

PART C

WEBSTER L. HUBBELL'S BILLING PRACTICES AND TAX FILINGS

I. INTRODUCTION

Shortly after their former partner Webster L. Hubbell became Associate Attorney General of the United States in January 1993, Rose Law Firm members in Little Rock found irregularities in Hubbell's billings for 1989-92. In March 1994, regulatory Independent Counsel Robert Fiske, received information that Hubbell may have violated federal criminal laws through his billing activities. Mr. Fiske then opened a criminal investigation. In the wake of these inquiries, Hubbell announced his resignation as the Associate Attorney General on March 14, 1994, saying this would allow him to settle the matter.

Upon his appointment in August 1994, Independent Counsel Starr continued the investigation already started by Mr. Fiske. This resulted in Hubbell pleading guilty to one felony count of mail fraud and one felony count of tax evasion in December 1994, admitting that he defrauded his former partners and clients out of at least \$394,000.¹ On June 28, 1995, Judge George Howard sentenced Hubbell to twenty-one months' imprisonment.²

Sometime after Hubbell's sentencing, the Independent Counsel learned that a meeting had been held at the White House the day before Hubbell announced his resignation, where Hubbell's problems and resignation were discussed. Senior White House officials, including the President,

¹ Plea Agreement, United States v. Webster Lee Hubbell, No. 94-241 (E.D. Ark. Dec. 6, 1994). Hubbell's attorney later agreed that Hubbell "obtained \$482,410.83 by fraudulent means from the Rose Law Firm and its clients." Pre-sentence Investigation Report (Final Draft), United States v. Webster L. Hubbell, No. 94-241 (E.D. Ark. June 21, 1995); see also Defendant Webster L. Hubbell's Sentencing Memorandum, United States v. Webster L. Hubbell, No. 94-241 (E.D. Ark. June 23, 1995); Response to Draft Pre-sentence Report, United States v. Webster L. Hubbell, No. 94-241 (E.D. Ark. June 19, 1995); Letter from Joel Klingbeil, U.S. Probation Officer, to John W. Nields, Attorney at Law, and Jack Lassiter (June 21, 1995).

² Judgment, United States v. Webster L. Hubbell, No. 94-241(1) (E.D. Ark. June 28, 1995).

the Chief of Staff, and the First Lady attended this meeting. Afterwards, one or more individuals suggested that efforts should be made to help Hubbell find work, and White House Chief of Staff Thomas "Mack" McLarty told Mrs. Clinton: "We're going to be supportive of Webb."³

During the eight-months following his resignation, Hubbell secured seventeen employment contracts from supporters of the President. From April 8, 1994, when he left the Justice Department, until the end of the year, Hubbell received approximately \$450,010 for consulting fees from fifteen of these clients, but reported only \$376,075 on his 1994 federal tax return. Moreover, Hubbell made no tax payments to the IRS relating to his consulting income for 1994. The Independent Counsel also learned that Hubbell did little or no work for the money paid by his consulting clients.

The Independent Counsel began investigating whether the consulting fees had been paid to influence Hubbell's cooperation with the Independent Counsel's ongoing investigation. The Independent Counsel determined there was insufficient evidence to prove any such quid pro quo relating to Hubbell's post-resignation employment, and therefore an insufficient basis to pursue criminal charges against Hubbell or others, such as witness tampering or obstruction of justice.

The Independent Counsel did determine, however, that Webster Hubbell failed to pay a substantial portion of his tax liabilities for 1994 and 1995. Assisted by his wife Suzanna Hubbell, accountant Michael Schaufele, and tax lawyer Charles Owen, Hubbell took steps to conceal this income from the United States, the State of Arkansas, and the District of Columbia during 1994-97.⁴

³ McLarty 4/17/97 GJ at 143.

⁴ Hubbell also pleaded guilty in June 1999 to one felony count of concealing by scheme material facts about the true nature of his, the Rose Law Firm's and Hillary Rodham

II. FINDINGS

The Independent Counsel reports the following findings and conclusions.

With respect to Hubbell's Rose Law Firm billings:

- Hubbell defrauded the Rose Law Firm and its clients of approximately \$487,000 for expenses and services not performed and concealed his activities from his partners at the Rose Law Firm during 1989-92. He failed to report this amount as income on his federal and state income tax returns, and pleaded guilty in December 1994 to one felony count of tax evasion and one felony count of mail fraud.

With respect to Hubbell's consulting work after he resigned as Associate Attorney

General:

Clinton's relationship with Seth Ward, Madison Guaranty Savings & Loan, Madison Financial Corporation and the Castle Grande transaction. See Plea Agreement, United States v. Webster L. Hubbell et al., No. 98-0394 (D.D.C. June 30, 1999).

On April 19, 1999, the Court ordered the United States to produce its witness and exhibit lists to Hubbell's attorneys by April 21. See Order, United States v. Webster L. Hubbell et al., No. 98-0394 (D.D.C. Apr. 19, 1999). On April 21, the government sent Hubbell's attorneys a list of "witnesses we currently anticipate may be called," which included Mrs. Clinton among the sixty-three persons listed. Letter from Jay Apperson, Deputy Independent Counsel, to John W. Niels Jr., Attorney for Webster L. Hubbell (Apr. 21, 1999). On April 30, the Court granted Hubbell's motion to seal the witness list, and to continue the trial date from June 14 to August 2. See Order, United States v. Webster L. Hubbell et al., No. 98-0394 (D.D.C. Apr. 30, 1999). The trial date was later re-set to August 9 at a status conference. See Order Upon Status Hearing, United States v. Webster L. Hubbell et al., No. 98-0394 (D.D.C. May 20, 1999).

On June 3, then-Senior Litigation Counsel Robert Ray, and Associate Independent Counsels Tim Susanin and Eric Dreiband, met with Mrs. Clinton's attorneys, David Kendall and Nicole Seligman, to discuss Mrs. Clinton's availability to testify as a witness at Hubbell's trial. See Letter from David E. Kendall, Attorney for Hillary Rodham Clinton, to Robert W. Ray, Senior Litigation Counsel to the Independent Counsel (June 14, 1999). After the meeting, Mr. Kendall offered to make Mrs. Clinton available to testify on August 23 or August 24. Id. On June 4, Mr. Hubbell's counsel John Niels telephoned Independent Counsel Kenneth Starr and asked for a meeting concerning the indictments pending in Washington, D.C. against his client. On June 8, the meeting occurred between Independent Counsel Starr, Senior Litigation Counsel Ray, and Niels, and plea negotiations were begun. The negotiations were concluded on June 30, 1999, when Hubbell pleaded guilty to one felony count pursuant to 18 U.S.C. § 1001. See Plea Agreement, United States v. Webster L. Hubbell et al., No. 98-0394 (D.D.C. June 30, 1999).

- Before Hubbell's resignation was announced, White House employees and other supporters of the President discussed helping Hubbell find post-resignation employment.
- Chief of Staff Mack McLarty told First Lady Hillary Rodham Clinton that White House employees and others would "be supportive" of Hubbell.
- As a result of the efforts of Mack McLarty, Erskine Bowles, Truman Arnold, Vernon Jordan, and others, Hubbell was hired as a consultant by seventeen individuals and organizations who were supporters of the President. Hubbell was paid in excess of \$500,000 in largely unspecified "consulting fees." The evidence was insufficient to prove these payments were intended to affect Hubbell's cooperation with this Office.

With respect to Hubbell's cooperation with the Office of the Independent Counsel's ongoing investigation after his December 1994 guilty plea:

- The evidence was insufficient to establish beyond a reasonable doubt that Hubbell's lack of substantial assistance to the Office of the Independent Counsel's ongoing investigations was a result of, or because of, an effort to influence, impede, or obstruct the due administration of justice or an effort to induce Hubbell to withhold testimony from an official proceeding in violation of federal criminal statutes.

With respect to Mr. and Mrs. Hubbell's tax liability and their attorney's and accountant's role:

- The Hubbells received over \$1 million in income from various sources from 1994-97.
- The Hubbells spent approximately \$750,000 on personal expenditures from 1994-97.
- Following the decision of the Supreme Court in United States v. Hubbell, 530 U.S. 27 (2000), insufficient admissible evidence existed to prove beyond a reasonable doubt that the above actions by Hubbell constituted criminal violations of federal tax law.

With respect to Mrs. Clinton:

- Because the evidence was insufficient to prove beyond a reasonable doubt that Hubbell's consulting contracts were intended as a criminal quid pro quo, the evidence was, consequently, insufficient to prove beyond a reasonable doubt that Mrs. Clinton gave false testimony about Webster Hubbell's post-resignation employment and related matters.

III. FACTUAL SUMMARY

This Part summarizes evidence developed by the Independent Counsel's investigation of Webster L. Hubbell's billing practices at the Rose Law Firm from 1989-92, his 1994-95 employment after he resigned as Associate Attorney General, and his income tax filings for the 1994-97 period.

A. **Webster Hubbell Violated Federal Mail Fraud and Tax Laws While a Partner with the Rose Law Firm.**

1. **After Hubbell Was Appointed Associate Attorney General, Both Civil and Criminal Investigations of His Billing Practices and Tax Filings Commenced.**

The Rose Law Firm ("Rose") began investigating former partner Webster L. Hubbell's billings for the 1989-92 period in the Spring of 1993.⁵ After discovering some irregularities involving the firm and its clients, Ronald Clark, Rose's managing partner, asked Hubbell to provide back-up documentation.⁶ Hubbell said he was too busy.⁷

Over the next months, Rose continued examining the billing discrepancies with Hubbell.⁸ At a White House reception on December 19, 1993, James Blair, a personal friend of the President and First Lady, and a former Clinton campaign official from Arkansas, told Hubbell that his former partners at Rose were angry with him.⁹ In December 1993, members of the firm

⁵ Clark 11/29/94 GJ at 5.

⁶ Clark 3/30/94 GJ at 89.

⁷ Clark 11/19/97 GJ at 43.

⁸ Clark 12/2/97 GJ at 10-11.

⁹ Blair 7/23/97 Senate Whitewater Comm. Depo. at 28.

met or spoke with Hubbell about the situation, stressing their seriousness.¹⁰ They mentioned possible referral to the Arkansas Board of Professional Responsibility.¹¹

Regulatory Independent Counsel Fiske became aware of these matters from a public March 2, 1994 report indicating the Rose firm was investigating its former partner's billing practices.¹² In April 1994, a confidential witness interviewed by Mr. Fiske's Madison Guaranty investigators said Hubbell had overbilled the Federal Deposit Insurance Corporation ("FDIC") and the Resolution Trust Corporation ("RTC") while representing these agencies in a malpractice suit against Frost & Co., a Little Rock accounting firm, who had handled some accounting for Madison Guaranty.¹³ Fiske's office reviewed previously subpoenaed materials, conducted approximately fifteen interviews, and concluded "there [were] substantial questions raised regarding Hubbell's billing practices."¹⁴

Independent Counsel Fiske opened an investigation into Hubbell's billing practices.¹⁵ The investigation focused on whether Hubbell's payment of personal expenses with firm funds violated mail or wire fraud statutes, and whether Hubbell unlawfully failed to report this income

¹⁰ J. Jones 11/18/97 GJ at 27-29; J. Jones 5/11/94 GJ at 20-22, 33, 38.

¹¹ J. Jones 11/18/97 GJ at 30; J. Jones 5/11/94 GJ at 32.

¹² Final Report of Robert B. Fiske Jr., Independent Counsel, In re: Madison Guaranty Savings and Loan Association at 41 (D.C. Cir. [Spec. Div.] (Oct. 6, 1994) (under seal) [hereinafter "Fiske Report"]. On June 30, 1999, Hubbell pleaded guilty to one felony count related to his concealing by scheme material facts from the FDIC. The Plea Agreement is contained in Appendix 1 of this Volume.

¹³ Fiske Report, supra note 12, at 41.

¹⁴ Id.

¹⁵ Id.

in his tax filings.¹⁶

By August 1994, Mr. Fiske's investigation focused on 400 firm checks Hubbell had signed, or had made payable to others for his benefit, from 1989 through January 1993.¹⁷ Three hundred of those checks, totaling \$500,000, were paid to credit card companies and banks where Hubbell had accounts.¹⁸ Hubbell had generally indicated the client to be charged for the expense, and included a brief, work-related description of the basis for his expense.¹⁹

The credit card documents reviewed by Fiske revealed that Hubbell had paid most of his personal credit card bills, including over \$300,000 in personal expenses, using Rose client advance checks from 1989 through January 1993.²⁰ The evidence suggested that a substantial amount of these personal expenditures had been borne by clients and/or the firm.²¹ Some of these checks were to pay credit card charges Hubbell had passed on to the FDIC or the RTC, then clients of the firm.²²

After the Independent Counsel was appointed in August 1994, the Special Division granted jurisdiction to investigate Hubbell's possible violations of mail or wire fraud statutes, and

¹⁶ Id. at 41-42.

¹⁷ Id. at 42.

¹⁸ Id. at 42-43.

¹⁹ Id. at 43.

²⁰ Id.

²¹ Id.

²² Id. Mr. Fiske also reviewed client advance checks that Hubbell had written to non-credit card entities to determine whether the additional personal expenditures were also borne by either the Rose firm's clients or the firm itself. Id.

various criminal tax statutes.²³ Specifically, the Special Division referred jurisdiction to this Office pursuant to 28 U.S.C. 594(e) over the following:

[w]hether Webster L. Hubbell, a covered person under 28 U.S.C. § 591 (b), violated any federal criminal law (including mail fraud and criminal tax violations) in his billing or expense practices while a member of the Rose Law Firm.²⁴

On November 18, 1994, the Office of the Independent Counsel notified Hubbell that he was a target of a federal criminal investigation.²⁵ The Independent Counsel concluded, based on the evidence, that Hubbell had charged personal expenses to his personal credit cards and then: 1) allowed the charges to flow through to the client, who repaid the firm; or 2) instructed the firm bookkeepers to write off the charges as firm business expenses. The fraudulent billing and expense practices produced additional income not reported on the Hubbells' state and federal tax returns.

2. Webster Hubbell Pleaded Guilty to Mail Fraud and Tax Evasion in December 1994.

On December 6, 1994, Hubbell waived indictment and pleaded guilty to a felony information filed in the United States District Court for the Eastern District of Arkansas. The

²³ Order, In re: Madison Guaranty Sav. & Loan Ass'n (Webster L. Hubbell), No. 94-1 (D.C. Cir. [Spec. Div.] Sept. 1, 1994).

²⁴ Id. The Court's Order also expanded the prosecutorial jurisdiction to include investigation into "whether Webster L. Hubbell, a covered person under 28 U.S.C. § 591(b), violated any federal criminal law (including mail fraud and criminal tax violations) in his billing or expense practices while a member of the Rose Law Firm, and to prosecute all matters arising from that investigation to same extent as all other criminal matters arising under the jurisdiction set forth in the original order." Id. at 1-2.

²⁵ Letter from Kenneth W. Starr, Independent Counsel, to John Niels, Attorney at Law, advising Niels that his client Webster Hubbell was a target of the federal grand jury investigation (Nov. 18. 1994).

two count information charged willful tax evasion for 1992 mail fraud for the fraudulent billing of approximately \$394,000 between 1989-92, and the failure to declare that money as income for tax purposes.²⁶ Hubbell promised in his plea agreement to provide the Independent Counsel with "full, complete, accurate and truthful information" about matters relating to matters under investigation.²⁷ In the ensuing months, Hubbell reviewed his records with attorneys and agents detailed to this Office. Together, they determined that the money taken from the firm and its clients was approximately \$482,000.²⁸ Hubbell also responded to questions during numerous sessions about other aspects of the Independent Counsel's investigation.

On June 28, 1995, Hubbell appeared before U.S. District Court Judge George Howard for sentencing.²⁹ In his exercise of prosecutorial discretion, the Independent Counsel declined to move for a downward departure for "substantial assistance" as defined under § 5K1.1 of the U.S. Sentencing Guidelines.³⁰ Under § 5K2.0 of the U.S. Sentencing Guidelines, the court was

²⁶ United States v. Webster Hubbell, No. 94-241 (E.D. Ark. 1994). The Plea Agreement and Criminal Information are included as Appendix 1 of this Volume.

²⁷ Plea Agreement at 6, United States v. Webster Hubbell, No. 94-241 (E.D. Ark. 1994). Twelve page list of Tasks by Jane Sherburne, Special Counsel to the President (Dec. 13, 1995) (Doc. Nos. DF 780643 through 780654); H. Clinton 4/25/98 Depo. at 144-45.

²⁸ Defendant Webster L. Hubbell's Sentencing Memorandum, United States v. Webster L. Hubbell, No. 94-241 (E.D. Ark. June 23, 1995); see also Presentence Investigation Report (Final Draft), United States v. Webster L. Hubbell, No. 94-241 (E.D. Ark. June 21, 1995); see also Response to Draft Presentence Report, United States v. Webster L. Hubbell, No. 94-241 (E.D. Ark. June 19, 1995); Letter from Joel Klingbeil, U.S. Probation Officer, to John W. Nields, Attorney at Law, and Jack Lassiter (June 21, 1995).

²⁹ See Tr. of Sentencing Proceedings, United States v. Webster Hubbell, No. 94-241 (E.D. Ark. 1994).

³⁰ See United States Sentencing Comm., Guidelines Manual, § 5K1.1 (Nov. 1994) ("[u]pon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, the court

permitted, on its own initiative, to impose a sentence outside the range established by the guidelines.³¹ Hubbell petitioned for a downward departure based on his past community service. The Independent Counsel also noted Hubbell's past community service, evidenced by numerous letters submitted to the Court on Hubbell's behalf, as possible grounds for a downward departure:

[I]t is clear from this undisputed record that Judge Hubbell has performed substantial service to institutions of importance, at the local level here in Little Rock, through the State of Arkansas and beyond to the national stage as well.

We believe, therefore, that this Court is best situated to determine, in measuring the various services performed by Judge Hubbell, and to determine in light of the traditions of the bar, of the City of Little Rock, of this county, of Pulaski County, of the State of Arkansas and this community, and then viewed in light of eighth circuit standards as to whether there is in fact an atypical case.

In short, Your Honor, we believe that this particular matter is entrusted to the Court's sound discretion as to whether this does in fact constitute an atypical case.

But let me simply close by saying that we have no quarrel at all with the various submissions that have been made by various friends and family members and the like, and I may also, if I may be granted a personal note that the outpouring . . . from the justice department is an outpouring that I view is not without significance.³²

The Court noted its careful review of the letters submitted on Hubbell's behalf, but was "not persuaded that there are extraordinary circumstances that would warrant a downward

may depart from the guidelines").

³¹ Specifically, § 5K2.0 states "[u]nder 18 U.S.C. § 3553(b) the sentencing court may impose a sentence outside the range established by the applicable guideline, if the court finds 'that there exists and aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that should result in a sentence different from that described.'" United States Sentencing Comm., Guidelines Manual, § 5K2.0 (Nov. 1994).

³² Tr. of Sentencing Proceedings at 15-16, United States v. Webster Hubbell, No. 94-241 (E.D. Ark. 1994).

departure."³³ In determining Hubbell's sentence, however, the Court stated:

[T]he total offense level is 16, the criminal history category is 1, the applicable guideline provisions are a minimum of 21 months to a maximum of 27 months.

Taking into consideration those moving letters that the Court has reviewed, it is the judgment and order of this Court that the defendant be committed to the custody of the Bureau of Prisons where he will serve a term of 21 months on each count, and this will run concurrently.

Following his release, there will be a term of supervised release for a period of three years.³⁴

Hubbell was ordered by the Court to pay \$135,000 in restitution.³⁵ Hubbell reported to a federal criminal institution in Cumberland, Maryland on August 7, 1995 to begin his twenty-one month sentence.³⁶

On December 13, 1995, Special Counsel to the President Jane Sherburne, assisting the White House legal team, compiled a 12 page list of tasks for herself and other lawyers. On page 9, Ms. Sherburne listed "monitor cooperation" under the heading "Hubbell." Mrs. Clinton later testified that she did not know anything about monitoring Hubbell and had never seen the Sherburne task list prior to being shown it by this Office.³⁷

³³ Id. at 18-19.

³⁴ Id. at 24.

³⁵ Id.

³⁶ Hubbell 12/19/95 GJ at 4; Tr. of Sentencing Proceedings at 28, United States v. Webster Hubbell, No. 94-241 (E.D. Ark. 1994).

³⁷ H. Clinton 4/25/98 Depo. at 144-46. See Twelve Page List of Tasks by Jane Sherburne, Special Counsel to the President (Dec. 13, 1995) (Doc. No. DF 780651).

3. Rose's Efforts to Recover its Losses from Webster Hubbell.

During Hubbell's incarceration, the Rose firm continued trying to recover its losses from Hubbell's fraud.³⁸ Rose sued Hubbell in the United States District Court for the Eastern District of Arkansas, Western Division, seeking \$457,410.83.³⁹ Hubbell, while imprisoned, had monitored conversations with his wife about whether to fight Rose's lawsuit; and to possibly file a countersuit against the firm:

W. Hubbell: Well, honey, I keep telling you, sometimes you have to fight battles alone. You know, you just can't worry about other people. I know what I'm doing, OK? Now if you don't want me to, I won't.

S. Hubbell: No, I want you to. I just want, I'm the one that bears the brunt of this stuff up here. I'm the one who has to try and talk to people, I'm the one that has to try and explain to Marsha [Scott], I'm saying, "Marsha." She said, "You're not going to get any public support for this pursuit if you open up Hillary [Clinton]." Well, by public support I know exactly what she means. I'm not stupid.

W. Hubbell: And I sat there and spent Saturday with you saying I would not do that. I won't, if I raised those allegations, it might open it up to Hillary. And you know that. We talked about that.

S. Hubbell: Yes, but then I get all this back from Marsha who's ratcheting it up and making it sound like, you know, if Webb goes ahead and sues the firm back, then any support I have at the White House is gone.

W. Hubbell: Well.

S. Hubbell: I mean, that's what I'm hearing. I'm hearing the squeeze play.

W. Hubbell: So, I need to roll over one more time.⁴⁰

³⁸ Clark 12/2/97 GJ at 17.

³⁹ Consent Judgment at 3, Rose Law Firm v. Webster Lee Hubbell, No. LR-C-96-212 (E.D. Ark. Oct. 28, 1996).

⁴⁰ Cassette Tapes Containing Telephone Conversations of Webster L. Hubbell While Incarcerated at the Federal Correctional Institute, Cumberland, Maryland, 18:39 Call at 12-13 (Tape No. 27.a) (Mar. 25, 1996) (emphasis supplied). "Marsha" referred to Marsha Scott, a

When questioned about the "roll over one more time" statement, Hubbell stated that he meant he would confess judgment without fighting the lawsuit.⁴¹

Hubbell settled with Rose in October 1996, agreeing to pay back \$300,000.⁴² He also agreed that he would pay fifty percent of any annual gross income earned above \$100,000, exclusive of taxes, to Rose until the full \$300,000 restitution obligation was satisfied.⁴³

B. Before Entering into His Plea Agreement, Webster Hubbell Started a Consulting Business Concentrating on Supporters of the President.

1. Hubbell's Contacts with Clinton Administration Members and Prominent Democratic Party Supporters.

The fraudulent billing dispute between Hubbell and Rose became known publicly when, on March 2, 1994, the Washington Post published the first major news article about Hubbell's billing problems.⁴⁴ Twelve days later on March 14, Hubbell announced his intent to resign his position as Associate Attorney General.⁴⁵

White House employee and longtime friend of Hubbell. Hubbell 6/29/99 Int. at 13.

⁴¹ Hubbell 6/29/99 Int. at 13.

⁴² Consent Judgment, Rose Law Firm v. Webster Lee Hubbell, No. LR-C-96-212 (E.D. Ark. Oct. 28, 1996).

⁴³ Clark 12/2/97 GJ at 20. Suzanna Hubbell's income from the Department of the Interior was excluded in the calculation of Hubbell's gross income. Consent Judgment at 3, Rose Law Firm v. Webster Lee Hubbell, No. LR-C-96-212 (E.D. Ark. Oct. 28, 1996). Hubbell was released from federal custody on February 12, 1997, having served eighteen months of his sentence. Webb Hubbell, Friends in High Places 323 (1997).

⁴⁴ Susan Schmidt, Law Firm Probing Hubbell, Wash. Post, Mar. 2, 1994, at A1; Jeffrey H. Birnbaum & Joe Davidson, Hubbell, Responding to Article, Denies Overbilling Clients at Former Law Firm, Wall St. J., Mar. 3, 1994, at A3; Did Web[b] Hubbell Play Both Sides of Madison?, Newsweek, Mar. 7, 1994, at 32.

⁴⁵ John Broder & Ronald Ostrow, Hubbell Quits; Top Justice Aide, Clinton Friend, L.A.

a. Hubbell's Contacts with Administration and Former Campaign Officials.

Hubbell discussed his pending resignation with Jim Blair and Mickey Kantor the weekend before submitting his resignation letter to the President. Jim Blair, who Hubbell knew was a close friend of the Clintons,⁴⁶ telephoned Hubbell and suggested that he resign.⁴⁷ Hubbell next telephoned Kantor, former head of the 1992 Clinton Campaign and at that time United States Trade Representative, and told Kantor he had decided to resign.⁴⁸ Hubbell says Kantor tried to talk him out of it, but Hubbell thought if he resigned the Rose dispute could be resolved.⁴⁹ Kantor later told Hubbell to resign, reasoning that Hubbell could not protect himself against the charges and act as Associate Attorney General.⁵⁰

b. Contact with the President and the First Lady.

Hubbell says he did not have any personal conversations with either President or Mrs. Clinton from March 14 when his resignation letter was submitted to April 8 when he left the Department of Justice.⁵¹ Hubbell attended some White House social functions during this period,

Times, Apr. 15, 1994, at A1.

⁴⁶ Hubbell 6/29/99 Int. at 2.

⁴⁷ Id.; Blair 7/23/97 Senate Whitewater Comm. Depo. at 36.

⁴⁸ Kantor 12/2/97 GJ at 20-21; Hubbell 6/29/99 Int. at 2.

⁴⁹ Hubbell 6/29/99 Int. at 2.

⁵⁰ Kantor 12/2/97 GJ at 20-21. Michael Cardozo, an attorney and friend of Hubbell's who later also managed the President's Legal Defense Fund, assisted Hubbell in preparing his resignation letter. Hubbell 6/29/99 Int. at 2. Cardozo later visited Hubbell in prison on November 19, 1995. FCI Cumberland visitors log (Nov. 19, 1995) (Doc. No. LH-0000003).

⁵¹ Hubbell 6/29/99 Int. at 2.

but says there was not an opportunity to speak with the Clintons.⁵²

2. Meetings Were Held in the White House to Discuss Hubbell's Situation before He Resigned.

On March 13, 1994, the day before Hubbell said he would resign as Associate Attorney General, there was a meeting and a "pre-meeting" at the White House to discuss Whitewater-related matters.⁵³ Mack McLarty said the purpose of the meeting was to discuss an organizational structure to address Whitewater issues with the President and First Lady.⁵⁴ The "pre-meeting" was attended by McLarty, White House Deputy Chief of Staff Harold Ickes, and David Kendall and Bob Barnett, the Clintons' personal attorneys.⁵⁵ The attendees discussed the agenda for the upcoming meeting.⁵⁶

The full meeting convened later that morning in the White House residence with McLarty, Ickes, Kendall, Barnett, President and Mrs. Clinton, and Mrs. Clinton's Chief of Staff Maggie Williams.⁵⁷ After completion of the prepared agenda, the group discussed Hubbell.⁵⁸

⁵² Id. at 2-3.

⁵³ McLarty 10/1/99 Int. at 1-2. Hubbell stated that he was not aware of a meeting being held in the White House on this day, who may have attended, or when his situation with Rose may have been discussed. Hubbell 6/29/99 Int. at 2.

⁵⁴ McLarty 4/17/97 GJ at 13. McLarty recalled a telephone conversation with Mickey Kantor the Saturday before the March 13 meeting where he learned from Kantor the seriousness of the matter and Hubbell's possible exposure. McLarty 10/1/99 Int. at 4. McLarty then spoke with Jim Blair, who confirmed that the dispute between Hubbell and the firm was serious and would not be resolved soon. Id.

⁵⁵ McLarty 4/17/97 GJ at 114-15.

⁵⁶ Id.

⁵⁷ Id. at 14.

⁵⁸ Id. at 31-32; see also McLarty's meeting notes (Mar. 13, 1994) (Doc. Nos. 2275-

McLarty testified:

[A]nother matter that was topical and pressing in nature was raised at this meeting. And that's how I remember the Webb Hubbell resignation situation or possible resignation being raised at this meeting.⁵⁹

Before the grand jury McLarty refused to testify about the contents of the discussion, stating that he had been ordered to assert executive privilege.⁶⁰ He did testify that Hubbell's resignation was discussed:

[G]iven the fact that there had been apparently discussions with him [Hubbell] by Mr. Kantor and Mr. Blair. . . it seemed to be a growing possibility that he would not be able to continue to effectively serve as associate attorney general. That's how I remember the matter coming up and generally what the tone of the discussion or tone of the matter was.⁶¹

. . . .

[A]t least the feeling that I had, and I think it was shared certainly by others, that Mr. Hubbell would need to resign . . . closure was not reached about whether or not Mr. Hubbell would be asked to resign . . . if the President felt that was necessary.⁶²

According to McLarty, as the meeting was breaking up, he told the First Lady:

"[W]e're going to try to be supportive of Webb." And her response to me, as I remember it, was, "Thank you, Mack. I appreciate that very much."⁶³

McLarty later told this Office that the group's consensus leaned toward Hubbell's resignation,

0000002 through 7).

⁵⁹ McLarty 4/17/97 GJ at 25.

⁶⁰ Id. at 25-26. McLarty was later interviewed on October 1, 1999 about the details of the meeting.

⁶¹ Id. at 31.

⁶² Id. at 32.

⁶³ Id. at 35.

and his comment was only intended as a measure of support if Hubbell resigned.⁶⁴ McLarty was uncertain whether he made a similar statement to the President, though he intended to and perhaps did.⁶⁵

Mrs. Clinton testified she did not remember McLarty's comment about being supportive of Hubbell.⁶⁶ She testified McLarty could have made the comment, though, and that she believed Hubbell did not deserve to have his friends desert him.⁶⁷

3. Efforts to Help Webster Hubbell Find Post-Administration Employment Resulted in at Least Seventeen Consulting Agreements.

From March until December 1994, White House staff and other supporters of the Democratic Party helped Hubbell transition from the Clinton Administration.⁶⁸ Hubbell stated that he did not know whether there was any organized administration effort to assist his transition to private life.⁶⁹ He said that he could not say why White House staff wanted to help him, and never asked anyone why they actually did.⁷⁰

After the March 13 meeting, McLarty asked Truman Arnold and Vernon E. Jordan to

⁶⁴ McLarty 10/1/99 Int. at 5. During the interview, McLarty acknowledged that he had been instructed to claim executive privilege before the Little Rock grand jury on April 17, 1997, but proceeded to answer questions about the March 13, 1994 meeting based on his recollection.

⁶⁵ McLarty 4/17/97 GJ at 37.

⁶⁶ H. Clinton 4/25/98 Depo. at 143.

⁶⁷ Id.

⁶⁸ Hubbell 6/29/99 Int. at 3.

⁶⁹ Hubbell 6/29/99 Int. at 3.

⁷⁰ Id. at 10.

help Hubbell find clients.⁷¹ Arnold was an oil and gas businessman and financial supporter of President Clinton and the Democratic Party.⁷² Jordan was then a partner at the law firm of Akin, Gump, Strauss, Hauer & Feld, and also the President's friend and supporter.⁷³ Arnold hired Hubbell and recommended Hubbell to four others who hired him: John Moores, Wayne Reaud, Bernard Rapoport, and C.W. Conn.⁷⁴ Jordan recommended Hubbell to at least one company, Revlon, that eventually hired him.⁷⁵

Hubbell submitted his resignation on March 14, effective April 8, 1994. After resigning, Mack McLarty, and McLarty's Staff Director, William Burton, telephoned Hubbell about once a week, telling him he still had friends in the White House.⁷⁶ McLarty and Burton asked Hubbell about areas in which Hubbell had experience.⁷⁷ Burton mentioned Truman Arnold and an unnamed energy company as possible clients.⁷⁸ Hubbell sent McLarty his resume, presumably at

⁷¹ McLarty 4/17/97 GJ at 56-57. Hubbell met with Jordan at the Park Hyatt Hotel a day prior to the White House meeting. See Vernon Jordan's calendar (Mar. 12, 1994) (Doc. No. 2277-00000649).

⁷² W. Clinton 4/21/00 Campaign Financing Task Force Depo. at 65.

⁷³ Jordan 3/3/98 GJ at 6, 9-10.

⁷⁴ Arnold 5/8/97 GJ at 184.

⁷⁵ Jordan 3/3/98 GJ at 73.

⁷⁶ Hubbell 6/29/99 Int. at 3. Hubbell claimed no recollection of talking with White House Chief of Staff Mack McLarty prior to making his decision to resign, but agreed that he probably did so. Id. at 2.

⁷⁷ Hubbell 6/29/99 Int. at 3-4. During one conversation with McLarty, Hubbell said that he was not going to return to Little Rock but rather was going to seek employment or clients in the Washington, D.C. area. Id. at 3.

⁷⁸ Id. at 4. Arnold subsequently retained Hubbell's services.

Bill Burton's suggestion.⁷⁹

Burton also telephoned Brad Keithley in the Dallas office of Jones Day Reavis & Pogue following a discussion with McLarty about Hubbell.⁸⁰ Burton told McLarty that Keithley had been courteous, but said, "it would not work out for Hubbell at Jones, Day, or other traditional law firms for that matter, as long as this billing dispute was outstanding with Rose Law Firm."⁸¹

Around the same time, Erskine Bowles, then head of the Small Business Administration ("SBA"), spoke with Mickey Kantor, Bowles's friend.⁸² Kantor expressed concern for Hubbell's family.⁸³ Bowles denied that Kantor asked him to do anything, but Bowles decided to try to help Hubbell because "he was a guy who was down."⁸⁴ Bowles told Hubbell he would call a few friends with contacts in Washington, D.C.,⁸⁵ and called three people, none of whom hired Hubbell.⁸⁶

Hubbell recalled playing golf at Camp David with the President after he left the Justice Department.⁸⁷ Afterward, Hubbell said the President asked two questions about Hubbell's

⁷⁹ Id. at 3.

⁸⁰ Burton 5/7/97 GJ at 34-35.

⁸¹ McLarty 4/17/97 GJ at 53.

⁸² Bowles 4/15/97 GJ at 55.

⁸³ Id. at 56.

⁸⁴ Id. at 57.

⁸⁵ Id. at 64-65. During the conversation, Hubbell told Bowles that he was interested in remaining in the D.C. area. Id. at 64.

⁸⁶ Id. at 68-72.

⁸⁷ Hubbell 6/29/99 Int. at 3.

problems in Little Rock.⁸⁸ The President asked, "Did you ever falsely bill the federal government?"⁸⁹ Hubbell said no.⁹⁰ Second, the President asked, "Did you ever falsely bill anybody?"⁹¹ Hubbell answered, "Nobody is perfect, but I did not do what they say I have been accused of."⁹²

President Clinton also recalled their Camp David conversation:

Now, when he left the Justice Department, you know, he went to Camp David with me. I took him. He told me that he hadn't done anything wrong, it was just a billing dispute. And that's what he told everybody else and everyone believed him.⁹³

.....

[I]t's possible that he told me, well, you know, I'm going to do some business for some various people and he might have mentioned who they were, but I don't have any memory. The only thing I remember about that vacation was that I took a long walk with him and I asked him if he was in trouble. And he said, no, he was having a billing dispute with a law firm and he would resolve it. That's the searing memory I have about that. That's all I remember.⁹⁴

Hubbell said he did not have any other conversations with the President about this matter.⁹⁵

During this same trip, Hubbell also spoke with Mrs. Clinton about the issue.⁹⁶ Hubbell

⁸⁸ Id.

⁸⁹ Id.

⁹⁰ Id.

⁹¹ Id.

⁹² Id.

⁹³ W. Clinton 4/21/00 Campaign Financing Task Force Depo. at 61.

⁹⁴ Id. at 67.

⁹⁵ Hubbell 6/29/99 Int. at 3.

⁹⁶ Id.

says Mrs. Clinton asked, "Why is the firm doing this to you?"⁹⁷ Hubbell said there were people at the firm that hated him.⁹⁸ Hubbell says he did not discuss it with Mrs. Clinton again.⁹⁹

4. Hubbell's Consulting Agreements.

Hubbell set up an office on 19th Street N.W. in Washington, D.C. and began his consulting business.¹⁰⁰ Hubbell was hired by at least seventeen supporters of the President, earning income of \$450,010 in 1994, reporting only \$376,075 on the Hubbells' tax returns.¹⁰¹ Two other clients -- City of Los Angeles Department of Airports and Sprint Corporation -- hired Hubbell in 1994, but did not pay him until 1995.

President Clinton testified that "there were a lot of people who, you know, at the time this happened, who wanted to help him, who were interested in helping him because they thought he was innocent and that they felt badly for what happened to him."¹⁰² President Clinton also testified that he did not believe he initiated conversations with three of the people who hired Hubbell -- James Riady, Bernard Rapoport, or Truman Arnold.¹⁰³

⁹⁷ Id.

⁹⁸ Id.

⁹⁹ Id.

¹⁰⁰ Letter from Webb Hubbell to Barry Schwartz, General Counsel of MacAndrews & Forbes, listing his new address as 1215 19th Street Washington, D.C. (Apr. 12, 1994) (Doc. No. HIC 016915).

¹⁰¹ A chart summarizing the payments made to Hubbell is included as Appendix 2 of this Volume.

¹⁰² W. Clinton 4/21/00 Campaign Financing Task Force Depo. at 66.

¹⁰³ Id.

a. American Income Life (Bernard Rapoport).

In May 1994, either Mickey Kantor or Truman Arnold told Hubbell to contact Bernard Rapoport, Chairman of the Board of American Income Life and a major Democratic Party financial supporter, about employment.¹⁰⁴ Hubbell had met Rapoport, but did not consider him a friend.¹⁰⁵ On Truman Arnold's recommendation, Rapoport hired Hubbell at \$3,000 a month for six months.¹⁰⁶ On May 23, 1994, American Income Life paid Hubbell in one payment the agreed upon \$18,000.¹⁰⁷

Hubbell said his work for Rapoport included contacting organizations in Arkansas where

¹⁰⁴ Hubbell 6/29/99 Int. at 5. President Clinton testified about his friendship with Rapoport before the Campaign Financing Task Force:

Bernard Rapoport is a guy, we've been friends for almost 30 years. We met in 1972 and we've been friends for 30 years You know, he's always wanting me to give somebody an appointment, make somebody ambassador, do something else I consider him a good friend.

W. Clinton 4/21/00 Campaign Financing Task Force Depo. at 64. The President did not recall any conversation with Rapoport about Hubbell, but said Rapoport might have raised the issue of helping Hubbell. Id. at 64. According to the President, Rapoport:

might have said to me, you know, I think I'm going to help Webb Hubbell, and I might have said to him, that's good. Keep in mind, at the time we all thought, we all of us believed what Webb said, that there was nothing to this [the Rose billing dispute] But I don't, I don't remember having a specific conversation with anybody, but I know that among the thousand and thousands of conversations I've had in the last eight years, I did talk to B. Rapoport several times a year.

Id. at 64.

¹⁰⁵ Hubbell 6/29/99 Int. at 5.

¹⁰⁶ Id.

¹⁰⁷ American Income Life Checks to Hubbell (May-Dec. 1994) (Doc. Nos. 2144-0000009 through 14).

American Income Life might sell insurance.¹⁰⁸ Rapoport did not know what work Hubbell did for him.¹⁰⁹ After six months passed, Rapoport did not renew the contract.¹¹⁰ Rapoport later contributed \$5,000 to the Hubbell Children Education Trust Fund.¹¹¹

b. C.W. Conn Industries (Carroll Wayne Conn).

On July 28, 1994, Texas philanthropist Carroll Wayne "C.W." Conn, attended a meeting with Truman Arnold, Wayne Reaud, and Bernard Rapoport at Hubbell's office in Washington, D.C.¹¹² Hubbell knew Conn was wealthy and had contributed over \$100,000 to the Democratic Party.¹¹³ Arnold told the group that Hubbell was no longer with the Justice Department, that Hubbell was "getting set up," and was not a wealthy man, and asked them to give Hubbell some

¹⁰⁸ Hubbell 6/29/99 Int. at 5.

¹⁰⁹ Rapoport 4/3/97 GJ at 30.

¹¹⁰ Id. at 57-58. Rapoport testified that if he knew of Hubbell's criminal activity he would not have hired him. Id. at 54.

¹¹¹ Id. at 58. In late December 1994 and early January 1995, Hubbell and Michael Schaufele, his accountant, executed three trust agreements to assist the Hubbells in meeting their financial obligations. Schaufele 7/16/97 GJ at 150. All three of these trusts designated Schaufele as trustee. The first trust agreement was executed on December 30, 1994 and was titled the "Webster Hubbell Legal Expense Trust." Id. at 141. The second and third trust agreements were executed on January 19, 1995 and were titled the "Hubbell Children's Education Trust" and the "Hubbell Family Support Trust." Id. at 144. The stated primary purposes of the trusts was to assist Hubbell in meeting the education expenses and related costs for his children, and in meeting the living and support expenses for his wife and children, respectfully. Hubbell Children's Education Trust & Family Support Trust purpose and goals statement (Doc. Nos. MO-00000249-250). Schaufele also opened a non-interest bearing accounts at Metropolitan National Bank in Little Rock for each of the three trusts. Schaufele 7/16/97 GJ at 155.

¹¹² Conn 4/2/97 GJ at 14-15.

¹¹³ Hubbell 6/29/99 Int. at 6. Conn has contributed approximately \$400,000 to the Democratic Party through Truman Arnold since 1992. Conn 4/2/97 GJ at 9.

business.¹¹⁴ Hubbell said he hoped not to move his children from the schools they were attending, and agreed he needed financial help.¹¹⁵ Arnold suggested \$18,000 each, and they all wrote checks to Hubbell for that amount.¹¹⁶

Hubbell said he provided advice to Conn about obtaining an ambassadorial appointment, something Conn had been after for twenty years.¹¹⁷ To Conn's knowledge, Hubbell did nothing to help Conn, saying only that he was working on it.¹¹⁸ Conn said hiring Hubbell was a bad investment, and felt he was duped.¹¹⁹

c. Consumer Support and Education Fund (John Phillips).

Shortly after John Phillips moved to Washington, D.C. in 1992, he became friends with Hubbell, who he met through longtime friend Mickey Kantor.¹²⁰ Phillips had set up the

¹¹⁴ Conn 4/2/97 GJ at 15. Arnold and Rapoport were already clients of Hubbell's. Hubbell 6/29/99 Int. at 6.

¹¹⁵ Conn 4/2/97 GJ at 15.

¹¹⁶ Id. at 16. Hubbell believed he was hired by Conn, Moores, Reaud, and Rapoport because of loyalty to Truman Arnold. Hubbell 6/29/99 Int. at 12. Hubbell described it as "kind of like fundraising." Id. Hubbell thought they wanted to help him, though some more than others found ways of using his services. Id. Hubbell felt they were making an "investment in me." Id. Hubbell also said they were loyal Democrats and who simply might have wanted to help another Democrat in need. Id.

¹¹⁷ Hubbell 6/29/99 Int. at 6; Conn 4/2/97 GJ at 5.

¹¹⁸ Conn 4/2/97 GJ at 22-23. To date, Conn has not been nominated for an ambassadorship, but did accept an appointment to the Board of Visitors of the United States Military Academy. The appointment was brought to his attention by Bob Nash of the White House Office of Personnel, who told Conn that the position could be a stepping-stone to an ambassadorship. Id. at 24.

¹¹⁹ Id. at 25-26.

¹²⁰ Phillips 2/6/97 GJ at 4, 6; see also Kantor 12/2/97 GJ at 101-02. Kantor testified that he did not know that Phillips had retained Hubbell. Id. at 32.

Consumer Support and Education Fund ("Consumer Fund"), a non-profit foundation supporting consumer and public interest issues.¹²¹ In a letter dated April 15, 1994, the Consumer Fund made a "Distinguished Public Service Fellowship" grant in the amount of \$45,000 to Hubbell to write a series of articles on public service over three months.¹²² Hubbell submitted progress reports to the Consumer Fund,¹²³ saying he had assembled various articles and background materials; begun interviewing people in the Clinton Administration; outlining four articles; and writing a rough draft of one article.¹²⁴ None of the outlines or rough drafts were ever sent to the Consumer Fund.¹²⁵

The terms of his fellowship with Consumer Fund required Hubbell to offset the \$45,000

¹²¹ Phillips 2/6/97 GJ at 13-14.

¹²² Letter from the Robert S. Wolfe, Chair of the Consumer Support and Education Fund, to Webster Hubbell (Apr. 7, 1994) (Doc. Nos. HIC 017521 through 17523); Letter from Webster Hubbell to Robert S. Wolfe, Chair of the Consumer Support and Education Fund (Apr. 12, 1994) (Doc. Nos. HIC 016942 through 16943); Letter from Robert S. Wolfe, Chair of the Consumer Support and Education Fund to Webster Hubbell (Apr. 15, 1994) (Doc. No. HIC 017524). According to Hubbell's proposal for the articles, one issue he wanted to address was "whether the President's new five year ban on lobbying places new limitations on public service." Letter from Webster Hubbell to the Consumer Fund (Apr. 12, 1994) (Doc. Nos. 2121-00000005 through 6). Hubbell's main points of contact at the Consumer Fund were Phillips and Consumer Fund's Chairman, Robert S. Wolfe. Wolfe 2/6/97 GJ at 11-12. Hubbell assured both Wolfe and Phillips that the dispute with the Rose Law Firm was purely a civil matter. Phillips 2/6/97 GJ at 11, 43; Wolfe 2/6/97 GJ at 33.

¹²³ Letter from Webster Hubbell to Robert S. Wolfe, Chair of the Consumer Support and Education Fund (May 18, 1994) (Doc. Nos. 2121-00000008 through 9); Letter from Webster Hubbell to Robert S. Wolfe (Sept. 12, 1994) (Doc. Nos. 2121-000000011 through 14).

¹²⁴ Letter from Webster Hubbell, to Robert S. Wolfe, Chair of the Consumer Support and Education Fund (May 18, 1994) (Doc. Nos. 2121-00000008 through 9).

¹²⁵ Wolfe 2/6/97 GJ at 46-47.

fellowship with any payments he received for his writing from a publisher.¹²⁶ Unknown to the Consumer Fund, Hubbell signed a book contract with Harper Collins in September 1995,¹²⁷ submitted several partial manuscripts, and was paid \$61,667.¹²⁸ Hubbell provided no written work to the Consumer Fund.¹²⁹

Even after Hubbell pleaded guilty in December 1994, the Consumer Fund did not fire him.¹³⁰ As late as September 1995, after reporting to prison, Hubbell told the fund he was still working on the articles.¹³¹ Hubbell had not finished by December 1995.¹³² Phillips concluded that Hubbell was not going to write the articles, so he personally reimbursed the Consumer Fund the \$45,000 paid to Hubbell.¹³³

¹²⁶ Phillips 2/6/97 GJ at 51; Wolfe 2/6/97 GJ at 39.

¹²⁷ Amendment to original agreement dated Sept. 28, 1995 between Webster Hubbell and Harper Collins Publishers Inc. (May 9, 1996) (Doc. Nos. 2168-00000013 through 25).

¹²⁸ Remittance Advice to William Morris Agency and check for \$20,000 (May 9 and 15, 1996) (Doc. Nos. 2168-00000003 through 4); Remittance Advice to William Morris Agency and check for \$41,667 (Nov. 1 and 8, 1995) (Doc. Nos. 2168-00000006 through 7).

¹²⁹ Wolfe 2/6/97 GJ at 65.

¹³⁰ Id. at 50-51.

¹³¹ Letter from Webb Hubbell, to Robert S. Wolfe, Chair of the Consumer Support and Education Fund (undated) (Doc. No. 2121-00000015).

¹³² Phillips 3/5/98 GJ at 7.

¹³³ Letter from John R. Phillips, Esq., to Robert S. Wolfe, Chair of the Consumer Support and Education Fund (Dec. 7, 1995) (Doc. No. 2121-00000017); Memo to Tim Geraghty, Principal in the accounting firm of Geraghty & Associates, from John R. Phillips, Esq. with check enclosed in the amount of \$45,000 payable to the Consumer Support & Education Fund (Dec. 17, 1995) (Doc. No. 2121-00000038). In February 1996, Hubbell executed a promissory note, secured by his art collection, promising to repay Phillips. See Promissory Note and Security Agreement between WLH and John R. Phillips (Doc. No. 2121-0000043-50).

During a conversation in mid-August 1996 while Hubbell was in prison, Phillips and Hubbell continued to discuss other employment options.¹³⁴ One of those contacted through Phillips, Michael Berman, a long-time Democratic Party political consultant, did not employ Hubbell, but he did make a \$5,000 contribution to the Hubbell Education Support Trust, another trust established to support the Hubbell's children.¹³⁵

d. Entrecorp (Ben Barnes).

Ben Barnes, owner and operator of Entrecorp, a Texas company,¹³⁶ retained Hubbell on Bernard Rapoport's recommendation for advice about a welfare/social services credit card President Clinton proposed.¹³⁷ Barnes wanted to find out why the matter was stalled in a Congressional Subcommittee,¹³⁸ because Entrecorp wanted to bid on manufacturing the cards.¹³⁹ He paid Hubbell \$5,000 on October 25, 1994.¹⁴⁰

Hubbell later told Barnes that the Vice President's office was handling that project,¹⁴¹ and

¹³⁴ Cassette Tapes Containing Conversations of Webster L. Hubbell While Incarcerated at the Federal Correctional Institute, Cumberland, Maryland 19:36 Call (Aug. 18, 1996).

¹³⁵ Berman 3/21/97 Int. at 4.

¹³⁶ Barnes 4/15/97 Int. at 1, 3.

¹³⁷ Barnes 4/15/97 Int. at 1.

¹³⁸ Id.

¹³⁹ Id. at 2.

¹⁴⁰ Id.; Check No. 1523 from the account of Entrecorp payable to Webster Hubbell for \$5,000 (Oct. 25, 1994) (Doc. No. 2273-00000022).

¹⁴¹ Barnes 4/15/97 Int. at 2.

Barnes made contact with the appropriate person in that office.¹⁴² Barnes felt he received fair value for what he paid Hubbell.¹⁴³

e. Hong Kong China Limited/Lippo Group (James Riady).

Hubbell and James Riady, head of the Indonesian-based Lippo Group and Hong Kong China Limited (a subsidiary), had known each other since the mid-1980s in Arkansas.¹⁴⁴ After Hubbell announced his resignation, he tried to contact Riady about potential employment through Douglas Buford, a Little Rock attorney and former law partner of presidential adviser Bruce Lindsey.¹⁴⁵ Buford testified that Hubbell called him in the spring of 1994 and asked if Lippo -- Buford's new client -- would hire him as a consultant.¹⁴⁶ Buford stated that he passed the message on to Lippo representative John Huang, stressing that the White House was not involved.¹⁴⁷ Huang received a call from either Buford, Mark Grobmyer, or Joe Giroir explaining Hubbell was in trouble and that his family needed help.¹⁴⁸ Huang told Riady of Hubbell's

¹⁴² Id.

¹⁴³ Id.

¹⁴⁴ Hubbell first met James Riady when Riady came to Little Rock to set up an investment group to gain control of Worthen Bank. Hubbell 6/25/99 Int. at 1. In testimony before the Campaign Financing Task Force, President Clinton was uncertain whether he had first met James Riady during a trip to Asia in the fall of 1979, believing that he first met him in Arkansas, after James Riady began work at the bank. W. Clinton 4/21/00 Campaign Financing Task Force Depo. at 9. The President stated that he saw James Riady from time to time during the period that Riady was in Arkansas. The President characterized his relationship with Riady during this period as "casual but friendly." Id. at 12.

¹⁴⁵ Hubbell 6/25/99 Int. at 2.

¹⁴⁶ Buford 10/23/97 Comm. on House Gov't Reform & Oversight Depo. at 28-30.

¹⁴⁷ Id.

¹⁴⁸ Huang 4/23/98 Int. at 3. Huang was interviewed by the OIC after the U.S. District

problems.¹⁴⁹

In June 1994, Riady called Hubbell and suggested they meet at the Hay-Adams Hotel in Washington, D.C.¹⁵⁰ Hubbell's calendar records a meeting with Riady at 7:30 a.m. on June 23, 1994.¹⁵¹ According to Hubbell, he explained his situation and described what he thought he could do for Riady.¹⁵² According to Hubbell, Riady wanted to finalize a one-year agreement with a retainer of \$100,000, payable quarterly.¹⁵³

Court for the District of Columbia, Judge Johnson presiding, entered an Order compelling his testimony in accordance with 18 U.S.C. § 6002. Order, In Re: Federal Grand Jury Proceeding, No. 97-2 (D.D.C. Apr. 20, 1998).

¹⁴⁹ Huang 4/23/98 Int. at 3.

¹⁵⁰ Hubbell 6/25/99 Int. at 2. Evidence showed that there was contact during this period between the President, Marsha Scott, Mack McLarty, and Hubbell. A telephone message from Marsha Scott to Mack McLarty dated June 21, 1994 read:

She's seeing POTUS [President of the United States] at 7 and Webb this evening, so will have more to report tomorrow.

Telephone message from Marsha Scott, Deputy Assistant to the President of the United States, Director of Correspondence and Messages (June 21, 1994) (Doc. No. Z-007566).

¹⁵¹ Hubbell's calendar (June 23, 1994) (Doc. No. HIC 016569).

¹⁵² Hubbell 6/25/99 Int. at 2.

¹⁵³ Id. at 3. On April 15, 1997, this Office informed Earl Silbert, attorney for James Riady, that it desired to speak with Riady. Riady had been out of the United States and has been to date unavailable to respond to questions by this Office. But see, e.g., David S. Cloud, U.S. Moves to Toughen Fund Probe, Wall St. J., Mar. 16, 2000, at A28 (stating "Campaign finance task force chief Robert Conrad is trying to put more legal pressure on James Riady, the Indonesian businessman who is under investigation for allegedly reimbursing employees who contributed to President Clinton's election effort. Mr. Conrad traveled to Jakarta this month to arrange for evidence gathering and questioning of Mr. Riady"); Jay Solomon, Indonesian Regulator Fines Lippo Group, Wall St. J., Aug. 4, 2000, at A9 (stating that "U.S. prosecutors are considering money-laundering and other felony charges against Mr. Riady and are discussing a possible plea agreement with his lawyers. Mr. Riady has denied any wrongdoing in this case").

In a letter dated June 27, 1994, to David T. Yeh, Director of Hong Kong China Limited (a Lippo/Riady controlled entity based in Hong Kong), Hubbell wrote:

I am pleased to provide my consultant services to your company. As you know, I provide a broad range of consultant services including extensive expertise in capital markets, U.S. placements, A.D.R. and investments. From our previous dealing, you are also aware that I have extensive legal experience in banking, insurance, corporate organizations and securities.

I am pleased to confirm that I will be providing the full range of my services for a fee of \$100,000.00 per year payable in quarterly installments beginning on July 1, 1994¹⁵⁴

That same day, Hong Kong China Limited wired \$99,985 into Hubbell's bank account at Nations Bank in Washington, D.C.¹⁵⁵ Hubbell said he was surprised that Riady sent the full amount so soon.¹⁵⁶

President Clinton was asked about the \$100,000 payment from the Lippo Group to Hubbell by the DOJ Campaign Financing Task Force. President Clinton testified that he had no recollection of encouraging Riady to help Hubbell.¹⁵⁷ The President testified it was possible that Hubbell mentioned who he was working for, but said that to the best of his memory he found out about the payment after it was publicly disclosed.¹⁵⁸ The President did not recall having

¹⁵⁴ Letter from Webb Hubbell to David T. Yeh, Director of Hong Kong China Limited (June 27, 1994) (Doc. No. HIC 016946).

¹⁵⁵ Nations Bank Account Summary for Webster & Suzanna Hubbell (June 17- July 14, 1994) (Doc. Nos. 2073-00000702 through 703).

¹⁵⁶ Hubbell 6/25/99 Int. at 5. According to Hubbell, Giroir later told him that Riady wanted to help Hubbell get his office set up as soon as possible. Hubbell also understood from Riady that he might want to use Hubbell's office space when he was in the Washington, D.C. area. Id.

¹⁵⁷ W. Clinton 4/21/00 Campaign Financing Task Force Depo. at 63.

¹⁵⁸ Id.

conversations with Hubbell about his employment relationship with Riady.¹⁵⁹ The President denied having any conversations with Riady linking Hubbell's employment and the possibility that Hubbell could be a witness against the President:

- Q. Do you have any memory of a conversation with Riady about paying Hubbell because of concerns that Hubbell might end up being a witness against you in some fashion?
- A. Absolutely not. I never talked to anybody about that. I want you to understand two things. Number one, I believe the people that helped Webb Hubbell did it because, like me, they believed he was innocent. Number two; I believe Webb Hubbell was persistently persecuted by the Independent Counsel because he would not lie about me or Hillary. He did not know anything to testify against me or Hillary because, as the RTC report made clear, we did not do anything wrong.¹⁶⁰

Hubbell said Riady wanted him to come to Indonesia and learn about their operation.¹⁶¹ Doug Buford was going to Indonesia in August and Riady asked Hubbell to come then.¹⁶² Hubbell could not travel in August, so he and his wife took the trip in September.¹⁶³ While traveling to Indonesia, Hubbell had several meetings in a large office building in downtown Hong Kong with the name Lippo prominently displayed.¹⁶⁴ After two days in Hong Kong, the Hubbells traveled on to Jakarta, Indonesia.¹⁶⁵ Hubbell met Mochtar Riady, head of the Riady

¹⁵⁹ Id. at 67.

¹⁶⁰ Id. at 67-68.

¹⁶¹ Hubbell 6/25/99 Int. at 3.

¹⁶² Id.

¹⁶³ Id.

¹⁶⁴ Id.

¹⁶⁵ Id.

family business, and the United States Ambassador to Indonesia.¹⁶⁶

During Hubbell's trip they discussed the upcoming Asian Pacific Economic Conference ("APEC").¹⁶⁷ Riady wanted Hubbell to attend as part of an Arkansas delegation Riady was putting together.¹⁶⁸ Riady told Hubbell to get President Clinton to come and play golf in Bali during APEC.¹⁶⁹ Riady introduced Hubbell to people in Indonesia as his friend, who was a close friend of the President.¹⁷⁰

According to Mark Middleton, aide to then White House Chief of Staff Mack McLarty, Middleton spoke with Riady in November 1994 during the APEC meeting and Riady said either, "I'm going to help Hubbell," or "I have helped Hubbell."¹⁷¹ When he returned to the United States, Middleton told Marsha Scott, Deputy Assistant to the President and Director of Correspondence and Messages (and personal friend of Hubbell's), that Riady said he either had or was going to help Hubbell.¹⁷² Middleton thought that Scott was supposed to be some kind of a

¹⁶⁶ Id.

¹⁶⁷ Id. at 4.

¹⁶⁸ Id. In a letter to Riady, Hubbell wrote: "I would like to discuss with you whether it is in Lippo's best interest for me to be in Indonesia during APEC. I am somewhat concerned about being able to maintain a low profile. I think I may be of better assistance to you behind the scenes. Please give me a call at your earliest convenience to discuss this." Letter from Webb Hubbell to James Riady (Oct. 18, 1994) (Doc. No. HIC 017052).

¹⁶⁹ Hubbell 6/25/99 Int. at 4. Hubbell recalled suggesting to the President at the President's birthday party in 1994 that the President should go to Bali and play golf. Id. at 7.

¹⁷⁰ Id.

¹⁷¹ Middleton 4/11/97 Int. at 4.

¹⁷² Id.

coordinator for Hubbell.¹⁷³

Hubbell said neither President nor Mrs. Clinton were aware of his agreement with Riady, unless someone else told them,¹⁷⁴ which he was not aware of.¹⁷⁵ Mrs. Clinton said she first learned about Hubbell's work for Riady sometime during the year before her April 1998 deposition.¹⁷⁶

After Hubbell's guilty plea, Riady came to Washington, D.C., called Hubbell's office, and set up a meeting.¹⁷⁷ At the meeting Riady was sympathetic and asked if he could help.¹⁷⁸

¹⁷³ Id. Scott stated that Hubbell never talked to her about what he was going to do at the time of his resignation. Scott 2/4/97 GJ at 80. Scott was not aware if Hubbell had talked to anybody else in the White House or the Executive Office Building during the time prior to his incarceration. Id. at 87. Scott said she probably spoke with Mrs. Clinton in passing about Hubbell's situation but never "talked specifics," and only had generic conversations with the President about Hubbell after he left the Administration. Id. at 67, 76.

¹⁷⁴ Hubbell 6/25/99 Int. at 7. At a White House press conference in December 1996, President Clinton publicly corroborated Hubbell's assertion about his ignorance of the Lippo payments: "I didn't know about it . . . and I can't imagine who could have ever arranged to do something improper like that and no one around here knows about it . . . before it happened." William Safire, Essay: Hush Money?, N.Y. Times, Jan. 30, 1997. Compare John Solomon, White House-Asia Money Probed, A.P., Jan. 22, 1997 (quoting White House Press Secretary Mike McCurry: "I pressed very hard at the time inside here, to the point of being obnoxious, to ensure I was being told everything accurate, but apparently I made a mistaken assumption and I'm sorry for that"); Lindsey 6/8/96 Senate Whitewater Comm. Depo. at 107-08 (stating that Lindsey first learned about Hubbell's relationship with the Riadys or Lippo around the time preparations were being made for the October 1994 APEC Conference in Indonesia).

¹⁷⁵ Hubbell 6/25/99 Int. at 7. In testimony before the Senate Whitewater Committee, Hubbell stated that his wife, then Assistant to the Secretary of Interior, was the only person he told about his work for Lippo. Hubbell 6/4/96 Senate Whitewater Comm. Depo. at 123.

¹⁷⁶ H. Clinton 4/25/98 Depo. at 148.

¹⁷⁷ Hubbell 6/25/99 Int. at 4. Hubbell had written a letter to James Riady dated December 12, 1994 in which he stated:

I look forward someday to visiting with you to discuss what really happened and to hear from me the truth.

Hubbell told Riady he was worried about his children's education, and that an education trust fund had been set up.¹⁷⁹ Hubbell asked Riady to contribute \$25,000, equal to one year's expenses for his daughter at Davidson College.¹⁸⁰ Riady later contributed \$12,500 through Joe Giroir, Riady's Arkansas attorney.¹⁸¹

In May 1995, Hubbell had dinner with Bernard Rapoport and Mark Middleton, no longer McLarty's aide.¹⁸² Middleton said Hubbell asked if the Riadys "intended to continue to be helpful."¹⁸³ Middleton said he did not know and told Hubbell to talk to Huang or Riady himself.¹⁸⁴ Hubbell did not recall asking Middleton whether Riady could send him additional payments; he did recall asking Middleton not to talk to Riady.¹⁸⁵ Hubbell asked Giroir to find out

Letter from Webb Hubbell to James Riady (Dec. 12, 1994) (Doc. No. HIC 017216). In response, Lippo official Jose Hanna replied via fax dated December 15, 1994:

[S]orry to hear of what you are going through ... if there is anything at all that we can do from this side just call. We mean it!

Facsimile from Jose Hanna, Lippo Group Official, to Webb Hubbell (Dec. 15, 1994) (Doc. No. HIC 017243).

¹⁷⁸ Hubbell 6/25/99 Int. at 4.

¹⁷⁹ Id.

¹⁸⁰ Id. at 4-5.

¹⁸¹ Id. at 5.

¹⁸² Middleton 4/11/97 Int. at 4.

¹⁸³ Id.

¹⁸⁴ Id.

¹⁸⁵ Hubbell 6/25/99 Int. at 6-7.

if Riady was going to send the remaining \$12,500 for the education fund.¹⁸⁶ Hubbell received a message back that Riady was not going to contribute more money.¹⁸⁷ Hubbell wrote a letter of apology to Riady from prison.¹⁸⁸ Riady never contacted Hubbell directly or indirectly for a return of any part of the money he gave Hubbell.¹⁸⁹

Hubbell said he did no work for Riady following his December 1994 guilty plea.¹⁹⁰ None of the Lippo-related documents produced by Hubbell showed any substantive work for Lippo.¹⁹¹ Hubbell remembered that more than once he telephoned Nancy Hernreich at the White House to help various members of the Riady family gain admission to the White House.¹⁹²

When the President was deposed by the DOJ Campaign Financing Task Force, he was asked about the Riadys' "role" in his presidential campaigns. President Clinton thought that

¹⁸⁶ Id. at 5.

¹⁸⁷ Id.

¹⁸⁸ Id.

¹⁸⁹ Id.

¹⁹⁰ Id. During a telephone conversation from prison, Hubbell agreed with his wife's statement that he had not done any work for Lippo. *Cassette Tapes Containing Conversations of Webster L. Hubbell While Incarcerated at the Federal Correctional Institute, Cumberland, Maryland* (18:36 Call (Sept. 6, 1996)).

¹⁹¹ Letter from Keith T. Prothero, Managing Director of Lippo Insurance Group, to Webb Hubbell (Oct. 4, 1994) (Doc. No. HIC 017207); Letter from Webb Hubbell, to Keith Prothero, Managing Director of Lippo Insurance Group (Oct. 18, 1994) (Doc. No. HIC 017051); Letter from Webb Hubbell to Jose Hanna, Lippo Group official, (Dec. 1, 1994) (Doc. No. HIC 017237); Letter from Hubbell to Keith T. Prothero, Managing Director of Lippo Insurance Group (Dec. 19, 1994) (Doc. No. HIC 017215); Facsimile from Keith Prothero, Managing Director of Lippo Insurance Group, to Webb Hubbell (Dec. 20, 1994) (Doc. No. HIC 017217).

¹⁹² Hubbell 6/25/99 Int. at 7.

Riady supported him in 1992.¹⁹³ Hubbell believed Riady was rewarded for his contributions to Hubbell by being able to tell associates all over Southeast Asia he was friends with President Clinton and other high ranking United States officials.¹⁹⁴ Huang did not think that Riady felt the need to make contributions to Hubbell to gain favor with the President due to their personal relationship dating back to their time in Arkansas, though helping Hubbell financially made it more likely that Riady would come to the President's attention and possibly gain him favor in the future.¹⁹⁵

¹⁹³ W. Clinton 4/21/00 Campaign Finance Task Force Depo. at 18. FEC records report that the Riadys contributed over \$450,000 to the Democratic National Committee and various state Democratic parties during the 1992 election cycle. On August 13, 1992, James Riady and his wife contributed \$30,000 to the DNC and \$10,000 to the California Democratic Party. House Comm. on Gov't Reform & Oversight Report at 166 (Nov. 5, 1998). In September and October of 1992, James & Aileen Riady contributed \$410,000 to six other state Democratic Parties. *Id.* at 167. After the 1996 presidential campaign, press reports surfaced that James Riady had also promised to raise \$1 million for the Clinton campaign during a car ride with then-Governor Clinton on August 14, 1992. Walter Shapiro, Hype & Glory: Flunking the character test on first try, USA Today, Nov. 3, 1999; Tom Squitieri, Ex-fundraiser tells of 'gift' payments \$38,000 not hush money, Huang says, USA Today, Dec. 16, 1999. When asked, the President stated that he did not specifically recall James Riady pledging \$1 million to his campaign. W. Clinton 4/21/00 Campaign Financing Task Force Depo. at 23. President Clinton further testified:

I know that I saw him [James Riady] in '92 after I became the nominee and I know he said he was going to help us. If he said he was going to give us \$1 million, which he might have done, I just don't remember it.

....

But I -- if he did say it, it surprises me that I don't remember because it's the sort of thing you'd remember.

W. Clinton 4/21/00 Campaign Financing Task Force Depo. at 23-24. President Clinton also suggested that Riady might have a better memory of this conversation. *Id.* at 29, 31.

¹⁹⁴ Hubbell 6/25/99 Int. at 7.

¹⁹⁵ Huang 4/23/98 Int. at 6.

f. John Moores.

John Moores, the San Diego Padres owner and a Democratic Party supporter, hired Hubbell in July 1994 on Truman Arnold's recommendation.¹⁹⁶ Moores told Hubbell he was always in need of a Washington lawyer, and asked Hubbell about his Rose billing situation.¹⁹⁷ Hubbell's response was vague, acknowledging "problems."¹⁹⁸ Moores said he would not have hired Hubbell if he had known about Hubbell's crimes.¹⁹⁹

Moores paid Hubbell \$18,000 for a six-month contract.²⁰⁰ Hubbell said they did not discuss the specific purpose of the contract.²⁰¹ Moores was developing an airplane hangar project in Monterey County, California,²⁰² and wanted Hubbell to contact the Federal Aviation Administration ("FAA") about getting approval.²⁰³ Moores also considered having Hubbell help with a real estate project involving property held by the RTC.²⁰⁴ Moores was not aware of any

¹⁹⁶ Moores 4/16/97 GJ at 13, 26; Hubbell 6/29/99 Int. at 5.

¹⁹⁷ Hubbell 6/29/99 Int. at 5.

¹⁹⁸ Id.

¹⁹⁹ Moores 4/16/97 GJ at 76.

²⁰⁰ Letter from Beth Toner, Chief Financial Officer of JMI, to Webb Hubbell (July 20, 1994) (Doc. No. HIC 017228); Check from the account of JMI payable to Webb Hubbell for \$18,000 for Legal Retainer (July 20, 1994) (Doc. No. HIC 010944).

²⁰¹ Hubbell 6/29/99 Int. at 5.

²⁰² Moores 4/16/97 GJ at 10-11.

²⁰³ Id. at 41.

²⁰⁴ Id. at 64-65.

contacts that Hubbell made at the FAA or RTC on his behalf.²⁰⁵

g. Barbara Lindemann.

Barbara Lindemann, a California lawyer active in Democratic politics for thirty years,²⁰⁶ hired Hubbell to help her obtain a presidential appointment as a judge on the Court of International Trade.²⁰⁷ Hubbell told Lindemann the billing dispute was private and would be resolved.²⁰⁸ Lindemann paid Hubbell a single lump sum of \$18,000.²⁰⁹ Lindemann said this also represented payment for some consulting work Hubbell had done on a "major personal family problem."²¹⁰

Lindemann had no reason to think Hubbell did anything to get her a presidential appointment.²¹¹ She spoke with Hubbell several times, and he referred her to Anne Bingaman (head of the Department of Justice Antitrust Division) and Phil Verveer (an attorney with Wilkie, Farr & Gallagher and husband of Melanne Verveer, Deputy Assistant to the President and Deputy Chief of Staff to the First Lady), to garner support for an appointment.²¹² Lindemann

²⁰⁵ Id. at 65-66, 68-70.

²⁰⁶ Lindemann 3/4/97 GJ at 2, 7-8; see also Copeland 9/30/97 GJ at 37.

²⁰⁷ Lindemann 3/4/97 GJ at 22-23.

²⁰⁸ Id. at 70-71. Lindemann stated that had she known the true nature of Hubbell's personal problems, she would not have hired him. Id. at 107-08.

²⁰⁹ Id. at 109; Check from the account of Lilyan Lindemann payable to Webster Hubbell for \$18,000 (Oct. 9, 1994) (Doc. Nos. 2160-00000028 through 29).

²¹⁰ Lindemann 3/4/97 GJ at 37; see also Copeland 9/30/97 GJ at 39.

²¹¹ Lindemann 3/4/97 GJ at 54.

²¹² Id. at 44-45.

knew of no direct contacts Hubbell made for her with anyone in the administration.²¹³

h. Mid-America Dairymen.

The Independent Counsel was unable to fully determine the circumstances leading to Hubbell's retention by Mid-America Dairymen ("Mid-America"), a dairy cooperative based in Springfield, Missouri.²¹⁴ Hubbell was hired on the recommendation of the cooperative's Washington, D.C. lobbyist Jack L. Williams (who also did lobbying work for Arkansas-based Tyson Foods).²¹⁵ Mid-America CEO Gary Hanman retained Hubbell on July 11, 1994.²¹⁶ Mid-America paid Hubbell \$25,000 between July and December 1994.²¹⁷ Hanman authorized payment for "consulting services,"²¹⁸ until Hubbell pleaded guilty.²¹⁹

²¹³ Id. at 53-54.

²¹⁴ Hoecker 4/16/97 Int. at 1.

²¹⁵ Williams 12/16/97 GJ at 7. Williams was tried and convicted on charges of making two false statements to government agents related to his representation of Tyson Foods and fined \$5,000. United States v. Williams, 29 F. Supp.2d. 1 (D.D.C. 1998). The prosecution of Williams was conducted by Independent Counsel Donald C. Smaltz (In re: Secretary of Agriculture Michael Espy).

²¹⁶ Check No. 05249653 from the account of Mid-America Dairymen, Inc. payable to Webster Hubbell for \$10,000 (July 11, 1994) (Doc. No. 2148-00000039).

²¹⁷ Id.; Check No. 05258969 from the account of Mid-America Dairymen, Inc. payable to Webster Hubbell for \$5,000 (Sept. 6, 1994) (Doc. No. 2148-00000044); Check No. 6883275 from the account of Mid-America Dairymen, Inc. payable to Webster Hubbell for \$5,000 (Oct. 31, 1994) (Doc. No. 2148-00000048); Check No. 6906518 from the account of Mid-America Dairymen, Inc. payable to Webster Hubbell for \$5,000 (Dec. 5, 1994) (Doc. No. 2148-00000052).

²¹⁸ Billing Invoice from Webster Hubbell to Mid-America Dairymen Inc. for consulting services (June 10, 1994) (Doc. No. MA-012632).

²¹⁹ Check No. 6906518 from the account of Mid-America Dairymen, Inc. payable to Webster Hubbell for \$5,000 (Dec. 5, 1994) (Doc. No. 2148-00000052).

The only known work Hubbell did for Mid-America was on an antitrust issue before the Justice Department in 1994.²²⁰ Wayne Hoecker, a Kansas City lawyer representing Mid-America, consulted with Hubbell about background information on Anne Bingaman, the head of the Department of Justice Antitrust Division.²²¹ Hubbell gave Hoecker general information on Bingaman, such as "she is a sharp person."²²² Hoecker said none of Hubbell's information was at all useful.²²³

i. Nicholas Stonnington (Merrill Lynch).

Nicholas Stonnington, First Vice President of Merrill Lynch in Los Angeles, hired Hubbell on Barbara Lindemann's recommendation.²²⁴ Stonnington said he retained Hubbell to help obtain a political appointment.²²⁵ Stonnington told Hubbell he was interested in public service and not looking for a particular position.²²⁶ He told Hubbell that the position could be non-paying if it made him known in national political circles and enhanced his business career.²²⁷

On August 29, 1994, Stonnington paid Hubbell \$18,000.²²⁸ Stonnington said he did not

²²⁰ Williams 12/16/97 GJ at 43-44.

²²¹ Hoecker 4/16/97 Int. at 2.

²²² Id. at 3.

²²³ Id. at 2.

²²⁴ Stonnington 1/30/97 Int. at 1. Stonnington had not met Hubbell prior to Lindemann's recommendation. Id.

²²⁵ Id.

²²⁶ Id.

²²⁷ Id. at 2.

²²⁸ Id. at 2-3; Check No. 310 from the account of Nicholas H. Stonnington payable to

know at that time about Hubbell's billing fraud or why Hubbell had resigned from the Justice Department.²²⁹ Stonnington knew when he hired Hubbell that Lindemann was also pursuing a political appointment.²³⁰ Stonnington did not obtain an appointment.²³¹ Stonnington was dissatisfied with Hubbell's work.²³² Stonnington knew of nothing tangible Hubbell did for him.²³³

j. Pacific Telesis.

In the summer of 1994, legislation was pending in Congress concerning long distance service providers.²³⁴ The legislation was stalled in the Senate Commerce Committee, partly due to disagreements between the Department of Justice and the Federal Communications Commission.²³⁵ The "Baby Bell" companies -- including Pacific Telesis -- formed a coalition to try and get the matter resolved.²³⁶ No one in the coalition had a longstanding relationship with

Webster Hubbell for \$18,000 (Aug. 2, 1994) (Doc. Nos. 2156-00000030).

²²⁹ Stonnington 1/30/97 Int. at 2.

²³⁰ Id. at 3.

²³¹ Id.

²³² Id. at 4.

²³³ Stonnington 1/30/97 Int. at 4. Stonnington met with Hubbell on one occasion, possibly in November 1994 when Stonnington was in Washington, D.C. with Lindemann on an unrelated business matter. See Letter from Barbara Lindemann, consulting client of Hubbell, to Webb Hubbell (Aug. 30, 1994) (Doc. No. LIND0010). Hubbell said he was toiling away, but Stonnington was frustrated and wondered whether Hubbell had actually done anything. Stonnington 1/30/97 Int. at 4. Stonnington did not terminate the contract because Hubbell had already been paid. Id.

²³⁴ Stowe 4/16/97 GJ at 7-8; Stowe 3/7/97 Int. at 1.

²³⁵ Stowe 3/7/97 Int. at 1.

²³⁶ Id.

the Department of Justice, and the coalition wanted to learn why the Department was opposing the bill.²³⁷

Ronald F. Stowe, Vice President -- Washington Operations of Pacific Telesis, asked lobbyist Jack Williams how to "unstall" the matter at the department.²³⁸ Williams said it was "not his bag," but said Hubbell might help.²³⁹ Williams said Hubbell had recently left the Department and that people there still liked Hubbell.²⁴⁰

Williams arranged a meeting with Hubbell and Stowe at Williams's home in Washington, D.C.²⁴¹ During the meeting, Stowe explained the issues and that the coalition wanted someone who could find the source of the delay and give advice on how to resolve it.²⁴² Stowe asked Hubbell if he could help, and whether anything prevented Hubbell's employment by the coalition.²⁴³ Hubbell said he was interested and that there was no legal conflict.²⁴⁴ Hubbell thought his contacts with the Department of Justice would help.²⁴⁵ Stowe did not ask Hubbell

²³⁷ Id.

²³⁸ Id.

²³⁹ Id.

²⁴⁰ Id.

²⁴¹ Id.

²⁴² Id.

²⁴³ Id.

²⁴⁴ Id.

²⁴⁵ Id.

why he resigned from Justice,²⁴⁶ and did not know about the criminal investigation.²⁴⁷ The coalition hired Hubbell on July 15, 1994,²⁴⁸ and from August 9, 1994 through May 23, 1995, Pacific Telesis paid Hubbell a total of \$52,000.²⁴⁹

Hubbell's guilty plea was one factor resulting in his termination by Stowe.²⁵⁰ Stowe thought Hubbell would not have been hired if the full facts of Hubbell's problems were known.²⁵¹ Hubbell did not disclose any conflicts of interest,²⁵² including that Hubbell was working for Pacific Telesis's competitor Sprint Corporation, which Stowe said would have prohibited Hubbell's hiring had it been known.²⁵³

²⁴⁶ Stowe 4/16/97 GJ at 40; Stowe 3/7/97 Int. at 3.

²⁴⁷ Stowe 3/7/97 Int. at 3. Stowe assumed that Hubbell left the Department so as not to embarrass the President. Id.

²⁴⁸ Letter from Ronald Stowe, Vice President-Washington Operations of Pacific Telesis, to Webster Hubbell (July 15, 1994) (Doc. No. HIC 016997); Stowe 3/7/97 Int. at 3. Stowe discussed a possible fee amount with Williams and they agreed that \$10,000 per month would be appropriate. Id. at 2.

²⁴⁹ Check No. 27903 from the account of Pacific Telesis payable to Webster Hubbell for \$10,000 (Aug. 9, 1994) (Doc. No. 2149-00000044); Check No. 28120 from the account of Pacific Telesis payable to Webster Hubbell for \$10,000 (Sept. 13, 1994) (Doc. No. 2149-00000048); Check No. 28284 from the account of Pacific Telesis payable to Webster Hubbell for \$10,000 (Oct. 4, 1994) (Doc. No. 2149-00000052); Check No. 28445 from the account of Pacific Telesis payable to Webster Hubbell for \$10,000 (Nov. 1, 1994) (Doc. No. 2149-00000057); Check No. 28651 from the account of Pacific Telesis payable to Webster Hubbell for \$5,000 (Dec. 6, 1994) (Doc. No. 2149-00000062); Check No. 29728 from the account of Pacific Telesis payable to Webster Hubbell for \$7,000 (May 23, 1995) (Doc. No. 2149-00000066).

²⁵⁰ Stowe 3/7/97 Int. at 4.

²⁵¹ Id.

²⁵² Id.

²⁵³ Id.

k. Revlon (MacAndrews & Forbes).

After resigning from Justice, Hubbell sought out Vernon Jordan, a Washington, D.C. attorney and close friend of President Clinton.²⁵⁴ Hubbell first met Jordan following the 1992 election when Jordan served as transition team chairman.²⁵⁵ Jordan, who was a member of the board of directors of Revlon,²⁵⁶ discussed possible job opportunities with Hubbell.²⁵⁷ Jordan told Hubbell to "pick up some clients"²⁵⁸ and said he knew someone who might hire Hubbell to lobby.²⁵⁹ Jordan did not divulge the client's name.²⁶⁰

Barry Schwartz, General Counsel of MacAndrews & Forbes, Revlon's holding

²⁵⁴ Hubbell 6/29/99 Int. at 11.

²⁵⁵ Id.

²⁵⁶ Schwartz 5/6/97 GJ at 4.

²⁵⁷ Jordan 5/5/98 GJ at 205; Hubbell 6/29/99 Int. at 11; Mrs. Clinton learned about the efforts Jordan took on Hubbell's behalf, but could not recall when. H. Clinton 4/25/98 Depo. at 148.

²⁵⁸ Hubbell 6/29/99 Int. at 11.

²⁵⁹ Id.

²⁶⁰ Id. In January 1998, the OIC received information alleging similar conduct by Jordan in connection with the employment search for another then- Administration employee, Monica Lewinsky. Based in part upon the similarity in conduct, the Office sought a referral of the investigation relating to Ms. Lewinsky from the Attorney General. On January 16, 1998, at the request of the Attorney General, the Special Division expanded the jurisdiction of this Office to include authority "to investigate whether Monica Lewinsky or others suborned perjury, obstructed justice, intimidated witnesses, or otherwise violated federal law . . . in dealing with witnesses, potential witnesses, attorneys, or others concerning the civil case Jones v. Clinton." See Order, In re: Madison Guaranty Sav. & Loan Ass'n, (D.C. Cir. [Spec. Div.] Jan. 16, 1998). This Office will file a separate final report relating to this expansion of jurisdiction upon completion of its investigation into that matter.

company,²⁶¹ testified that in April 1994, Jordan recommended Hubbell to him.²⁶² Schwartz spoke with two other MacAndrews & Forbes employees -- Howard Gittes and Richard Halprin -- about the possibility of hiring Hubbell.²⁶³ During an April 29, 1994 interview in New York arranged by Schwartz,²⁶⁴ Hubbell met with Howard Gittes, Ronald Perelman, and possibly one other person.²⁶⁵ Either Gittes or Perelman explained MacAndrews & Forbes' corporate hierarchy, and asked what Hubbell could do for the company.²⁶⁶ They discussed Hubbell's restrictions, but not money.²⁶⁷ Hubbell said there was nothing about his personal situation that might embarrass MacAndrews & Forbes.²⁶⁸

Revlon soon retained Hubbell at \$25,000 per quarter.²⁶⁹ Schwartz could not describe the work Hubbell was supposed to do.²⁷⁰ Revlon paid Hubbell \$25,000 on April 28, 1994, and again on July 2, 1994.²⁷¹ Schwartz testified that in late October or early November 1994, MacAndrews

²⁶¹ Schwartz 5/6/97 GJ at 4; Schwartz 3/6/97 Int. at 1.

²⁶² Schwartz 5/6/97 GJ at 6.

²⁶³ Id. at 10-11, 15, 17-20; Gittes 4/23/98 Senate Whitewater Comm. Depo. at 27.

²⁶⁴ Schwartz 5/6/97 GJ at 17-19.

²⁶⁵ Hubbell 6/29/99 Int. at 11. According to Schwartz, Perelman was not at the meeting - only Hubbell, Halperin, and Schwartz attended. See Schwartz 5/6/97 GJ at 19.

²⁶⁶ Hubbell 6/29/99 Int. at 11.

²⁶⁷ Id.

²⁶⁸ Schwartz 5/6/97 GJ at 25.

²⁶⁹ Id. at 28.

²⁷⁰ Id. at 30-31.

& Forbes consulted Hubbell on one legal matter²⁷² that did not result in any written work product.²⁷³

Around December 2, 1994, Hubbell called Schwartz to say he was pleading guilty.²⁷⁴ Schwartz was surprised because he had not known Hubbell was facing criminal charges.²⁷⁵ Schwartz fired Hubbell on December 12, 1994, because the guilty plea made it "obvious" that he could no longer work for MacAndrews & Forbes.²⁷⁶ Hubbell was paid a final \$12,775, the pro rata amount from Hubbell's October 28, 1994 invoice, until December 2, 1994, when Hubbell told MacAndrews & Forbes he was pleading guilty to fraud charges.²⁷⁷

²⁷¹ Billing Statement from Webster Hubbell to MacAndrews & Forbes Holdings, Inc. for the period of Apr. 15, 1994 to July 15, 1994 (Apr. 14, 1994) (Doc. No. 2151-00000005); Check and Deposit slip from the account of Revlon payable to Webster Hubbell for \$25,000 (Apr. 28, 1994) (Doc. No. HIC-017539); Billing Statement from Webster Hubbell to MacAndrews & Forbes Holdings, Inc. for the period of July 15, 1994 to Oct. 15, 1994 (July 15, 1994) (Doc. No. 2151-00000010); Check No. 29728 from the account of Revlon payable to Webster Hubbell for \$25,000 (July 22, 1994) (Doc. No. 2151-00000008).

²⁷² Schwartz 3/6/97 Int. at 2. Schwartz refused to answer questions about the substance of the matter based on attorney client privilege.

²⁷³ Schwartz 3/6/97 Int. at 2. Hubbell stated, however, that he tried to introduce MacAndrews & Forbes to John Moores, another client, in order to discuss a property deal. Hubbell 6/29/99 Int. at 12.

²⁷⁴ Schwartz 5/6/97 GJ at 51.

²⁷⁵ Id. at 58.

²⁷⁶ Id. at 76-77; Letter from Barry Schwartz, Exec. Vice President and General Counsel for MacAndrews & Forbes, to Webster Hubbell (Dec. 12, 1994) (Doc. No. 2151-00000022); Check No. 38248 from the account of Revlon payable to Webster Hubbell for \$12,775 (Dec. 12, 1994) (Doc. No. 2151-00000013).

²⁷⁷ Schwartz 5/6/97 GJ at 76.

I. SunAmerica (Eli Broad).

Eli Broad, owner of Los Angeles-based insurance and investment concern SunAmerica Inc., had known Hubbell since the mid-1980s.²⁷⁸ Broad had maintained periodic contact with Hubbell since, but²⁷⁹ did not remember any contact while Hubbell was at the Justice Department.²⁸⁰

Broad learned of Hubbell's consulting business around April 14, 1994, while attending a dinner where Mrs. Clinton was guest of honor.²⁸¹ Broad spoke briefly with Mrs. Clinton and asked about Hubbell.²⁸² Mrs. Clinton told Broad that Hubbell was doing consulting work in the Washington, D.C. area.²⁸³ Either Broad told Mrs. Clinton he was going to call Hubbell or Mrs. Clinton suggested it.²⁸⁴

Broad called Hubbell²⁸⁵ and spoke with him about employment.²⁸⁶ They later met in

²⁷⁸ See Hubbell 6/29/99 Int. at 6; Broad 1/17/97 Int. at 1. Broad was introduced to Hubbell and the Rose Law Firm by Mickey Kantor. Hubbell did legal work in Little Rock for SunAmerica in 1985 and 1986. Hubbell 6/29/99 Int. at 6; Broad 1/17/97 Int. at 1.

²⁷⁹ Broad 1/17/97 Int. at 1.

²⁸⁰ Id.

²⁸¹ Id. at 2.

²⁸² Id.

²⁸³ Id.

²⁸⁴ Id.

²⁸⁵ Id.

²⁸⁶ Hubbell 6/29/99 Int. at 6.

Washington, D.C. and discussed Hubbell's representation of either Broad or SunAmerica,²⁸⁷ and Hubbell offered to help SunAmerica on a "national savings policy."²⁸⁸ On May 25, 1994, Broad retained Hubbell at \$5,000 per month to lobby on the national savings policy.²⁸⁹ Broad expected Hubbell to advise SunAmerica about anything being said in political circles on the national savings policy.²⁹⁰ Hubbell said he did not know Mrs. Clinton had spoken to Broad about him.²⁹¹

On September 19, 1994, Hubbell sent Broad a letter detailing specific things he would do for SunAmerica,²⁹² such as contacting specific members of the administration, including the President.²⁹³ Broad was not aware of any evidence that Hubbell completed any of these tasks.²⁹⁴

SunAmerica paid Hubbell \$35,000 in 1994.²⁹⁵ Hubbell was terminated shortly after

²⁸⁷ Id. at 7.

²⁸⁸ Id.

²⁸⁹ Broad 1/17/97 Int. at 3; Letter from Webster Hubbell to Karen Hedland, Senior Vice President and General Counsel for SunAmerica (May 25, 1994) (Doc. No. HIC 016926); Check No. 1074782 from the account of SunAmerica payable to Webster Hubbell for \$5,000 (June 1994) (Doc. No. HIC 017494).

²⁹⁰ Broad 1/17/97 Int. at 3.

²⁹¹ Hubbell 6/29/99 Int. at 7.

²⁹² Letter from Webster Hubbell to Karen Hedlund, Senior Vice President and General Counsel for SunAmerica (Sept. 19, 1994) (Doc. Nos. HIC 016948 through 16949).

²⁹³ Id.

²⁹⁴ Broad 1/17/97 Int. at 5.

²⁹⁵ Check from the account of SunAmerica payable to Webster Hubbell for \$5,000 (June 20, 1994) (Doc. No. 2073-00000345); Check from the account of SunAmerica payable to Webster Hubbell for \$5,000 (July 11, 1994) (Doc. No. 2141-00000177); Check from the account of SunAmerica payable to Webster Hubbell for \$5,000 (Aug. 10, 1994) (Doc. No. 2141-00000180); Check from the account of SunAmerica payable to Webster Hubbell for \$5,000 (Sept. 21, 1994) (Doc. No. 2073-00000380); Check from the account of SunAmerica payable to

pleading guilty on December 6, 1994 because Broad felt Hubbell was no longer of value to SunAmerica.²⁹⁶ Employees of the company, including, former General Counsel Karen Hedlund and Loren Fife, current Co-General Counsel, said Hubbell was appropriately compensated by SunAmerica for the work he performed.²⁹⁷

m. Time Warner.

Time Warner hired Hubbell on October 19, 1994 at a monthly rate of \$6,250.²⁹⁸ Hubbell had been referred by Mike Berman, a longtime Democratic Party political consultant, for advice on an antitrust matter pending before the FTC.²⁹⁹ According to Timothy Boggs, Time Warner's Senior Vice President for Public Policy, Hubbell was not hired to lobby any federal agency.³⁰⁰ Boggs asked Hubbell if there was any reason why he would not be an appropriate lawyer for the company and if there were any legal or ethical matters that would prevent him from performing his duties.³⁰¹ Hubbell replied that there was no reason why he could not do the work.³⁰²

Webster Hubbell for \$5,000 (Oct. 25, 1994) (Doc. No. 2141-00000184); Check from the account of SunAmerica payable to Webster Hubbell for \$5,000 (Dec. 9, 1994) (Doc. No. 2141-00000187); Check from the account of SunAmerica payable to Webster Hubbell for \$5,000 (Dec. 15, 1994) (Doc. No. 2141-00000190).

²⁹⁶ Broad 1/17/97 Int. at 5.

²⁹⁷ Hedlund 1/16/97 Int. at 6; Fife 1/16/97 Int. at 2.

²⁹⁸ Letter from Webster Hubbell to Timothy Boggs, Vice President for Public Policy for Time Warner (Oct. 19, 1994) (Doc. No. HIC-016872); see also Boggs 3/11/97 Int. at 1.

²⁹⁹ Boggs 3/11/97 Int. at 1.

³⁰⁰ Id. at 3.

³⁰¹ Id.

³⁰² Id.

Hubbell attended at least one meeting in New York City.³⁰³ Boggs said Time Warner did not work with Hubbell long enough to evaluate his performance.³⁰⁴ Boggs said Hubbell gave the advice on the antitrust matter he was hired to give.³⁰⁵ Boggs declined to provide details about Hubbell's work, citing the attorney-client privilege.³⁰⁶ Boggs said Hubbell resigned shortly after pleading guilty.³⁰⁷ Boggs said Time Warner would never have hired Hubbell had Boggs been aware of the extent of Hubbell's legal problems.³⁰⁸

n. Truman Arnold Companies (Truman Arnold).

Truman Arnold was asked by Mack McLarty in late March or early April 1994 to tell business associates that Hubbell was available for work in Washington, D.C.³⁰⁹ Arnold called Hubbell soon after he resigned from the Justice Department.³¹⁰ Hubbell knew who Arnold was from the Presidential campaign, but did not consider him a close friend.³¹¹ Bill Burton, Mack

³⁰³ Id. at 4.

³⁰⁴ Id.

³⁰⁵ Id.

³⁰⁶ Id.

³⁰⁷ Id. at 4.

³⁰⁸ Id. at 3.

³⁰⁹ Arnold 5/8/97 GJ at 82-83, 99.

³¹⁰ Hubbell 6/29/99 Int. at 4.

³¹¹ Hubbell 6/29/99 Int. at 4. President Clinton could not remember speaking with Arnold about supporting or assisting Hubbell. W. Clinton 4/21/00 Campaign Financing Task Force Depo. at 65. The President testified that "it wouldn't surprise me at all if Truman Arnold, if he was going to help Webb, if he had mentioned it to me. I don't remember any specific conversation about this." Id. at 65-66.

McLarty's Chief of Staff, had suggested Arnold as possible source of employment for Hubbell.³¹²

Arnold told Hubbell he wanted to help get Hubbell started, that he always needed good lawyers, and he wanted Hubbell to meet some friends in Texas.³¹³ Arnold suggested a fee of \$18,000, which Hubbell understood to be a six-month retainer of \$3,000 per month,³¹⁴ requiring him to be available as needed.³¹⁵ Hubbell assured Arnold during their April 1994 dinner interview that he was not guilty of wrongdoing and that the billing dispute with Rose was a misunderstanding.³¹⁶

Arnold paid Hubbell \$18,000 on April 20, 1994.³¹⁷ Arnold said he hired Hubbell for his Washington, D.C. contacts,³¹⁸ but that Hubbell did not approach him with any ideas during his six-month retainer.³¹⁹ When the six-month contract expired in October 1994, Arnold did not renew the contract because he was "disappointed" with Hubbell's performance.³²⁰ Arnold said if he had known the true nature of Hubbell's situation or that he would plead guilty to the two

³¹² Hubbell 6/29/99 Int. at 3-4.

³¹³ Id. at 4.

³¹⁴ Hubbell 6/29/99 Int. at 4; Arnold 5/8/97 GJ at 110.

³¹⁵ Hubbell 6/29/99 Int. at 4.

³¹⁶ Arnold 5/8/97 GJ at 89.

³¹⁷ Id. at 142.

³¹⁸ Id. at 112.

³¹⁹ Id. at 115.

³²⁰ Id. at 215.

felony counts, he would not have hired Hubbell or recommended him to friends and associates.³²¹

o. Wayne Reaud (Reaud, Morgan & Quinn).

Wayne Reaud, a Beaumont, Texas, plaintiffs' lawyer³²² hired Hubbell on July 28, 1994, during the meeting also attended by Truman Arnold, C.W. Conn, and Bernard Rapoport.³²³ Like the other attendees, Reaud paid Hubbell \$18,000 that day in a lump-sum check.³²⁴ Hubbell performed no substantive work for Reaud.³²⁵ Hubbell recalled meeting with Reaud once at the Mayflower Hotel, but recalled no more of the meeting's details.³²⁶

p. Sprint Corporation.

In late 1994, the Sprint Corporation was putting together a joint venture with French and German companies,³²⁷ and lobbying for passage of telecommunications legislation.³²⁸ Sprint wanted access to the appropriate governmental official to urge passage of the bill.³²⁹ Hubbell came to Sprint one of two ways. James Lewin, Vice President of Government Affairs for Sprint, said he saw Hubbell in a chance encounter and wondered whether he would be available for

³²¹ Id. at 107.

³²² Reaud 6/3/97 GJ at 5.

³²³ Id. at 62, 68.

³²⁴ Id. at 71; Check No. 7060 from the account of Wayne A. Reaud payable to Web[b] Hubbell for \$18,000 (July 28, 1994) (Doc. Nos. 2150-00000026 through 27).

³²⁵ Hubbell 6/29/99 Int. at 6.

³²⁶ Id.

³²⁷ Lewin 3/5/97 GJ at 4.

³²⁸ Lewin 2/26/97 Int. at 1.

³²⁹ Lewin 3/5/97 GJ at 11-12.

consulting work.³³⁰ He called Hubbell, and set up an appointment.³³¹ Phil Verveer, an attorney with Wilkie, Farr & Gallagher and husband of a Clinton Administration official, also recalled contacting Hubbell for Sprint.³³² Whoever first made contact, two or three meetings between Hubbell and Lewin followed.³³³ Lewin knew Hubbell was "under a cloud" when he resigned from the Justice Department, and that Hubbell was probably under investigation for "something,"³³⁴ though Lewin did not know what.³³⁵

Verveer discussed Hubbell's dispute with Rose before Hubbell was fired.³³⁶ Hubbell told Verveer the dispute had been going on for years and there was no real substance to it.³³⁷ Hubbell did not tell Verveer he was under criminal investigation.³³⁸ On November 9, 1994, Hubbell had lunch with John Hoffman, Senior Vice President-External Affairs & General Counsel's Office, Sara Smith, Associate Vice President-Government Affairs, Lewin, and Verveer.³³⁹ Hoffman did

³³⁰ Id. at 12; Lewin 2/26/97 Int. at 2.

³³¹ Lewin 3/5/97 GJ at 13; Lewin 2/26/97 Int. at 2.

³³² Verveer 3/18/97 Int. at 1, 3.

³³³ Lewin 2/26/97 Int. at 2.

³³⁴ Id.

³³⁵ Id. Hubbell failed to mention to Lewin that he was under criminal investigation. Lewin 2/26/97 Int. at 3. Lewin was not aware of the criminal nature of Hubbell's problems until Hubbell pleaded guilty. Lewin 2/26/97 Int. at 3.

³³⁶ Verveer 3/18/97 Int. at 2.

³³⁷ Id.

³³⁸ Id.

³³⁹ Hoffman 3/18/97 Int. at 1; Smith 3/18/97 Int. at 1.

not ask Hubbell about other clients or potential conflicts of interest,³⁴⁰ and would have expected Hubbell to advise Sprint if he had other clients creating a subject matter conflict.³⁴¹ Hoffman did not know who Hubbell's other clients were.³⁴²

By letter dated November 17, 1994, Hubbell confirmed his employment with Sprint for six months at \$15,000 per month.³⁴³ Sprint fired Hubbell the day newspapers reported that Hubbell pleaded guilty.³⁴⁴ Hubbell still demanded to be paid \$60,000 for the remaining term of the agreement.³⁴⁵ Lewin negotiated a severance settlement with Hubbell for \$30,000.³⁴⁶

q. City of Los Angeles Department of Airports.

The City of Los Angeles Department of Airports hired Hubbell in late July 1994, on Alan Arkatov's recommendation.³⁴⁷ Arkatov was a Los Angeles entrepreneur and political consultant

³⁴⁰ Hoffman 3/18/97 Int. at 2. As noted earlier, Hubbell was also employed by Pacific Telesis, a Baby Bell company with interest in the Telecom bill.

³⁴¹ Hoffman 3/18/97 Int. at 2.

³⁴² Id.

³⁴³ Letter from Webster Hubbell to Jim Lewin, Vice President of Government Affairs for Sprint (Nov. 17, 1994) (Doc. No. 2152-00000042); see also Billing Statement from Webster Hubbell to Sprint Corporation for the period of Nov. 15, 1994 to Dec. 14, 1994 (Nov. 17, 1994) (Doc. No. 2152-00000043); Letter from Webster Hubbell to Jim Lewin, Vice President of Government Affairs for Sprint (Dec. 22, 1994) (Doc. No. 2152-00000046); Check No. 551474 from the account of Sprint payable to Webster Hubbell for \$30,000 (Feb. 2, 1995) (Doc. No. 2152-00000055).

³⁴⁴ Lewin 2/26/97 Int. at 5.

³⁴⁵ Lewin 3/5/97 GJ at 24-25.

³⁴⁶ Id. at 27-29.

³⁴⁷ Driscoll 2/6/97 GJ at 25, 31-32; Arkatov 11/14/96 Int. at 3-4.

who knew Mickey Kantor.³⁴⁸ In 1994, the City of Los Angeles Airport was working with the FAA and Department of Transportation to transfer funds from the airport to the City of Los Angeles general fund.³⁴⁹

Theodore Stein, President of the Airport Commission, and Jack Driscoll, responsible for the airport's operations, wanted Hubbell to use his Washington contacts to "break the log jam" at the Department of Transportation over the funds.³⁵⁰ Hubbell's original contract was for \$49,500 for a six-month period.³⁵¹ In late Summer and early Fall 1994, Hubbell attempted to reach the Department of Transportation General Counsel, Stephen Kaplan.³⁵² The City of Los Angeles fired Hubbell in December 1994, after he told Stein that he would plead guilty to two felonies.³⁵³

In February 1995, the Department of Transportation approved the City's funds transfer.³⁵⁴ Hubbell had not been paid for the consulting services he had provided.³⁵⁵ Hubbell asked the city to pay half of the contract price, \$24,750.³⁵⁶ Hubbell wrote Stein and Driscoll detailing his

³⁴⁸ Arkatov 1/22/97 GJ at 5-6. Arkatov's wife, Mary Leslie, worked for the Clinton campaign in 1992, worked on the transition team, and later worked with Erskine Bowles at the SBA. Arkatov 11/14/96 Int. at 3.

³⁴⁹ Arkatov 11/14/96 Int. at 1.

³⁵⁰ Stein 2/6/97 GJ at 32; Driscoll 1/22/97 GJ at 47.

³⁵¹ Driscoll 1/22/97 GJ at 43.

³⁵² Kaplan 11/12/96 Int. at 2-3.

³⁵³ Stein 2/6/97 GJ at 48-49.

³⁵⁴ Id. at 50-51; Driscoll 1/22/97 GJ at 48-49.

³⁵⁵ Stein 2/6/97 GJ at 52-53; Driscoll 1/22/97 GJ at 49.

³⁵⁶ Driscoll 1/22/97 GJ at 27.

work,³⁵⁷ and told Driscoll that the re-negotiated fee "would be consistent with the prevailing rate for attorneys in the Washington, D.C. area."³⁵⁸ Hubbell wrote that he had spent fifteen hours talking with Department of Transportation and FAA Officials.³⁵⁹ The City Controller's Office authorized payment of \$24,750 to Hubbell in September 1995.³⁶⁰

C. The Tax Prosecution of Webster Hubbell, Suzanna Hubbell, Michael Schaufele, and Charles Owen.

The Independent Counsel's review of Hubbell's consulting arrangements determined that Hubbell had received numerous consulting fees in 1993 that were not declared as income for tax

³⁵⁷ Letter from Webb Hubbell to Theodore Stein Jr., Senior Policy Advisor to the Mayor (Mar. 7, 1995) (Doc. No. LX-00000169); Letter from Webb Hubbell to John Driscoll, Executive Director for the City of Los Angeles Department of Airports (July 19, 1995) (Doc. Nos. LX-00000179 through 180); Stein 2/6/97 GJ at 55-56; Driscoll 1/22/97 GJ at 20-22, 35-39. Hubbell described to Driscoll a number of categories of different types of work he had performed and the amount of time associated with each. The letters were drafted with Driscoll's assistance. Driscoll 1/22/97 GJ at 20.

³⁵⁸ Driscoll 1/22/97 GJ at 34-39. Letter from Webb Hubbell to John Driscoll, Executive Director for the City of Los Angeles Department of Airports (July 19, 1995) (Doc. Nos. LB-00000030 through 31).

³⁵⁹ Driscoll 1/22/97 GJ at 36-39. Letter from Webb Hubbell to John Driscoll, Executive Director for the City of Los Angeles Department of Airports (July 19, 1995) (Doc. Nos. LB-00000030 through 31).

³⁶⁰ Driscoll 1/22/97 GJ at 39-40. Kantor testified that in 1995 Hubbell contacted him about the payment dispute and later asked a former law partner with ties to the city government to find out why Hubbell was not being paid. Kantor 12/2/97 GJ at 69-75. In December 1995, the Department of Transportation Office of Inspector General ("DOT-OIG") investigated Hubbell's representation of the City at the request of the House Committee on Government Reform and Oversight. The focus of the investigation was whether anyone in the administration had intervened on behalf of Hubbell or the city because it was his client. The DOT-OIG's report dated concluded that no one in the Administration had tried to intervene. DOT-OIG Report with Attachment letter to Chairman William F. Clinger Jr., House Comm. on Gov't Reform & Oversight (Mar. 15, 1996).

purposes.³⁶¹ Hubbell failed to report income from C.W. Conn (\$18,000), Entrecorp (\$5,000), John Moores (\$18,000), Barbara Lindemann (\$18,000), and Nicholas Stonnington (\$18,000).³⁶²

³⁶¹ Prior to reporting to federal prison in August 1995, Hubbell prepared a handwritten sheet that purported to list his consulting income by client and provided it to Schaufele for his use in preparing the Hubbells' joint individual tax return, Form 1040. Hubbell's handwritten sheet of consulting income and expenses for 1994 (approx. July 1995) (Doc. No. 2126-00000230). Schaufele 7/16/97 GJ at 32-33.

³⁶² Hubbell's handwritten sheet of consulting income and expenses for 1994 (approx. July 1995) (Doc. No. 2126-00000230). On October 18, 1995, the Hubbells filed a joint U.S. Individual Tax Return, Form 1040, for the 1994 calendar year. See Form 1040, U.S. Individual Income Tax Return captioned Webster L. and Suzanna W. Hubbell for the year 1994. Mrs. Hubbell signed the return for them both. See 1994 Form 1040, U.S. Individual Income Tax Return captioned Webster L. and Suzanna W. Hubbell for the year 1994. This tax return reported Schedule C gross income from Hubbell's consulting business of \$376,075. See 1994 Form 1040, U.S. Individual Income Tax Return captioned Webster L. and Suzanna W. Hubbell. This Schedule C and tax return did not report the consulting income from the same six clients totaling \$92,000. Hubbell's handwritten sheet of consulting income and expenses for 1994 (approx. July 1995) (Doc. No. 2126-00000230). This return overstated certain business expenses by claiming personal travel expenses for Mrs. Hubbell and their children as business expenditures. Hubbell's handwritten sheet of consulting income and expenses for 1994 (approx. July 1995) (Doc. No. 2126-00000230); American Express Account Statements for Webb Hubbell (Doc. Nos. 2126-00000120 through 124; 2126-00000127 through 131; 2126-00000134; 2126-00000138; 2126-00000141 through 144; 2126-00000148). In October and November 1996, the Hubbells filed a joint Amended U.S. Individual Income Tax Return, Form 1040X, for 1994, filed with the IRS. See 1994 Form 1040X, Amended U.S. Individual Income Tax Return captioned Webster L. and Suzanna W. Hubbell for the year 1994. The Schedule C attached to the amended return reported additional income from Hubbell's consulting business of approximately \$77,000 for a new total of \$453,075. See 1994 Form 1040X, Amended U.S. Individual Income Tax Return captioned Webster L. and Suzanna W. Hubbell. This additional income was from the five clients which Hubbell did not report on the original 1994 tax return. See 1994 Form 1040, U.S. Individual Income Tax Return captioned Webster L. and Suzanna W. Hubbell. The new Schedule C still claimed approximately \$10,000 in personal travel expenses for family members as business expenses. See 1994 Form 1040X, Amended U.S. Individual Income Tax Return captioned Webster L. and Suzanna W. Hubbell. This amended return was prepared and filed after Hubbell was subpoenaed by the Office of the Independent Counsel for certain records related to income from his consulting business. Grand Jury Subpoena No. 2072 (E.D. Ark. Oct. 31, 1996).

1. "Related to" Jurisdiction.

The Independent Counsel concluded Hubbell's acts were related to the jurisdiction already granted to this Office by the Special Division. Accordingly, on December 31, 1997, the Independent Counsel petitioned the Special Division to refer jurisdiction to this Office pursuant to 28 U.S.C. § 594(e).³⁶³ Section 594(e) permitted an independent counsel to request the Attorney General or the Special Division to refer "matters related to the independent counsel's prosecutorial jurisdiction."³⁶⁴ The Office did not seek confirmation of its "related to" jurisdiction from the Department of Justice, because this would have placed the Department in the conflicted position of having to evaluate matters involving a former Department of Justice political appointee. This was consistent with the prior practice employed in the Special Division's Order of September 1, 1994, resulting in referral of the Hubbell Rose Law Firm billing matter to this Office.

On January 6, 1998, pursuant to 28 U.S.C. § 594(e),³⁶⁵ the Special Division granted the Independent Counsel authority to investigate:

- (i) whether Webster L. Hubbell or any individual or entity violated any criminal law, including but not limited to criminal tax violations and mail and wire fraud, regarding Mr. Hubbell's income since January 1, 1994, [and]
- (ii) whether Webster L. Hubbell or any individual or entity violated any criminal law, including but not limited to obstruction of justice, perjury, false statements, and mail and wire fraud, related to payments that Mr. Hubbell has received from various individuals and entities since January 1994.³⁶⁶

³⁶³ Application for Order of Referral to Independent Counsel, In re: Madison Guaranty Sav. & Loan Ass'n, Div. No. 94-1 (D.C. Cir. [Spec. Div.]) (filed Dec. 31, 1997).

³⁶⁴ See 28 U.S.C. § 594(e).

³⁶⁵ Order, In re: Madison Guaranty Sav. & Loan Ass'n, Div. No. 94-1 (D.C. Cir. [Spec. Div.] Jan. 6, 1998).

³⁶⁶ Id. at 1-2.

2. U.S. v. Hubbell et al., Crim. Action No. 98-0151 (JR).

On November 1, 1996, the Independent Counsel served Hubbell with a subpoena duces tecum seeking production of business, financial, and tax documents from January 1, 1993 until the date of the subpoena.³⁶⁷ Hubbell appeared before the Little Rock federal grand jury on November 19, 1996 and invoked his Fifth Amendment privilege against self-incrimination.³⁶⁸ The Independent Counsel obtained an order from the U.S. District Court for the Eastern District of Arkansas granting him immunity to the extent allowed by law and directing Hubbell to respond to the subpoena.³⁶⁹ Hubbell complied and produced 13,120 pages of records.³⁷⁰

After reviewing Hubbell's records, the Independent Counsel determined that in addition to owing taxes, interest, and penalties for 1989-92, the Hubbells had not paid a substantial portion of their tax liabilities for 1994-95.³⁷¹ By the Fall of 1997 the Hubbells' income tax

³⁶⁷ Grand Jury Subpoena No. 2072 (E.D. Ark. Oct. 31, 1996). During this same period, amended tax returns were filed on behalf of the Hubbells for 1994, which reported the \$77,000 in income from Hubbell's consulting agreements not reported on the original return. See Order at 2, In re: Grand Jury Subpoena Duces Tecum #2458, (E.D. Ark. Sept. 22, 1997). In preparing the amended return, the law firm representing Hubbell, Howery & Simon, obtained the help of an accountant, Rita Leeb, who worked for Capital Accounting. The offices of Capital Accounting are located with the offices of Howery & Simon. On July 22, 1997, Grand Jury Subpoena #2458 was directed to Leeb, who argued that otherwise responsive documents were subject to the attorney work product doctrine and/or the attorney-client privilege. On September 22, 1997, U.S. District Judge Susan Webber Wright determined that Leeb failed to demonstrate that either the attorney-client privilege or the work product doctrine prevented production. Id.

³⁶⁸ Hubbell 11/19/96 GJ at 2.

³⁶⁹ Order Compelling Production of Documents, In Re: Grand Jury Proceedings, No. GJ-96-3 (E.D. Ark. Nov. 14, 1996).

³⁷⁰ See generally Hubbell production beginning with Doc. Nos. HIC 007264 through HIC 020383.

³⁷¹ Pursuant to his December 1994 plea agreement, Hubbell had filed amended federal

liability totaled over \$875,000 in federal, state, and local taxes and penalties.³⁷²

a. April 1998 Indictment.

The Office presented evidence obtained as a result of the receipt of Hubbell's compelled production of documents (but not the actual documents) to a federal grand jury impaneled in the District of Columbia. On April 30, 1998, the grand jury returned a ten-count indictment against Hubbell, his wife Suzanna Hubbell, accountant Michael Schaufele, and tax attorney Charles Owen.³⁷³ The grand jury charged that during 1994 through 1997, Hubbell, Mrs. Hubbell, Schaufele, Owen, and others, concealed the Hubbells' income, and impeded the ascertainment, assessment, and collection efforts of certain creditors, including the IRS, the State of Arkansas, the District of Columbia, and the Rose Law Firm. Specifically:

- Count 1 charged that the Hubbells, Schaufele, and Owen knowingly, willfully, and unlawfully conspired, in violation of 18 U.S.C. § 371, to commit the following offenses:
 - to willfully attempt to evade or defeat a tax due and owing to the United States, in violation of 26 U.S.C. § 7201;
 - to willfully devise, and intend to devise, a scheme and artifice to defraud the State of Arkansas of taxes, interest, and penalties; the District of Columbia of taxes, interest, and penalties; and the Rose Law Firm of money in connection with the Settlement Agreement entered into a

income tax returns for 1989-92, which reported the additional income from his Rose Law Firm embezzlement. These amended tax returns resulted in the assessment of \$177, 960 in additional taxes, excluding interest and penalties. The Hubbells did not pay this tax. Nor did they pay other tax liabilities incurred in 1994 and 1995. Rather, the Hubbells spent approximately \$1.2 million from 1994 through June 30, 1997 -- essentially all of their net worth -- including all the cash they earned or received from gifts or through asset sales.

³⁷² See Cade 3/04/98 GJ at 20-21; see also Walsh 3/04/98 Int. at 1; Williams 10/01/97 Int. at 1-4.

³⁷³ Indictment, United States v. Webster L. Hubbell et al., No. 98-0151 (D.D.C. Apr. 30, 1998).

October 1996 and the creation and use of Bridgeport Group, LLC; by means of false and fraudulent pretenses, representations and promises, and by means of the U.S. mail carriers in violation of 18 U.S.C. § 1341; and

- to knowingly and willfully devise, and intend to devise, a scheme and artifice to defraud: the State of Arkansas of taxes, interest, and penalties; the District of Columbia of taxes, interest, and penalties; and the Rose Law Firm of money in connection with the Settlement Agreement entered into in October 1996 and the creation and use of the Bridgeport Group, LLC; by means of false and fraudulent pretenses, representations and promises, and by means of wire transmissions in interstate commerce, in violation of 18 U.S.C. § 1343.³⁷⁴
- Count 2 charged that the Hubbells, Schaufele, and Owen corruptly endeavored, and aided and abetted to obstruct and impede the due administration of revenue laws in violation of 26 U.S.C. § 7212(a).³⁷⁵
- Count 3 charged that the Hubbells, Schaufele, and Owen willfully attempted to evade and defeat the payment of a large part of the income tax due and owing by the Hubbells for the calendar years 1989-92 and 1994-95 by engaging in conduct the likely effect of which was to mislead and conceal information from the IRS in violation of 26 U.S.C. § 7201.³⁷⁶
- Count 4 charged that Webb Hubbell willfully aided and assisted in the preparation and presentation to the IRS, of a joint U.S. Individual Income Tax Return, Form 1040 for the calendar year 1994, for himself and his wife, which he did not believe to be true and correct as to every material matter in violation of 26 U.S.C. § 7206(2).³⁷⁷
- Count 5 charged that Schaufele willfully aided, assisted in, and advised the preparation and presentation to the IRS of a U.S. Individual Tax Return, Form 1040, of the Hubbells' for the calendar year 1995, which return was signed and filed with the IRS, and which return was false and fraudulent, in violation of 26 U.S.C. § 7206(2).³⁷⁸

³⁷⁴ Id. at 29-33.

³⁷⁵ Id. at 34.

³⁷⁶ Id. at 35.

³⁷⁷ Id. at 36-37.

³⁷⁸ Id. at 38-39.

- Counts 6 through 10 charged that the Hubbells, Schaufele, and Owen knowingly and willfully devised and executed, and attempted to devise and execute, a scheme and artifice to defraud the District of Columbia, using the mail and interstate wires, of money and property by means of false and fraudulent pretenses, representations and promises, in violation of 18 U.S.C. §§ 1341 and 1343.³⁷⁹

b. Jurisdictional Issue.

Despite the Special Division's January 1998 Order already conferring jurisdiction under 28 U.S.C. § 594(e), the defendants moved to dismiss the indictment for lack of jurisdiction.³⁸⁰ Judge James Robertson, U.S. District Court for the District of Columbia, granted the motion.³⁸¹ Judge Robertson claimed the "asserted connection" between the original jurisdiction and the charges relating to the consulting fees was "too attenuated" to constitute "related matters" under 594(e),³⁸² and that he was not bound by the Special Division's contrary conclusion.³⁸³ On January 26, 1999, the U.S. Court of Appeals for the District of Columbia reversed,³⁸⁴ refusing to conclude that the consulting fees were unrelated to Hubbell's cooperation.³⁸⁵

³⁷⁹ Id. at 40-42.

³⁸⁰ Motion of Defendant Webster Hubbell to Dismiss or for a Kastigar Hearing, No. 98-0151 (D.D.C. May 29, 1998); see also United States v. Hubbell, 11 F. Supp. 2d 25, 28 (D.D.C. 1998).

³⁸¹ See United States v. Hubbell, 11 F. Supp. 2d 25, 28 (D.D.C. 1998).

³⁸² United States v. Hubbell, 11 F. Supp. 2d at 32 (D.D.C. 1998).

³⁸³ Id. at 29-30.

³⁸⁴ See United States v. Hubbell, 167 F.3d 552 (D.C. Cir. 1999).

³⁸⁵ Id. at 561.

c. Act of Production Immunity Issue.

Hubbell requested a hearing under Kastigar v. United States, 406 U.S. 441 (1972), stating that this Office had violated his Fifth Amendment privilege and the terms of his immunity by using his immunized document production against him.³⁸⁶ Judge Robertson granted Hubbell's motion and dismissed all of the charges.³⁸⁷ The Court held that this Office had failed to show that all information presented to the grand jury was "untainted by the immunized act of production."³⁸⁸

The Independent Counsel thereafter appealed, arguing that it had not violated Hubbell's immunity because the immunity extended only to the act of producing the documents and not their contents.³⁸⁹ The Independent Counsel also argued that Hubbell's act of production lacked testimonial significance because the existence of business documents was a foregone conclusion.³⁹⁰ The Department of Justice filed an amicus brief supporting this Office's position.³⁹¹

On January 26, 1999, the Court of Appeals reversed the District Court's dismissal of the

³⁸⁶ See United States v. Hubbell, 11 F. Supp. 2d 25 (D.D.C. 1998).

³⁸⁷ See id. at 37.

³⁸⁸ United States v. Hubbell, 11 F. Supp. 2d at 36 (D.D.C. 1998) (quoting In re Sealed Case I, 791 F.2d 179, 182 (D.C. Cir. 1986) (internal quotation marks omitted)).

³⁸⁹ Notice of Appeal, United States v. Webster L. Hubbell et al., No. 98-0151 (D.C. Cir. July 12, 1998).

³⁹⁰ Brief of Appellant United States, United States v. Hubbell et al., No. 98-3080 (D.C. Cir. Aug. 24, 1998) at 22-41.

³⁹¹ See Brief Amicus Curiae for the United States Action through the Attorney General, United States v. Hubbell et al., No. 98-3080 (D.C. Cir. Sept. 18, 1998).

indictment.³⁹² The Court of Appeals ruled that the indictment would violate Hubbell's immunity and Fifth Amendment privilege only if this Office lacked "a reasonably particular knowledge of subpoenaed documents' actual existence" before production.³⁹³ The Court of Appeals directed the lower court to review this factual determination on remand.³⁹⁴

d. Hubbell's June 1999 Conditional Plea Agreement.

Hubbell entered into a plea agreement with the United States but he argued that he could not be prosecuted for this crime because the evidence necessary to convict him could not be used at trial without violating his Fifth Amendment privilege against self-incrimination. Essentially, Hubbell agreed that the government could prove his guilt, if it could use evidence at trial from the documents obtained under the immunity order.

The Independent Counsel argued together with the Department of Justice³⁹⁵ that Hubbell's rights were not violated. The government and Hubbell reached a compromise to test the important question of whether Hubbell could be tried using evidence derived from the contents of documents produced under a grant of immunity. Hubbell agreed to plead guilty, but if the Supreme Court ultimately agreed with him, then this Office would move to dismiss its case against him.

On June 30, 1999, Hubbell pleaded to a one count Superseding Criminal Information

³⁹² See United States v. Hubbell, 167 F.3d 552 (D.C. Cir. 1999).

³⁹³ Id.

³⁹⁴ Id.

³⁹⁵ Brief for the United States Department of Justice, United States v. Hubbell, 530 U.S. 27 (No. 99-166).

charging him with a misdemeanor willful failure to pay tax, in violation of 18 U.S.C. § 7203.³⁹⁶ The remaining counts of the indictment were dismissed against not only Hubbell, but also Suzanna Hubbell, Michael Schaufele, and Charles Owen.³⁹⁷

Hubbell's plea agreement provided for dismissal of the charge against him if the Supreme Court's decision made it reasonably likely that Hubbell's grant of immunity posed a significant bar to his prosecution.³⁹⁸ Under the terms of the plea agreement, Judge Robertson sentenced Hubbell to a one-year term of probation.³⁹⁹

e. Supreme Court Review.

Although this Office prevailed at the Court of Appeals, it believed that the majority opinion had taken an overly expansive view of act of production immunity. This Office petitioned the Supreme Court for writ of certiorari with regard to the act of production immunity. The Supreme Court granted certiorari on October 12, 1999.⁴⁰⁰ The Department of Justice filed a brief in support of the Independent Counsel's position as amicus curiae:

The question presented in this case, which involves the effect of a grant of act-of-production immunity pursuant to 18 U.S.C. 6002 and 6003, can be expected to arise in prosecutions conducted by the United States Department of Justice. The Department therefore has a substantial interest in the resolution of the issue of law

³⁹⁶ Plea Agreement, United States v. Webster L. Hubbell et al., No. 98-0151 (D.D.C. June 30, 1999). A copy of the plea agreement is found in Appendix 1 of this Volume.

³⁹⁷ Motion to Dismiss, United States v. Webster L. Hubbell et al., No. 98-0151 (D.D.C. June 30, 1999).

³⁹⁸ Plea Agreement, United States v. Webster L. Hubbell et al., No. 98-0151 (D.D.C. June 30, 1999).

³⁹⁹ Judgment, United States v. Webster L. Hubbell, No. 98-0151 (D.D.C. Jul. 1, 1999).

⁴⁰⁰ United States v. Webster L. Hubbell, 120 S. Ct. 320 (1999).

presented in this case.⁴⁰¹

The Court heard oral arguments on February 22, 2000. Both the Department of Justice and the Independent Counsel appeared before the Supreme Court.

On June 5, 2000, the Supreme Court ruled in Hubbell's favor, holding that the documentary evidence that the Independent Counsel intended to use against Hubbell was inadmissible because it was derived from testimony compelled under 18 U.S.C. §§ 6002 and 6003, so that such use would violate his Fifth Amendment privilege against compulsory self-incrimination.⁴⁰² Pursuant to the terms of the plea agreement, Judge Robertson, U.S. District Court for the District of Columbia, granted the Independent Counsel's motion to dismiss the indictment against Hubbell on October 20, 2000.⁴⁰³

IV. ANALYSIS

This section sets forth the Independent Counsel's analysis of potential charges arising from the Hubbell obstruction and tax fraud investigations. The Independent Counsel analyzed: 1) allegations of obstruction of justice (in violation of 18 U.S.C. §§ 1503, 1512) by Hubbell and/or others arising from Hubbell's failure to provide the Office of the Independent Counsel with substantial assistance while receiving consulting income from various supporters of the President; and 2) allegations of tax fraud (in violation of 26 U.S.C. §§ 7212, 7201 and 7206) by Hubbell from his failure to pay taxes on the consulting income he earned.

⁴⁰¹ Brief for the United States Department of Justice at 1-2, United States v. Hubbell, 530 U.S. 27 (No. 99-166).

⁴⁰² See United States v. Hubbell, 530 U.S. 27 (2000).

⁴⁰³ Order, United States v. Webster L. Hubbell, No. 98-0151 (D.D.C. Oct. 20, 2000).

A. Obstruction of Justice.

In the Independent Counsel's judgment there was insufficient evidence to prove beyond a reasonable doubt that consulting payments were made to Hubbell with the intent to obstruct the due administration of justice and influence the information he provided to this Office.

There is circumstantial evidence from which a reasonable trier of fact might infer such a scheme. White House principals agreed they should assist Hubbell in securing post-resignation employment. Several of them, including Chief of Staff Mack McLarty and SBA Chairman Erskine Bowles, made calls on Hubbell's behalf, as did Truman Arnold and Vernon Jordan, both supporters of the President. As a result, seventeen people and companies who were supporters of the President hired Hubbell to do consulting work, paying him in excess of \$500,000 over a period of less than eighteen months.

In some instances, the amount of work Hubbell performed appeared disproportionate to the fees he received, or the client's satisfaction with the work. There was little, if any, direct evidence reflecting Hubbell's efforts, and most of Hubbell's clients were unable (or unwilling) to recount work that Hubbell had done on their behalf. Few of Hubbell's clients complained when Hubbell failed to provide them with the work he had contracted for, creating the inference that they did not hire him with the expectation of receiving work. This in turn led to the inference that if they did not hire him to produce actual work -- so that both the putative employer and employee were creating the appearance of employment where no work was expected -- then Hubbell was being paid for some other reason that the parties wished to conceal.

When these facts are conjoined with Hubbell's insubstantial assistance with this Office's investigation (and with the White House's efforts to "monitor" Hubbell's cooperation with this Office), a trier of fact might reasonably infer that the consulting payments to Hubbell had the

effect of causing him, or inducing him, to alter his testimony.

The same set of facts is also susceptible, however, to an alternative, more plausible, and more benign interpretation. In other instances, several of Hubbell's clients reported that they did receive the expected value for their money in the form of advice and assistance from Hubbell. This testimony tends to establish that Hubbell did, in fact, provide at least some of the services for which he was retained.

More importantly, all of Hubbell's clients reported their dismay on learning of, or learning more details about, Hubbell's criminal conduct -- rebutting the inference that their activity was intended to further an unlawful purpose. Almost all of them terminated Hubbell immediately upon conviction, with other terminations coming shortly thereafter. A number of them tried to recover their payments from Hubbell, or to end future obligations to pay Hubbell. Moreover, Hubbell had a history of deceiving clients before, so the argument that these clients had been deceived as well is not implausible.

This course of conduct is inconsistent with an inference that Hubbell was being paid money to induce him to decline to cooperate with the Independent Counsel. Had the payments to Hubbell been intended to purchase his silence, it is likely that they would have continued following his conviction. The majority did not. Had the payments to Hubbell been intended to purchase his silence, it is likely that his clients would not have sought to recoup their payments to him. Some of them did.

It is, therefore, the Independent Counsel's judgment that the evidence is more consistent with a determination by a number of supporters of the President to help Hubbell following his resignation, only to find later, to their dismay, that his conduct was substantially worse than they had been led to believe when they agreed to support him. Their motives for doing so are

doubtless as numerous as the number of individuals -- some may well have wished to curry favor with the Clinton Administration, others to help a friend, and still others who wanted a former high level official with influence to lobby on their behalf. In any event, there is simply insufficient evidence to prove beyond a reasonable doubt that any of the persons paying the money intended to pay Hubbell hush money to buy his silence, or that there was an organized effort by anyone with such criminal intent to get unwitting clients to do so. For this reason, the Independent Counsel declined prosecution of this aspect of the investigation of Hubbell.

B. Tax Fraud.

In the Independent Counsel's judgment, the available evidence gathered by this Office during the course of its investigation warranted the filing of criminal charges against Webster Hubbell, Suzanna Hubbell, Michael Schaufele, and Charles Owen, who, in the Independent Counsel's judgment, engaged in actions which concealed the Hubbells' tax liability and which had the effect of obstructing and impeding the collection of the Hubbell's tax obligations.

Taken together, these actions were sufficient, in the Independent Counsel's judgment, to demonstrate the requisite intent to violate the law. They formed a pattern and series of willful acts, which had both the effect of impeding, and manifested the intent to impede, the efforts of the IRS (as well as the State of Arkansas and the District of Columbia) to collect taxes due and owing to them.

The grand jury returned an indictment reflecting these charges. Mr. Hubbell pleaded guilty to a superseding information of willful tax evasion. The Supreme Court determined that substantially all of the government's evidence against Hubbell was derived in violation of his Fifth Amendment privilege, and the Office moved to dismiss all charges against him in accordance with his plea agreement. It was deemed appropriate, in an exercise of prosecutorial

discretion, to dismiss criminal charges against Mrs. Hubbell, Mr. Schaufele, and Mr. Owen as well.⁴⁰⁴

V. SUMMARY CONCLUSION

Hubbell, a former Chief Justice of the Arkansas Supreme Court and a former Associate Attorney General of the United States, admitted to billing fraud of approximately \$482,000, and tax evasion relating to that income. He also failed to pay taxes owed to the United States, the State of Arkansas, and the District of Columbia. And, as detailed in Volume II, Part B, Chapter 2 of this Report, he billed the RTC in excess of \$1 million, while failing to disclose material conflicts of interest.

Notwithstanding conclusions about these matters, the Independent Counsel did not conclude that Hubbell deliberately and willfully obstructed this Office's investigation for the purpose of concealing evidence relating to President and Mrs. Clinton. The evidence was insufficient to prove that the extent of Hubbell's cooperation with this Office's investigation was criminally influenced by anyone.

Accordingly, after a thorough and comprehensive investigation, the Independent Counsel concludes that there was insufficient evidence of a scheme to pay Hubbell "hush money" and that there was insufficient admissible evidence supporting the tax fraud charges against Hubbell to sustain a prosecution. This matter is now closed.

⁴⁰⁴ The Independent Counsel's discretionary decision not to pursue criminal prosecution does not affect the IRS's right to make its own legal determinations and, if it determines such action would be merited, to pursue civil legal remedies from the Hubbells, Schaufele, or Owen.