

**APPENDIX**

**RTC EMPLOYEES PLACED ON ADMINISTRATIVE LEAVE**

The Independent Counsel also investigated the allegation that three of the RTC's criminal investigators investigating Madison Guaranty, Senior RTC Investigator L. Jean Lewis, RTC Supervisory Investigator Lee Ausen, and RTC Director of Field Investigations L. Richard Iorio,<sup>1</sup> were put on administrative leave in an attempt to obstruct their investigation. On August 12, 1994, the three were notified by Thomas L. Hindes, RTC Assistant General Counsel in Washington, D.C., that

[y]ou are hereby placed on Administrative Leave to be effective immediately upon receipt on August 15, 1994. You will return to active duty status effective the beginning of your tour of duty on August 29, 1994. . . . You are restricted from all RTC offices including all locations in the Kansas City Metropolitan area.<sup>2</sup>

After the two week period, RTC Chief Executive Officer Jack Ryan concluded the political fallout from placing the three on leave was problematic enough that all three were brought back to work at the end of the two weeks, rejecting advice to take any additional disciplinary action against Ms. Lewis and Mr. Iorio.<sup>3</sup>

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<sup>1</sup> Ms. Lewis was the RTC/Kansas City Office's primary criminal investigator on Madison Guaranty, Mr. Ausen was her immediate supervisor in charge of criminal investigations, and Mr. Iorio was Ausen's superior in charge of all investigations. Hindes 1/19/95 GJ at 5, 13.

<sup>2</sup> See Memorandum from Thomas L. Hindes, RTC Assistant General Counsel, to L. Jean Lewis, RTC Senior Investigator (Aug. 12, 1994); Memorandum from Thomas L. Hindes, RTC Assistant General Counsel, to L. Richard Iorio, RTC Director of Field Investigations (Aug. 12, 1994); see also Ausen 11/16/94 FBI Int. at 1 (describing being called into his supervisor's office and handed the letter placing him on leave, though the supervisor said "that he didn't know any of the circumstances that led to it"). The employees were never told what the allegations were that led to their administrative leave by Mr. Hindes or anyone acting at his direction. Hindes 1/19/95 GJ at 76.

<sup>3</sup> Yanda 11/15/94 Int. at 12-13; Mendelsohn 10/13/94 Int. at 5 & Ms. Mendelsohn's attached notes of August 26, 1994 Meeting of RTC Officials at 001662 (noting the RTC's investigation did not find cause to discipline Mr. Ausen, but that Mr. Ryan was told to keep Mr. Iorio and Ms. Lewis on administrative leave pending further review by the RTC's Inspector General); Tomback 1/24/95 GJ at 47-48; Kulka 1/26/95 GJ at 28, 44-45.

In August 1995, several members of Congress wrote to Attorney General Janet Reno and told her about their belief that

[i]t is clear from this week's testimony of RTC employees Jean Lewis, Lee Ausen, and Richard Iorio before the [House Banking and Financial Services] Committee, that administrative leave was imposed on these individuals by Mr. Tom Hindes of the RTC, in violation of government employment law, for the purpose of impeding their investigation into check-kiting, and bank fraud in connection with the review of Madison Guaranty Savings & Loan Association and its relationship to Whitewater Development Corporation.<sup>4</sup>

On August 21, 1995, Assistant Attorney General Jo Ann Harris told the Office of Independent Counsel that

[t]he Attorney General recently received the enclosed letters and materials from Congressmen Bob Barr and Jon Fox. In their letters, the Congressmen alleged that Thomas L. Hindes, Assistant General Counsel of the Resolution Trust Corporation, and other federal officials may have obstructed justice in violation of federal law by attempting to impede an investigation relating to Madison Guaranty Savings & Loan Association and its relationship to Whitewater Development Corporation. Since this matter appears to fall within your jurisdictional mandate, I am referring the letters and materials to you for whatever action you deem appropriate.<sup>5</sup>

The Independent Counsel conducted a thorough investigation of this allegation, and concluded that the evidence was insufficient to prove that Mr. Hindes or any other person committed any federal criminal violations relating to Ms. Lewis or Messrs. Ausen and Iorio having been put on administrative leave.

The RTC officials responsible for the decision consistently said the three were put on leave for two weeks so that the RTC could investigate (1) whether Ms. Lewis, Mr. Ausen and particularly Mr. Iorio were functioning appropriately with those above them in the RTC chain of

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<sup>4</sup> Letter from Rep. Bob Barr to Attorney General Janet Reno (Aug. 9, 1995); see also Letter from Rep. Jon D. Fox to Attorney General Janet Reno (Aug. 10, 1995) (making same allegation).

<sup>5</sup> Letter from Assistant Attorney General Jo Ann Harris to Independent Counsel Kenneth W. Starr (Aug. 21, 1995).

command;<sup>6</sup> (2) Ms. Lewis's covert taping of a conversation with RTC employee April Breslaw, which Ms. Lewis provided to Congressman James Leach without Ms. Breslaw's or the RTC's knowledge or permission;<sup>7</sup> and (3) Ms. Lewis's unilateral transmission of internal RTC investigative documents relating to Madison Guaranty to Congressman James Leach, despite the RTC's prior institutional determination that Congressman Leach was not legally entitled to receive the documents he had requested.<sup>8</sup>

The Independent Counsel's investigation found no evidence indicating that the three employees were put on leave for reasons other than those relied upon by the RTC as described above. At the very least, the evidence, including evidence given by the employees themselves, was insufficient to establish that they were put on leave to obstruct the Madison Guaranty investigation. These employees were no longer investigating Madison Guaranty when the leave occurred. Mr. Iorio told his employees on August 9, 1994 that "[a]ll investigations concerning Madison to be undertaken by this office are finished" and "[t]here will be no new efforts undertaken by this office."<sup>9</sup> Mr. Iorio acknowledged there was longstanding working tension between himself and the RTC official responsible for oversight of his group's investigative

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<sup>6</sup> See Hides 1/19/95 GJ at 17-20, 28-30, 43; Yanda 11/15/94 Int. at 1-4, 6, 10; Mendelsohn 10/13/94 Int. at 7-8; Tomback 2/2/95 GJ at 14; Kulka 1/26/95 GJ at 11-12, 17, 48, 88, 91.

<sup>7</sup> Hides 1/19/95 GJ at 20-21, 62; Yanda 11/15/94 Int. at 6; Mendelsohn 10/13/94 Int. at 7; Tomback 1/24/95 GJ at 38-39; Kulka 1/26/95 GJ at 11.

<sup>8</sup> Hides 1/19/95 GJ at 21-24, 55; Mendelsohn 10/13/94 Int. at 7; Kulka 1/26/95 GJ at 11, 22, 24-26; Kulka 1/26/95 GJ at 53-57 (explaining the RTC had obtained a court ruling that Congressman Leach, as a member of the House minority and otherwise lacking Committee approval, had only the ability of a private citizen to obtain internal RTC investigative documents, and that Ms. Lewis's provision to Rep. Leach of documents already denied him by the RTC under the Freedom of Information Act had harmed the RTC's investigation).

<sup>9</sup> E-Mail from L. Richard Iorio to Pat S. Robinson at 2 (Aug. 9, 1994) (provided to the Independent Counsel by Mr. Iorio and attached to the transcription of his interview, Iorio 9/22/94 Int.).

activities.<sup>10</sup> Mr. Iorio agreed this supervisor's general dislike for all investigations was a contributing factor in placing him and the others on administrative leave.<sup>11</sup>

Ms. Lewis admitted that she gave the Madison Guaranty investigative documents to Rep. Leach, and asked "that he keep them confidential."<sup>12</sup> Ms. Lewis said "[s]he was surprised when he mentioned them on the floor of Congress. Somewhat upset, she called [Rep. Leach] and he said he must have misunderstood her intent in providing the documents to him."<sup>13</sup> Mr. Iorio said when he learned Ms. Lewis had provided documents to Mr. Leach, he had considered taking disciplinary action against her, confirming his awareness that she had violated RTC regulations.<sup>14</sup> Lacking sufficient evidence indicating an intent to obstruct justice, the Independent Counsel declined to pursue this allegation further.

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<sup>10</sup> Iorio 12/21/94 Int. at 6.

<sup>11</sup> Id. at 6.

<sup>12</sup> Lewis 11/16/94 Int. at 7.

<sup>13</sup> Id. at 7.

<sup>14</sup> Iorio 9/21/94 Int. at 3; Iorio 12/21/94 Int. at 5 (acknowledging that Ms. Lewis had violated RTC procedures in releasing RTC investigative documents to Congressman Leach); Ausen 11/16/94 Int. at 4 (detailing that Ms. Lewis's admission to himself and Mr. Iorio that she had unilaterally provided materials to Congressman Leach, though Mr. Ausen determined that whether the matter should be reported to RTC management was Mr. Iorio's decision).