Client Communication
4.	01/24/01 1:51pm	Email	Rosemary Micculli (Asst. to Robert Fink)	Jack Quinn	Discussion Regarding Press Inquiry	Work Product
5.	01/24/01 2:08pm	Email	Jack Quinn	Rosemary Micculli	Discussion Regarding Press Inquiry	Work Product
6.	01/24/01 8:53pm	Email	Jeff Connaughton	Jack Quinn	Legal Research/Strategy	Work Product
7.	01/24/01 9:59pm	Email	Jack Quinn	Jeff Connaughton	Legal Research/Strategy	Work Product
8.	01/26/01 9:24am	Email	Jack Quinn	Robert Fink	Discussing Representation	Work Product
9.	01/27/01 3:00pm	Email	Jack Quinn	Robert Fink and Mike Green	Discussing Case/Legal Strategy	Work Product
10.	02/03/00 2:53pm	Email	Jack Quinn	Robert Fink cc: Maria Zometsky (Asst. to Jack Quinn)	Discussing Status of Case and Third Party Communication/Legal Representation	Work Product
11.	02/23/00	Draft Memorandum	Jack Quinn and Kathleen Behan	Eric Holder	Defects in Indictment	Work Product

No.	Date/Time	Document Type	Author/Sender	Addressees	Description/Topic	Privilege
12.	02/25/00 11:06am	Email	Cathy Randall (Asst. to Jack Quinn)	Neal Katyal	Draft Points for Meeting with Third Party	Work Product
13.	02/25/00 2:01pm	Email	Jack Quinn	Robert Fink	Draft Points for Meeting with Third Party	Work Product
14.	02/25/00 2:02pm pm	Email	Robert Fink	Jack Quinn	Draft Points for Meeting with Third Party	Work Product
15.	03/01/00 10:41am	Email	Jack Quinn	Marc Rich	Regarding Status of Case	Attorney-Client Communication
16.	03/01/00 2:40pm	Email	Jack Quinn	Robert Fink	Regarding Third Party Contact	Work Product
17.	03/06/00 4:56 pm	Email	Jack Quinn	Marc Rich	Regarding Status of Case	Attorney-Client Communication
18.	03/06/00 5:24pm	Email	Jack Quinn	Marla Zornatsky (Asst. to Jack Quinn)	Draft Points for Meeting with Third Party (Attached Redline)	Work Product
19.	03/06/00 5:24pm	Email	Jack Quinn	Marla Zornatsky (Asst. to Jack Quinn)	Draft Points for Meeting with Third Party (Attached Revised)	Work Product
20.	02/25/00 1:52pm/ 5:40pm	Draft Document	Kathleen Behan	DOJ	Draft Points for Meeting	Work Product
21.	Undated	Indictment Chart with Handwritten Attorney Notes	Jack Quinn		Comments Regarding Case	Work Product
22.	Undated	Indictment Chart with Handwritten Attorney Notes	Jack Quinn		Comments Front and Back regarding Case	Work Product

No.	Date/Time	Document Type	Author/Sender	Addressees	Description/Topic	Privilege
23.	03/06/00 5:27pm	Email	Jack Quinn	Marla Zometsky	Indictment Chart	Work Product
24.	10/31/	Telephone Message	Robert Fink	Jack Quinn	Client Communication Legal Strategy	Attorney-Client Communication Work Product
25.	11/20/00	Draft Memorandum	Robert Fink		Marc Rich Case	Work Product
26.	12/19/00	Draft Letter	Jack Quinn	Bruce Lindsey	Regarding Pardon Application	Work Product
27.	12/19/00	Handwritten Notes/Draft Letter	Jack Quinn	Bruce Lindsey	Regarding Draft Letter to Bruce Lindsey Regarding Pardon Application	Work Product
28.	12/07/00	Draft of Transmittal Letter (Draft Pardon Application Attached)	Jack Quinn	President Clinton	Regarding Pardon Application	Work Product
29.	12/21/00	Facsimile Transmittal Sheet	Jack Quinn	Kitty Behan and Bob Fink	Regarding Third Party Contact	Work Product
30.	10/04/99	3-Page Memorandum	Kathleen Behan	Marc Rich Team	Legal Strategy/Third Party Contact	Work Product
31.	10/04/99	2-Page Memorandum	Kathleen Behan	Marc Rich Team	Legal Strategy/Third Party Contact	Work Product
32.	10/21/99	Facsimile with Memorandum Attached	Neal Katyal	Jack Quinn	Comments Regarding Case and Discussion with Third Party	Work Product
33.	10/21/99	Memorandum	Kathleen Behan	Marc Rich Team	Regarding Legal Strategy/Third Party Contact	Work Product
34.	Undated	Handwritten Notes	Jack Quinn	Kitty Behan	Legal Research	Work Product

No.	Date/Time	Document Type	Author/Sender	Addressees	Description/Topic	Privilege
35.	Undated	Facsimile Cover on Facsimile Cover	Jack Quinn	Marc Rich File	Regarding Legal Strategy and Third Party Contacts	Work Product
36.	08/31/99	Handwritten Notes	Jack Quinn	Marc Rich File	Regarding Legal Research	Work Product
37.	Undated	Handwritten Notes	Jack Quinn	Marc Rich File	Regarding Legal Research	Work Product
38.	Undated	Notes	Jack Quinn	Marc Rich File	Legal Research	Work Product
39.	02/01/01 11:41am	Email	Neal Katyal	April Moore (Asst. to Jack Quinn)	Regarding Document Production	Work Product
40.	02/01/01 11:48am	Email	April Moore	Marla Zometsky and Jack Quinn	Regarding Neal Katyal Message	Work Product
41.	01/30/01	Facsimile	Robert Fink	Marc Rich (cc: Jack Quinn)	Regarding Press Coverage	Attorney-Client Communication
42.	01/29/01	Facsimile	Robert Fink	Marc Rich, Pincus Green, (cc: Kathleen Behan and Jack Quinn)	Regarding Status of Case	Attorney-Client Communication
43.	01/16/01 12:10pm	Email	April Moore	Jack Quinn	Regarding Marc Rich Contact	Attorney-Client Communication
44.	01/16/01 11:41am	Email	April Moore	Jack Quinn	Regarding Marc Rich Contact	Attorney-Client Communication
45.	01/16/01 1:04pm	Email	Jack Quinn	April Moore	Regarding Marc Rich Contact	Attorney-Client Communication
46.	01/16/01 12:48pm	Email	April Moore	Jack Quinn	Regarding Call to Marc Rich	Attorney-Client Communication
47.	12/11/00 12:15pm	Email	April Moore	Jack Quinn	Regarding Meeting with Kifty Behan	Work Product
48.	01/05/01 2:25pm	Email	Robert Fink	April Moore	Comments on Letter to President	Work Product

No.	Date/Time	Document Type	Author/Sender	Addressees	Description/Topic	Privilege
49.	Undated	Handwritten Notes	Jack Quinn	File	Regarding Third Party Contacts	Work Product
50.	Undated	Phone Message	Robert Fink	Jack Quinn	Regarding Third Party Contacts/Legal Strategy	Work Product
51.	1/13/00	Phone Message	Neal Kaytal	Jack Quinn	Regarding Third Party Contacts	Work Product
52.	01/18/00	Phone Message	Neal Kaytal	Jack Quinn	Please Call	Work Product
53.	02/2/00	Phone Message	Robert Fink	Jack Quinn	Please Call	Work Product
54.	02/7/00	Phone Message	Robert Fink	Jack Quinn	Please Call	Work Product
55.	02/10/00	Phone Message	Neal Kaytal	Jack Quinn	Called	Work Product
56.	02/14/00	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
57.	02/15/00	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
58.	12/16/99	Phone Message	Neal Kaytal	Jack Quinn	Called	Work Product
59.	12/08/99	Phone Message	Robert Fink/Kathleen Behan	Jack Quinn	Called	Work Product
60.	12/14/00	Phone Message	Robert Fink	Jack Quinn	Regarding Third Party Contacts	Work Product
61.	12/18/00	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
62.	01/03/01	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
63.	01/04/01	Phone Message	Robert Fink	Jack Quinn	Legal Strategy	Work Product
64.	01/04/01	Phone Message	Kathleen Behan	Jack Quinn	Called	Work Product
65.	01/05/01	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
66.	01/08/01	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
67.	12/22/00	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
68.	12/22/00	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
69.	11/27/00	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
70.	11/29/00	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
71.	12/03/00	Phone Message	Neal Kaytal	Jack Quinn	Called	Work Product

No.	Date/Time	Document Type	Author/Sender	Addressees	Description/Topic	Privilege
72.	11/17/00	Phone Message	Robert Fink	Jack Quinn	Legal Strategy	Work Product
73.	10/30/00	Phone Message	Robert Fink	Jack Quinn	Question Regarding Client	Work Product
74.	10/30/00	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
75.	11/09/00	Phone Message	Kathleen Behan	Jack Quinn	Regarding Fink	Work Product
76.	02/16/00	Phone Message	Robert Fink	Jack Quinn	Called	Work Product
77.	02/16/00	Phone Message	Neal Kaytal	Jack Quinn	Regarding Third Party Contacts	Work Product
78.	12/15/99	Phone Message	Robert Fink	Jack Quinn	Regarding Third Party Contacts	Work Product
79.	12/16/99	Phone Message	Neal Katyal	Jack Quinn	Called	Work Product

BATES NO.	DATE TIME	DOCUMENT TYPE	AUTHOR	RECIPIENT	CC:	DESCRIPTION	PRIVILEGE CLAIM
PMR&W 01421	12/5/00	Facsimile	Robert Fink	Pincus Green		Fax regarding draft petition	Attorney-Client/ Work Product
PMR&W 01426	12/5/00	Facsimile	Robert F. Fink	Marc Rich, Pincus Green		Fax regarding draft petition	Attorney-Client/ Work Product
PMR&W 01432	12/5/00	Facsimile	Robert Fink	Marc Rich, Pincus Green		Fax regarding draft petition	Attorney-Client/ Work Product
PMR&W 01434	12/6/00	Facsimile	Robert Fink	Marc Rich, Pincus Green		Fax regarding draft petition	Attorney-Client/ Work Product
PMR&W 01435	12/12/00	Letter	Robert Fink	Pincus Green		Fax regarding draft petition	Attorney-Client/ Work Product
PMR&W 01437	12/12/00	Letter	Robert Fink	Marc Rich		Letter regarding petition	Attorney-Client/ Work Product
PMR&W 00007	12/13/00	Letter	Robert Fink	Marc Rich		Letter regarding petition	Attorney-Client/ Work Product
PMR&W 00021	12/8/2000	Invoice		Marc Rich		Description of legal services	Attorney-Client/ Work Product
PMR&W 00035	12/19/00	Invoice		Marc Rich		Description of legal services	Attorney-Client/ Work Product
PMR&W 00045	1/26/00	Invoice		Pincus Green		Description of legal services	Attorney-Client/ Work Product
PMR&W 00045	1/31/01	Invoice		Marc Rich		Description of legal services	Attorney-Client/ Work Product
PMR&W 00050	1/16/01	Invoice		Marc Rich		Description of legal services	Attorney-Client/ Work Product



PRIVILEGE LOG
 Arnold & Porter
 2/21/01

KEY

Behan: Kathleen A. Behan, Esq. (Arnold & Porter)
 Brown: Donna Brown, Legal Secretary to Kathleen A. Behan (Arnold & Porter)
 Fink: Robert Fink, Esq. (Piper Marbury Rudnick & Wolfe)
 Fischer: Carol M. Fischer, Esq. (Piper Marbury Rudnick & Wolfe)
 M. Green: G. Michael Green, Esq. (Dickstein Shapiro Morin & Oshinsky, LLP)
 Hepworth: Michael Hepworth, Esq. (Piper Marbury Rudnick & Wolfe)
 Katyal: Neal Katyal, Esq.
 Libby: Lewis I. Libby, Esq. (formerly of Dechert)
 Man: Christopher Man, Esq. (Arnold & Porter)
 Quinn: John M. "Jack" Quinn, Esq.
 M. Rich: Marc Rich
 Rodgers: Peter Rodgers, Esq. (Sutherland, Asbill & Brennan)
 Urgenson: Laurence Urgenson, Esq. (Kirkland & Ellis)
 Wicki: Dr. André Wicki, Esq. (Henrici, Wicki & Guggisberg)

NO.	DATE	DOCUMENT TYPE	AUTHOR/SENDER	ADDRESSEES	DESCRIPTION/TOPIC	PRIVILEGE
1.	Unknown	Notes	Libby	N/A	Legal Strategy re: Resolution of Indictment	Attorney Work Product
2.	3/12/99	Memo	Fischer	Fink	Legal Research re: Pardon Power	Attorney Work Product
3.	6/16/99	Email	Behan	Quinn (cc: Behan)	Legal Strategy re: Resolution of Indictment	Attorney Work Product
4.	7/15/99	Fax	Fink	M. Rich, Quinn, Behan, Wicki	Legal Strategy re: Resolution of Indictment	Attorney Work Product Attorney Client Communication
5.	7/19/99	Memo	Libby, M. Green	Fink, Urgenson	Legal Strategy re:	Attorney Work Product

NO.	DATE	DOCUMENT TYPE	AUTHOR/SENDER	ADDRESSEES	DESCRIPTION/TOPIC	PRIVILEGE
6.	8/13/99	Memo	Libby	Behan, Fink	Resolution of Indictment Legal Strategy re: Resolution of Indictment	Attorney Work Product
7.	8/27/99	Letter	Fink	Quinn, Behan (cc: M. Green, Libby, Urgenson)	Legal Strategy re: Resolution of Indictment	Attorney Work Product
8.	9/1/99	Notes	Fink	N/A	Legal Strategy re: Resolution of Indictment	Attorney Work Product
9.	9/13/99	Letter	Fink	Behan	Legal Strategy re: Resolution of Indictment	Attorney Work Product
10.	10/6/99	Memo	Libby	"M Rich Team"	Legal Research / Legal Strategy re: Resolution of Indictment	Attorney Work Product
11.	10/11/99	Letter	Fink	Behan	Legal Strategy re: Resolution of Indictment	Attorney Work Product
12.	10/21/99	Memo w/ marginalia	Behan	Marc Rich Team	Legal Strategy re: Resolution of Indictment	Attorney Work Product
13.	10/21/99	Memo	Behan	Marc Rich Team	Legal Strategy re: Resolution of Indictment	Attorney Work Product
14.	10/22/99	Memo	Katyal	Quinn	Legal Strategy re: Resolution of Indictment	Attorney Work Product
15.	11/10/99	Fax	Fink	Behan	Forwarding Fax to M. Green and Libby of File Memos re: Legal Strategy re: Resolution of Indictment	Attorney Work Product
16.	11/11/99	Fax	Fink	Quinn, Behan, M. Green, Libby, Urgenson	File Memo re: Legal Strategy on Resolution of Indictment	Attorney Work Product
17.	2/23/00	Fax	Fink	Behan, Quinn, Libby	Legal Strategy re: Resolution of Indictment	Attorney Work Product

NO.	DATE	DOCUMENT TYPE	AUTHOR/SENDER	ADDRESSEES	DESCRIPTION/TOPIC	PRIVILEGE
18.	2/24/00	Memo	Behan	Quinn	Draft memo to Eric Holder re: Resolution of Indictment	Attorney Work Product
19.	2/24/00	Memo w/ marginalia	Behan	Quinn	Draft memo to Eric Holder re: Resolution of Indictment	Attorney Work Product
20.	10/31/00	Email	Behan	Brown	Legal Research re: Pardon	Attorney Work Product
21.	11/28/00	Email	Fink	Behan (cc: Quinn)	Legal Strategy re: Pardon	Attorney Work Product
22.	12/1/00	Email	Behan	Man	Legal Strategy re: Pardon Application	Attorney Work Product
23.	12/3/00	Email	Fink	Rich (cc: Behan)	Legal Strategy re: Pardon Application	Attorney Client Communication Attorney Work Product
24.	12/4/00	Email	Behan	Fink	Legal Strategy re: Pardon Application	Attorney Work Product
25.	12/4/00	Email	Fink	Behan (cc: Man, Hepworth)	Legal Strategy re: Pardon Application	Attorney Work Product
26.	12/4/00	Email	Behan	Fink	Legal Strategy re: Pardon Application	Attorney Work Product
27.	12/4/00	Email	Fink	Behan	Legal Strategy re: Pardon Application	Attorney Work Product
28.	12/4/00	Email	Behan	Fink	Legal Strategy re: Pardon Application	Attorney Work Product
29.	12/4/00	Email	Fink	Behan	Legal Strategy re: Pardon Application	Attorney Work Product
30.	12/6/00	Email	Behan	Fink	Legal Strategy re: Pardon Application	Attorney Work Product
31.	12/6/00	Email	M. Green	Behan	Legal Strategy re: Pardon Application	Attorney Work Product

NO.	DATE	DOCUMENT TYPE	AUTHOR/SENDER	ADDRESSEES	DESCRIPTION/TOPIC	PRIVILEGE
32.	12/6/00	Email	Behan	(cc: Fink) M. Green	Application Legal Strategy re: Pardon Application	Attorney Work Product
33.	12/6/00	Email	M. Green	Behan (cc: Fink)	Legal Strategy re: Pardon Application	Attorney Work Product
34.	12/6/00	Email	Behan	Brown	Legal Strategy re: Pardon Application	Attorney Work Product
35.	12/19/00	Fax w/ marginalia	M. Green	Fink, Behan	Legal Research re: Pardon Application	Attorney Work Product
36.	12/19/00	Electronic Fax	M. Green	Fink, Behan	Legal Research re: Pardon Application	Attorney Work Product
37.	1/18/01	Fax	M. Green	Fink, Behan, Rogers	Legal Research re: Pardon Application	Attorney Work Product
38.	1/18/01	Electronic Fax	M. Green	Fink, Behan, Rodgers	Legal Research re: Pardon Application	Attorney Work Product



MARC RICH -- PRIVILEGE LOG FOR 222201 PIPER MARLBURY RUDNICK & WOLFE LLP PRODUCTION

BATES NO.	DATE TIME	DOCUMENT TYPE	AUTHOR	RECIPIENT	CC:	DESCRIPTION	PRIVILEGE CLAIM
PMR&W 00593	7/14/99	Telephone Log	Secretary to R. Fink			Communications from client; counsel	Attorney-Client/ Work Product
PMR&W 00594	9/9/99	Telephone Log	Secretary to R. Fink			Communications from counsel	Work Product
PMR&W 00595	9/29/99	Telephone Log	Secretary to R. Fink			Communications from counsel	Work Product
PMR&W 00596	10/6/99	Telephone Log	Secretary to R. Fink			Communications from client; counsel	Attorney-Client/ Work Product
PMR&W 00597	10/19/99	Telephone Log	Secretary to R. Fink			Communications from counsel	Work Product
PMR&W 00598	12/7/99	Telephone Log	Secretary to R. Fink			Communications from counsel	Work Product
PMR&W 00599	1/5/00	Telephone Log	Secretary to R. Fink			Communications from counsel	Work Product
PMR&W 00600	1/14/00	Telephone Log	Secretary to R. Fink			Communications from counsel	Work Product
PMR&W 00601	2/25/00	Telephone Log	Secretary to R. Fink			Attorney to-do list	Work Product
PMR&W 00602	2/28/00	Telephone Log	Secretary to R. Fink			Attorney to-do list	Work Product
PMR&W 00603	4/18/00	Telephone Log	Secretary to R. Fink			Attorney to-do list	Work Product

All exhibits log entries not responsive to the modified Committee letter request have been redacted in full. Responsive messages have been redacted to delete privileged material identified in the "description" column.

PMR&W 00604	11/7/00	Telephone Log	Secretary to K. Fink			Communications from client; counsel	Work Product
PMR&W 00605	12/7/00	Telephone Log	Secretary to K. Fink			Communications from client; counsel	Work Product
PMR&W 00606	undated	Chart	Rebecca Libby			Diagram	Work Product
PMR&W 00607	2/24/99 4:37 PM	E-mail	Carol Fischer	Robert Fink		Legal analysis	Work Product
PMR&W 00608	5/14/99 5:44 PM	E-mail	Robert Fink	Carol Fischer		(attached to 2/24/99 4:37 pm)	Work Product
PMR&W 00608	5/14/99 8:36 AM	E-mail	Robert Fink	Marc Rich	Andre Wicks	Comments re legal issues regarding meeting	Attorney-Client/Work Product
PMR&W 00608	5/14/99 6:47 AM	E-mail	Marc Rich	Robert Fink		(attached to 5/14/99 8:36 am)	Attorney-Client/Work Product
PMR&W 00609	6/7/99 5:54 PM	E-mail	Robert Fink	Claire Sagner (M. Rich secretary)		Comments regarding meeting	Attorney-Client/Work Product
PMR&W 00609	6/7/99 5:38 AM	E-mail	Claire Sagner for Marc Rich	Robert Fink		(attached to 6/7/99 5:54 pm)	Attorney-Client/Work Product
PMR&W 00609	6/2/99 9:11 PM	E-mail	Robert Fink	Marc Rich		Comments regarding strategy; communication by counsel	Attorney-Client/Work Product
PMR&W 00610	7/5/99 11:52 AM	E-mail	Claire Sagner (secretary to M. Rich)	Robert Fink	M. Rich	Comments regarding contacts with third party	Attorney-Client/Work Product
PMR&W 00612	7/9/99 10:20 AM	E-mail	Robert Fink	Kathleen Behan		Comments regarding meeting; contacts with third party	Attorney-Client/Work Product

Document was produced by Jack Quinn. PMRW believes that this document contains privileged work product and that the privilege has not been waived.

PMR&W 00612	7/9/99 9:52 AM	E-mail	Kathleen Behan	Robert Fink	[attached to 7/9/99 10:20 am]	Work Product
PMR&W 00613	7/13/99 8:27 PM	E-mail	Kathleen Behan	Robert Fink	Comments regarding documents received by R. Fink	Work Product
PMR&W 00614	7/13/99 11:24 AM	E-mail	Robert Fink	Marc Rich	Comments regarding contacting third parties	Attorney-Client/Work Product
PMR&W 00614	7/13/99 11:21 AM	E-mail	Robert Fink	Scotter Libby	Comments regarding contacting third parties	Attorney-Client/Work Product
PMR&W 00614	7/13/99 11:07 AM	E-mail	Lewis Libby	Robert Fink Lewis Libby	[attached to 7/13/99 11:21 am] Comments regarding contacting third parties	Attorney-Client/Work Product
PMR&W 00614	7/13/99 1:07 PM	E-mail	Robert Fink	Scotter Libby	[attached to 7/13/99 11:07 am] Comments regarding contacting third parties	Attorney-Client/Work Product
PMR&W 00615	7/13/99 5:24 PM	E-mail	Lewis Libby	Robert Fink	Comments regarding contacting third parties	Attorney-Client/Work Product
PMR&W 00615	7/13/99 5:53 PM	E-mail	Robert Fink	Marc Rich	Comments regarding contacting third parties. Note: attached e-mails already deleted (7/13 5:52 pm, 7/13 11:21 am, 7/13 11:23 pm, 7/13 5:59 pm)	Attorney-Client/Work Product
PMR&W 00617	7/13/99 7:16 PM	E-mail	Robert Fink	Marc Rich	Comments regarding contacting third parties	Attorney-Client/Work Product
PMR&W 00618-00622	7/13/99 6:58 PM	E-mail	Lewis Libby	Robert Fink Laurance Marc Rich	Forwarding confidential memorandum [with attachment]	Attorney-Client/Work Product
PMR&W 00623	7/13/99 11:15 AM	E-mail	Jack Quinn	Robert Fink Jack Quinn Kathleen Behan	Comments regarding contacting third party	Attorney-Client/Work Product

PMR&W 00624	8:39 PM 8:43 PM 5:13 PM	E-mail	Kathleen Behan	Robert Fink	Robert Fink	Jack Quinn Lary Urgenson Mike Green Scooter Libby Marc Rich	Comments regarding meeting [attached is 8/29/99 5:21 pm] Comments regarding meeting [w/attachments]	Work Product
PMR&W 00626	8:15 AM 8:59 AM 11:56 AM	E-mail	Lewis Libby Rosemary M. Mullaney (R. Fink's secretary)	Kathleen Behan Lary Urgenson L. Lewis Libby Jack Quinn Lawrence Urgenson	Robert Fink	Meeting notes [w/attachments]	Attorney-Client/ Work Product	
PMR&W 00640	9:59 AM 11:07 AM	E-mail	Rosemary Misonulli	Kathleen Behan G. Michael Green Lary Urgenson Jack Quinn Lawrence Urgenson	Robert Fink	Forwarding strategy review [w/attachment]	Work Product	
PMR&W 00641	5:13 PM	E-mail	Kathleen Behan	Robert Fink	Robert Fink	Comments regarding third parties	Work Product	
PMR&W 00642	1:15 PM 1:21 PM	E-mail	Marc Rich	Robert Fink	Robert Fink	Comments regarding contacting third parties (reduced)	Attorney-Client/ Work Product	
PMR&W 00644	10:18 AM 10:18 AM 4:47 PM	E-mail	Robert Fink	Scooter Libby Kitty Behan Mike Green	Jack Quinn Lary Urgenson	Comments regarding communications with client; strategy; contacting third parties [attaches 10/15/99 3:52 am]	Attorney-Client/ Work Product	
PMR&W 00645	1:18 PM 1:17 PM 12:38 PM	E-mail	Kathleen Behan	Robert Fink	Robert Fink	Forwarding strategy document [w/attachments]	Work Product	
PMR&W 00654-00659	1:17 PM 12:38 PM	E-mail	Kathleen Behan	Robert Fink	Jack Quinn Masha Zaminsky	Forwarding strategy document [w/attachment]	Work Product	

PKR&W 00660-06671	11/24/08 11:21 AM	E-mail	Rosemary Muccitelli	Kathleen Behan Mike Green U. La. Cassidy Jack Quinn Laurence Urgenson	Robert Fink Maria Zometesky	Comments regarding revisions to draft letter [reattachment]	Work Product
PKR&W 00672-06679	11/20/08 12:21 PM	E-mail	Rosemary Muccitelli	Kathleen Behan Mike Green U. La. Cassidy Jack Quinn Laurence	Maria Zometesky Robert Fink	Comments regarding revisions to draft letter [reattachment]	Work Product
PKR&W 00680	12/29/09 1:49 PM	E-mail	Maria Zometesky Robert Fink	Robert Fink	Robert Fink	Comments regarding final letter	Work Product
PKR&W 00681	12/29/09 1:43 PM	E-mail	Robert Fink	Maria Zometesky		Attached to 12/29/09 1:49 pm)	Work Product
PKR&W 00682	12/29/09 4:23 PM	E-mail	Robert Fink	Marc Rich		Comments regarding contact with third party	Attorney-Client/Work Product
PKR&W 00683	1/19/00 11:32 AM	E-mail	Robert Fink	Larry Urgenson Mike Green U. La. Cassidy Jack Quinn	Kitty Behan Jack Quinn	Comments regarding contact with third party	Work Product
PKR&W 00684	1/19/00 4:16 PM	E-mail	Robert Fink	Kitty Behan Larry Urgenson Mike Green		Comments regarding contact with third party	Work Product
PKR&W 00685	1/20/00 11:57 AM	E-mail	Kathleen Behan Robert Fink	Senator Libby Robert Fink	Jack Quinn	Comments regarding third party	Work Product
PKR&W 00686	1/24/00 2:03 PM	E-mail	Laurence Urgenson	Kathleen Behan Robert Fink		Comments regarding meeting third party	Work Product
				Laurence Urgenson	Robert Fink	Comments regarding third party	Work Product

PMR&W 00637	1/24/00 4:57 PM	E-mail	Laurence Urgenson	Robert Fink	Comments regarding third party	Work Product
PMR&W 00637	1/24/00 4:57 PM	E-mail	Kathleen Behan	Robert Fink	Comments regarding attachments to third party	Work Product
PMR&W 00637	1/24/00 4:52 PM	E-mail	Kathleen Behan	Robert Fink	Comments regarding contact with third party	Work Product
PMR&W 00637	1/24/00 10:32 PM	E-mail	Robert Fink	Jack Quinn Kitty Behan Larry Urgenson Marc Rich	Comments regarding contact with third party, communications with client	Work Product
PMR&W 00637	1/24/00 10:50 AM	E-mail	Robert Fink	Jack Quinn Kitty Behan	Comments regarding strategy; communications with client [partially redacted]	Attorney-Client/ Work Product
PMR&W 00637	1/24/00 3:48 PM	E-mail	Jack Quinn	Robert Fink	Comments regarding communications with third parties [attached to 2/9/00 3:48 pm]	Work Product
PMR&W 00637	1/24/00 3:24 PM	E-mail	Robert Fink	Jack Quinn	Comments regarding communications with third parties [attached to 2/9/00 3:24 pm]	Work Product
PMR&W 00637	1/24/00 2:16 PM	E-mail	Robert Fink	Jack Quinn	Comments regarding communications with client; third parties	Work Product
PMR&W 00637	1/24/00 5:42 PM	E-mail	Robert Fink	Monika Meili (M. Rich secretary)	Comments regarding contact with third party, communications with client	Attorney-Client/ Work Product
PMR&W 00700	2/15/00 1:04 AM	E-mail	Robert Fink	Marc Rich	Comments regarding strategy [attached to 2/15/00 1:04 am]	Attorney-Client/ Work Product
PMR&W 00700	2/15/00 6:43 AM	E-mail	Marc Rich	Robert Fink	Comments regarding strategy	Attorney-Client/ Work Product
PMR&W 00702	2/18/00 11:26 AM	E-mail	Robert Fink	Marc Rich	Comments regarding strategy	Attorney-Client/ Work Product

PMR&W 00765-00768	2/23/00 6:09 PM	E-mail	Kathleen Bohan	Lewis Libby	Robert Fink Jack Quinn Laurence Urgenson Mike Green	Comments regarding draft memo [attachment]	Work Product
PMR&W 00769-00719	2/24/00 3:10 PM	E-mail	Robert Fink	Jack Quinn Kitty Behna Larry Urgenson Mike Green Lewis Libby Robert Fink	Comments regarding draft communication with third party [attachment]	Work Product	
PMR&W 00711-00712	2/24/00 4:40 PM	E-mail	Rosemary Micolich	Jack Quinn	Attaching draft of communication with third party	Work Product	
PMR&W 00713-00714	2/24/00 7:06 PM	E-mail	Lewis Libby	Jack Quinn	Comments regarding review of draft of communication to third party [attachment]	Work Product	
PMR&W 00715-00718	2/23/00 2:02 PM	E-mail	Jack Quinn	Robert Fink	Comments regarding draft communication to third party [attached to 2/23/00 2:02 pm]	Work Product	
PMR&W 00715	2/23/00 2:01 PM	E-mail	Jack Quinn	Robert Fink	Comments regarding review of draft [attached to 2/23/00 2:01 pm]	Work Product	
PMR&W 00715	2/23/00 1:57 PM	E-mail	Cathy Randall	Jack Quinn	Comments regarding review of draft [attached to 2/23/00 1:57 pm]	Work Product	
PMR&W 00715	2/23/00 1:18 PM	E-mail	Neha Nayal	Cathy Randall	Forwarding review of draft [attachment]	Work Product	
PMR&W 00720	2/28/00 11:37 AM	E-mail	Robert Fink	Marc Rich	Comments regarding strategy [attachment]	Attorney-Client/ Work Product	
PMR&W 00720	2/28/00 5:51 AM	E-mail	Marc Rich	Robert Fink	Comments regarding strategy [attachment]	Attorney-Client/ Work Product	

PMR&W 00720	2/17/00	E-mail	Robert Fink	Marc Rich	Avner Azulay	[attached to 2/28/00 3:51 am] Comments regarding strategy	Attorney-Client/ Work Product
PMR&W 00722	6:03 PM	E-mail	Robert Fink	Marc Rich		Comments regarding strategy	Attorney-Client/ Work Product
PMR&W 00722	2/29/00	E-mail	Robert Fink	Marc Rich		Comments regarding strategy	Attorney-Client/ Work Product
PMR&W 00722	2/29/00	E-mail	Marc Rich	Robert Fink		[attached to 2/29/00 9:40 am] Comments regarding strategy	Attorney-Client/ Work Product
PMR&W 00723-00725	4:47 AM	E-mail	Robert Fink	Marc Rich	Robert Fink	Forwarding communication	Attorney-Client/ Work Product
PMR&W 00726	3/7/00	E-mail	Robert Fink	Marc Rich		Comments regarding contact with third party	Attorney-Client/ Work Product
PMR&W 00726	1:29 PM	E-mail	Robert Fink	Marc Rich		Comments regarding contact with third party	Attorney-Client/ Work Product
PMR&W 00726	4:47 PM	E-mail	Robert Fink	Jack Quinn		[attached to 3/6/00 4:47 pm] Comments regarding contact with third party	Attorney-Client/ Work Product
PMR&W 00726	3/2/00	E-mail	Robert Fink	Jack Quinn		[attached to 3/2/00 5:40 pm] Comments regarding contact with third party	Attorney-Client/ Work Product
PMR&W 00726-00727	3/2/00	E-mail	Robert Fink	Jack Quinn		[attached to 3/2/00 3:53 pm] Comments regarding contact with third party	Attorney-Client/ Work Product
PMR&W 00730	3/28/00	E-mail	Robert Fink	Jack Quinn		Comments regarding contact with third party, client communications	Attorney-Client/ Work Product
PMR&W 00731	6/6/00	E-mail	Robert Fink	Robert Fink		Comments regarding strategy	Attorney-Client/ Work Product
PMR&W 00732	2:56 PM	E-mail	Robert Fink	Robert Fink		Comments regarding counsel	Attorney-Client/ Work Product
PMR&W 00734-00744	7/7/00	Facsimile	Laurence Urgenson	Robert Fink		Forwarding legal information	Attorney-Client/ Work Product

PNR&W 00745-00753	3/15/99	Facsimile	Rosemary Micchilli (secretary to Bob Fink)	Laurence Urgenson	Comments regarding memo on legal issues [w/attachment]	Work Product
PNR&W 00754-00764	3/25/99	Facsimile	Robert Fink	Marc Rich, Andre Wicki	Comments regarding legal analysis [w/attachment]	Attorney-Client/ Work Product
PNR&W 00765-00767	4/20/99	Facsimile	Robert Fink	Marc Rich	Comments regarding communications with counsel [w/attachment]	Attorney-Client/ Work Product
PNR&W 00768-00769	5/5/99	Facsimile	Robert Fink	Marc Rich	Comments regarding meeting	Attorney-Client/ Work Product
PNR&W 00770-00771	5/13/99	Facsimile	Robert Fink	Marc Rich	Comments regarding meeting	Attorney-Client/ Work Product
PNR&W 00772-00774	5/14/99	Facsimile	Robert Fink	Kathleen Behan	Comments regarding meeting	Work Product
PNR&W 00775-00778	6/7/99	Facsimile	Robert Fink	Marc Rich	Comments regarding counsel [w/attachment]	Attorney-Client/ Work Product
PNR&W 00779-00790	6/15/99	Facsimile	Robert Fink	Marc Rich	Comments regarding counsel [w/attachment]	Attorney-Client/ Work Product
PNR&W 00791-00795	7/9/99	Facsimile	Kitty Behan	Robert Fink	Comments regarding draft letter [w/attachment]	Work Product
PNR&W 00796	7/12/99	Facsimile	Robert Fink	Andre Wicki	Comments regarding draft proposal	Work Product
PNR&W 00797-00801	7/12/99	Facsimile	Robert Fink	Marc Rich	Comments regarding revised proposal [w/attachment]	Attorney-Client/ Work Product

PMR&W 0805-00804 PMR&W 0805-00812 ³	7/15/99	Facsimile	Dr. A. Wicki Robert Fink	Robert Fink Marc Rich Andre Wiski Jack Quinn Kathleen Behan	Marc Rich	Comments regarding revised proposal regarding publication [w/attachment]	Work Product
PMR&W 0813-00818 PMR&W 0813-00820 PMR&W 00821	7/22/99	Facsimile	Robert Fink Robert Fink	Marc Rich Marc Rich	Andre Wiski Jack Quinn	Comments regarding revised proposal [w/attachment] Comments regarding contact with third party Comments regarding memoranda	Attorney-Client/ Work Product Attorney-Client/ Work Product Work Product
PMR&W 0827-00828	8/2/99	Facsimile	Robert Fink Rosemary Mincuit (copy to Bob Fink)	G. Michael Green Jack Quinn		Comments regarding article	Work Product
PMR&W 0835-00849	10/12/99	Facsimile	Robert Fink	Jack Quinn Kathleen Behan G. Michael Green I. Lewis Libby Laurence		[attached to 10/12/99 fax above] Fax re article [w/attachment]	Work Product
PMR&W 0850-00852 PMR&W 00851	11/10/99	Facsimile	Robert Fink	Kathleen Behan Laurence		Comments regarding actual memos [attached to 11/10/99 fax]	Work Product
	11/14/99	Facsimile	Robert Fink	G. Michael Green I. Lewis Libby		Comments regarding factual memos	Work Product

³ Document was produced by Jack Quinn. PMR&W believes that the document contains privileged work product and that the privilege has not been waived.

PMR&W 0083-00859	1/7/1999	Facsimile	Robert Fink	Jack Quinn Kathleen Behan C. Michael Green James Libby Lorenz Urgenson	Comments regarding factual memos [w/attachment]	Work Product
PMR&W 00860-00865	11/22/99	Facsimile	Jack Quinn	Bob Fink	Comments regarding counsel's revisions to letter [w/attachment]	Work Product
PMR&W 00866-00868 ⁴	11/30/99	Facsimile	Lewis Libby	Robert Fink	Comments re contacts with third party	Work Product
PMR&W 00869-00875	12/2/99	Facsimile	Robert Fink	Marc Rich	Comments regarding letter [w/attachment]	Attorney-Client/ Work Product
PMR&W 00891-00894	2/14/00	Facsimile	Robert Fink	Kathleen Behan	Comments regarding draft strategy memo [w/attachment]	Work Product
PMR&W 00895-00898 ⁵	2/16/00	Facsimile	Kitty Behan	Robert Fink	Draft strategy memos	Work Product
PMR&W 00899-00916 ⁶	2/23/00	Facsimile	Robert Fink	Kathleen Behan Jack Quinn L. Lewis Libby	Comments regarding third parties [w/attachments]	Work Product
PMR&W 00917-00919	2/28/00	Facsimile	Jack Quinn	Robert Fink	Comments regarding draft memo [w/attachment]	Work Product

⁴ Document was produced by Jack Quinn. PMRW believes that the document contains privileged work product and that the privilege has not been waived.

⁵ Document was produced by Jack Quinn. PMRW believes that the document contains privileged work product and that the privilege has not been waived.

⁶ Document was produced by Jack Quinn. PMRW believes that the document contains privileged work product and that the privilege has not been waived.

PMR&W 00260-00923 ⁷	2/29/00	Festsimile	Robert Fink	Kathleen Behan Jack Quinn G. Michael Green I. Lewis Libby Laurence A. Ugerson	Fee forwarding legal material [w/attachment]	Attorney- Client Work Product
PMR&W 00264-00925	6/16/00	Festsimile	Marc Rich	Robert Fink	Fee attaching comments from Seeger Libby to Marc Rich	Attorney-Client/ Work Product
PMR&W 00937-00945	12/19/00	Festsimile	G. Michael Green	Robert F. Fink Kathleen Behan	Comments regarding legal materials [w/attachment]	Work Product
PMR&W 00946-00947	1/22/01	Festsimile	Jack Quinn	Bob Fink	Forwarding legal materials [w/attachment]	Work Product
PMR&W 00955	undated	Notes	Robert Fink		Comments regarding letter	Work Product
PMR&W 00959-00963	7/21/99	Letter	Kathleen Behan	Marc Rich	Letter proposal	Attorney-Client/ Work Product
PMR&W 00964-01092 ⁸	8/27/99	Letter	Robert Fink	Robert F. Fink Kathleen Behan	Comments regarding materials for counsel review [w/attachments]	Work Product
PMR&W 01093-01094	9/11/99	Letter	Robert Fink	Kathleen Behan	Comments regarding fiscal and strategy issues and documents	Work Product
PMR&W 01095	10/11/99	Letter	Robert Fink	Kathleen Behan	Comments regarding fiscal and strategy materials	Work Product
PMR&W 01097-01100	1/22/99	Letter	Jack Quinn	Marc Rich Robert F. Fink	Comments regarding proposal to client	Attorney-Client/ Work Product

⁷ Document was produced by Jack Quinn. PMRW believes that the document contains privileged work product and that the privilege has not been waived.
⁸ Document was produced by Jack Quinn. PMRW believes that the document contains privileged work product and that the privilege has not been waived.

PMR&W 0113-0113	10/11/99	Memo	Michael R. Pepworth	Robert F. Fink		Draft legal memorandum	Work Product
PMR&W 0114-0121	10/21/99	Memo	Kathleen Behan	Marc Rich Team		Strategy memo re meeting	Work Product
PMR&W 0122-0125	2/23/00	Memo	Jack Quinn Kathleen Behan			Draft memo	Work Product
PMR&W 0126-0146	2/24/00	Memo	Kathleen Behan			Draft memo with handwritten comments by counsel	Work Product
PMR&W 0147-0148	3/01/00	Memo				Draft memo	Work Product
PMR&W 0149		Notes	Robert Fink			Notes re telephone conference with G. Kelat	Work Product
PMR&W 0150-0151		Notes	Robert Fink			Notes re telephone conference with J. Quinn	Work Product
PMR&W 0152	11/24/98	Notes	Robert Fink			Notes re telephone conference with G. Kelat	Work Product
PMR&W 0153-0166	2/5/99	Notes	Robert Fink			Notes re meeting with J. Quinn and K. Behan	Attorney-Client/ Work Product
PMR&W 0167	3/12/99	Notes	Robert Fink			Notes re telephone conference with G. Kelat	Work Product
PMR&W 0168-0170	4/22/99	Notes	Robert Fink			Notes re telephone conference with K. Behan	Work Product
PMR&W 0171-0172	6/9/99	Notes	Robert Fink			Notes re telephone conference with L. Libby	Attorney-Client/ Work Product
PMR&W 0173-0174	6/14/99	Notes	Robert Fink			Notes re meeting with S. Libby, M. Green, L. Ungerson	Work Product
PMR&W 0175	6/28/99	Notes	Robert Fink			Notes re telephone conference with J. Quinn	Work Product
PMR&W 0176-0189	9/23/99	Notes	Robert Fink			Notes re strategy	Work Product
PMR&W 0190-0195	10/22/99	Notes	Robert Fink			Notes re telephone conference with J. Quinn	Work Product

PMR&W 01196-01198	12/10/99	Notes	Robert Fink		Notes re telephone conference	Work Product
PMR&W 01199	12/13/99	Notes	Robert Fink		Notes re meeting with Profs. Ginsburg, Wolfman, S. Libby, M. Green, J. Quinn	Work Product
PMR&W 01200	12/17/99	Notes	Robert Fink		Notes re telephone conference with G. Kelet	Work Product
PMR&W 01201	12/17/99	Notes	Robert Fink		Notes re telephone conference with G. Kelet	Work Product
PMR&W 01202-01203	2/14/00	Notes	Robert Fink		Notes re above w/ additional note	Work Product
PMR&W 01204	2/17/00	Notes	Robert Fink		Notes re telephone conference with J. Quinn	Work Product
PMR&W 01205	3/15/00	Notes	Robert Fink		Notes re telephone conference with J. Quinn	Work Product
PMR&W 01206-01208	3/22/00	Notes	Robert Fink		Notes re telephone conference with J. Quinn	Work Product
PMR&W 01209-01210	3/27/00	Notes	Robert Fink		Notes re telephone conference with J. Quinn, K. Behan	Work Product
PMR&W 01211	3/28/00	Notes	Robert Fink		Notes re telephone conference with G. Kelet	Work Product
PMR&W 01212-01213	4/10/00	Notes	Robert Fink		Notes re telephone conference with G. Kelet	Work Product
PMR&W 01214	12/8/00	Summary	G. Michael Green		Summary of legal issue	Work Product