

PART F

**THE DEPARTMENT OF JUSTICE'S HANDLING OF THE RTC CRIMINAL
REFERRALS AND THE CONTACTS BETWEEN THE WHITE HOUSE AND
THE DEPARTMENT OF THE TREASURY**

Chapter 2:

White House Treasury Contacts

I. INTRODUCTION

This Office investigated contacts between officials from the Department of the Treasury and the White House about the Resolution Trust Corporation's ("RTC") criminal referrals on Madison Guaranty to determine if those contacts represented an effort to influence unlawfully the referrals' handling. These contacts appeared to disclose to potential witnesses the existence of an investigation of which under normal circumstances they might be unaware.⁸⁰⁵ Such an effort, if proved, would constitute a violation of 18 U.S.C. § 1505 relating to unlawful obstruction of executive branch proceedings.

This Office also investigated whether Deputy Treasury Secretary Roger Altman violated federal criminal law in his unsworn statements to Congress relating to his contacts with White House officials, including whether those statements and the evidence about them showed Altman violated 18 U.S.C. § 1001, involving knowingly false and material statements to any "department or agency of the United States."

II. FINDINGS

The Independent Counsel concluded the evidence on contacts between Treasury Department officials and White House officials was insufficient to prove beyond a reasonable doubt that anyone in the White House or the Treasury Department took any action intended to influence unlawfully the handling of the RTC criminal referrals. The Independent Counsel declined to prosecute anyone for obstruction of the investigation under 18 U.S.C. § 1505.

With respect to the statements of Deputy Secretary Altman, the Independent Counsel concluded that unsworn statements to Congress, whether knowingly false and material to

Congress's investigation, did not, as a matter of law, violate 18 U.S.C § 1001, as in effect at the time of Deputy Secretary Altman's statements. In light of this conclusion, the Independent Counsel drew no conclusions regarding whether the statements themselves were knowingly false and material. The Independent Counsel declined prosecution of Deputy Secretary Altman for his statements to Congress about his contacts with White House officials over the RTC's criminal referrals.

III. FACTUAL SUMMARY

A. Treasury Department Officials Had No Significant Contact with White House Officials Relating to the First Criminal Referral before September 1993.

During the 1992 presidential campaign, media reports surfaced about Madison Guaranty and possibly improper diversions of funds during the 1980s to the benefit of Governor Clinton and Mrs. Clinton.⁸⁰⁶ After a review of the institution's practices, L. Jean Lewis, an RTC investigator, made a criminal referral -- number C-0004 -- to federal law enforcement authorities in Little Rock in September 1992.⁸⁰⁷ As described earlier in this Report, referral C-0004 was the first of what would become ten criminal referrals arising from Madison Guaranty's failure. Referral C-0004 named James and Susan McDougal as suspects and Governor and Mrs. Clinton as potential witnesses.⁸⁰⁸

On March 15, 1993, after Albert Casey's resignation as Chief Executive Officer of the RTC, Roger Altman, Deputy Secretary of the Treasury in the Clinton Administration, was

⁸⁰⁵ Cf. United States v. Proctor & Gamble Co., 356 U.S. 677, 681 n.6 (1958) (reciting the policies underlying grand jury secrecy).

⁸⁰⁶ Jeff Gerth, Clintons Joined S&L: Operator In an Ozark Real-Estate Venture, N.Y. Times, Mar. 8, 1991 at A1.

⁸⁰⁷ Lewis 5/18/95 GJ at 4, 7-15, 19.

appointed to serve as Interim CEO of the RTC.⁸⁰⁹ Altman held his first staff meeting with RTC personnel on Tuesday, March 23, 1993.⁸¹⁰ Present at that meeting, among others, was William H. Roelle, Senior Vice President and Chief Financial Officer of the RTC.⁸¹¹

Roelle testified that at that meeting, Altman said he wanted to be told about any "high visibility" or "major" issues.⁸¹² After the meeting, Roelle, who knew about criminal referral C-0004, told Altman about it, mentioning that it was related to Madison Guaranty and listed the President and Mrs. Clinton as witnesses.⁸¹³ Roelle said he handed Altman a copy of the referral, and that Altman looked at its front briefly but did not appear to read it.⁸¹⁴ Altman then handed the referral back and thanked Roelle.⁸¹⁵

The evening of the March 23 meeting and the next morning, two facsimiles were sent

⁸⁰⁸ RTC Crim. Ref. No. C-0004 (Aug. 31, 1992).

⁸⁰⁹ Altman had known President Clinton for many years; the two met at Georgetown University when they were students there in the late 1960s. Altman 9/12/95 GJ at 13-14. Altman's appointment as Interim CEO of the RTC was made pursuant to the Vacancy Act, 5 U.S.C. § 3341-49, pending appointment of a permanent CEO of the agency. Under the Vacancy Act as it applied in Altman's case, his appointment was to lapse in 120 days, unless within that time the President nominated a candidate for permanent CEO of the RTC. Within Altman's first 120 days as Interim CEO, President Clinton nominated Stanley Tate to the CEO post. At the end of 1993, when Tate withdrew his nomination, the law permitted Altman to remain in the Interim post for an additional 120 days after Tate's withdrawal. Altman remained in the Interim CEO post until March 30, 1994, when his Vacancy Act term expired. Altman 7/11/94 Treas. IG at 6-7; Altman 5/13/94 Statement to the Office of the Independent Counsel at 6-7, 11.

⁸¹⁰ Altman Calendar (Mar. 23, 1994) (Doc. No. 312-DC-00000010).

⁸¹¹ Roelle 7/20/94 Senate Banking Comm. Depo. at 11-12.

⁸¹² Id. at 34.

⁸¹³ Roelle 2/24/95 Int. at 2; see also Roelle 7/20/94 Senate Banking Comm. Depo. at 34-35.

⁸¹⁴ Roelle 2/24/95 Int. at 2-3.

⁸¹⁵ Id. at 3.

from Altman's office to the office of Bernard Nussbaum, Counsel to the President.⁸¹⁶ The March 23 facsimile had copies of two New York Times articles published a year earlier.⁸¹⁷ One article was a March 9, 1992 article about events after Jeff Gerth's New York Times article on Madison Guaranty and Whitewater.⁸¹⁸ The other article was about the Office of Thrift Supervision's professional liability lawsuit against the New York-based law firm Kaye, Scholer, Fierman, Hays & Handler.⁸¹⁹ The March 24, 1993 facsimile had the same material from the night before, plus a portion of Gerth's article.⁸²⁰ The facsimiles did not refer to the criminal referrals.

Altman told this Office that he did not remember hearing about criminal referral C-0004 from Roelle on March 23, 1993,⁸²¹ or faxing the New York Times articles to Nussbaum.⁸²² Altman said he did not learn about the RTC criminal referrals until the latter part of 1993.⁸²³ Similarly, Nussbaum neither remembered receiving the facsimiles nor learning about the criminal

⁸¹⁶ Facsimile from Roger Altman, Deputy Secretary of the Treasury, to Bernard Nussbaum, Counsel to the President (Mar. 23, 1993) (Doc. Nos. 009-DC-00000034 through 36); see also Facsimile from Roger Altman, Deputy Secretary, of the Treasury, to Bernard Nussbaum, Counsel to the President (Mar. 24, 1993) (Doc. No. 009-DC-00000005 through 10).

⁸¹⁷ Facsimile from Roger Altman, Deputy Secretary of the Treasury, to Bernard Nussbaum, Counsel to the President (Mar. 23, 1993) (Doc. Nos. 009-DC-00000034 through 36).

⁸¹⁸ Gwen Ifill, Clinton Defends Real Estate Deal, N.Y. Times, Mar. 9, 1992, at A13.

⁸¹⁹ Id.; see also Stephen Labaton, Law Firm Will Pay a \$41 Million Fine in Savings Lawsuit, N.Y. Times, Mar. 9, 1992, at A1.

⁸²⁰ Jeff Gerth, Clinton Joined S&L Operator in an Ozark Real Estate Venture, N.Y. Times, Mar. 8, 1992, at A1.

⁸²¹ Altman 9/7/95 Int. at 1; Altman 6/1/94 Fiske Int. at 1; Altman 7/11/94 Treas. IG at 19-23; Altman 5/13/94 Statement to the Office of the Independent Counsel at 8.

⁸²² Altman 7/22/94 Senate Banking Comm. Depo. at 49; Altman 9/7/95 Int. at 2.

⁸²³ Id. at 59-60; Altman 9/7/95 Int. at 3. As more fully described below, by that time nine additional Madison Guaranty-related criminal referrals had been sent to the Department of Justice.

referrals until the fall of 1993.⁸²⁴ Nussbaum also did not remember speaking with Altman about Madison Guaranty or the criminal referrals around the time the faxes were sent.⁸²⁵

The OIC found no additional evidence tending to show that Altman told Nussbaum about the first criminal referral in March 1993. No relevant witness (save for Roelle) had any memory that Altman knew of C-0004 then, that he had any conversation with Roelle about it, or that Altman had any contact with Nussbaum about it.

B. Treasury Department Officials Conferred with White House Officials after the Issuance of Nine Additional Criminal Referrals about Madison and the Clintons in September 1993.

In the early fall of 1993, the RTC issued nine more criminal referrals about Madison Guaranty.⁸²⁶ One of these listed the Clintons as potential witnesses.⁸²⁷ Another named the "Bill Clinton Political Committee Fund Account" as a potential subject.⁸²⁸ The new referrals focused on, among others, the McDougals and Jim Guy Tucker, the Governor of Arkansas.⁸²⁹

Roelle learned about the new referrals in late September 1993.⁸³⁰ On Monday, September

⁸²⁴ Nussbaum 7/23/94 Senate Banking Comm. Depo. at 73-74.

⁸²⁵ Id. at 73-77.

⁸²⁶ See RTC Crim. Ref. Nos. C-0004 (Aug. 31, 1992), 730CR0198 (Aug. 4, 1993), 730CR0190 (Aug. 12, 1993), 730CR0192 (Aug. 13, 1993), 730CR0195 (Aug. 15, 1993), 730CR0196 (Aug. 18, 1993), 730CR0203 (Aug. 30, 1993), 730CR0199 (Aug. 30, 1993), 730CR0210 (Sept. 17, 1993), 730CR0211 (Sept. 23, 1993).

⁸²⁷ See RTC Crim. Ref. No. 730CR0192 at 6 (Aug. 13, 1993).

⁸²⁸ See RTC Crim. Ref. No. 730CR0196 at 5 (Aug. 18, 1993).

⁸²⁹ See RTC Crim. Ref. Nos. 730CR0198 (Aug. 4, 1993), 730CR0190 (Aug. 12, 1993), 730CR0192 (Aug. 13, 1993), 730CR0195 (Aug. 15, 1993), 730CR0196 (Aug. 18, 1993), 730CR0203 (Aug. 30, 1993), 730CR0199 (Aug. 30, 1993), 730CR0210 (Sept. 17, 1993), 730CR0211 (Sept. 23, 1993).

⁸³⁰ Roelle 7/20/94 Senate Banking Comm. Depo. at 35; Roelle 2/24/95 Int. at 3; see also Roelle 5/25/94 Int. at 2.

27, 1993, Roelle called Altman and described some of the new material.⁸³¹ Altman (who is not a lawyer) said he did not understand, and asked Roelle instead to brief Jean Hanson, the Treasury Department's General Counsel.⁸³²

Roelle and Hanson spoke that same day.⁸³³ Hanson said Roelle briefly described the nine referrals, the reference to the Clintons as potential witnesses, and said the referrals were sent from the RTC's Kansas City office to its Washington headquarters, from which they would be sent to the Department of Justice.⁸³⁴ He distinguished these new referrals from the previous referral (C-0004) sent to the Justice Department about Madison Guaranty mentioning the Clintons, suggesting additional investigation might further implicate them.⁸³⁵ Roelle also said one of the referrals discussed Governor Tucker and another was about a possible fund-diversion conspiracy between McDougal and the "1985" Clinton gubernatorial campaign.⁸³⁶ Roelle told

⁸³¹ Hearings Relating to Madison Guaranty S&L and the Whitewater Dev. Corp. - Washington, DC Phase Before the Senate Comm. on Banking, Housing, and Urban Affairs, 103rd Cong. 50 (Aug. 1, 1994) (testimony of W. Roelle) [hereinafter "Senate Banking Comm. Hearing"]; Roelle 2/24/95 Int. at 3; see Roelle 7/20/94 Senate Banking Comm. Depo. at 40-41.

⁸³² Roelle 7/20/94 Senate Banking Comm. Depo. at 44; Senate Banking Comm. Hearing, supra note 831, at 52 (Aug. 1, 1994) (testimony of W. Roelle). Altman claimed he told Roelle the referral should be handled according to normal procedure. 7/11/94 Treas. IG at 19-20; Altman 6/1/94 Fiske Int. at 1; Altman 3/15/94 Fiske Int. at 2; Altman 9/7/95 Int. at 3; Altman 5/13/94 Statement to the Office of the Independent Counsel at 8. Altman wanted nothing to do with the referral mentioning the Clintons because of its sensitivity. Altman 7/22/94 Senate Banking Comm. Depo. at 67-68; Altman 7/11/94 Treas. IG at 25; Altman 6/1/94 Fiske Int. at 5. Altman assumed Roelle told him about the referral because it would become public. Altman 7/22/94 Senate Banking Comm. Depo. at 66; Altman 7/11/94 Treas. IG at 20; Altman 3/22/94 Fiske GJ at 19.

⁸³³ See Hanson call sheet (Sept. 27, 1993) (Doc. No. 007-DC-00000371).

⁸³⁴ Roelle 7/14/94 Senate Banking Comm. Depo. at 105; Hanson 7/11/94 Treas. IG at 24, 30; Hanson 9/27/95 Int. at 4; Hanson 3/16/94 Fiske Int. at 2-3.

⁸³⁵ Hanson 7/11/94 Treas. IG at 30.

⁸³⁶ Id. at 46; Hanson 3/16/94 Fiske Int. at 2; Hanson 9/27/95 Int. at 4.

Hanson it was likely the referrals would become public.⁸³⁷

According to Roelle, after Hanson said she planned to brief Altman about the referrals, he cautioned her that no one other than Altman should be told.⁸³⁸ Hanson did not remember Roelle saying that.⁸³⁹ Roelle said that Hanson asked if Altman should see the referrals.⁸⁴⁰ Roelle said he told her no, and said no one should look at them except in the ordinary course of business.⁸⁴¹

That same day Hanson told Altman about her conversation with Roelle.⁸⁴² Hanson testified that from her conversation with Altman, she thought she had been tasked with informing Nussbaum about the referrals so that the White House would be prepared to meet any press inquiries in the event the substance of the referrals became public.⁸⁴³

⁸³⁷ Hanson 7/14/94 Senate Banking Comm. Depo. at 106-07; Hanson 7/11/94 Treas. IG at 25-26.

⁸³⁸ Roelle 7/20/94 Senate Banking Comm. Depo. at 45; Roelle 2/24/95 Int. at 4.

⁸³⁹ Hanson 9/27/95 Int. at 5.

⁸⁴⁰ Roelle 2/24/95 Int. at 4.

⁸⁴¹ Id.

⁸⁴² Hanson 9/27/95 Int. at 6. Altman said he did not remember assigning Hanson to brief the White House on the referrals, but may have because Roelle said the referrals were likely to be discussed by the press. Altman 9/12/95 GJ at 24-25; Altman 9/7/95 Int. at 3-4. He also did not remember learning that Hanson actually did brief White House officials on the referrals, and that Hanson did not report back to him on her meeting at the White House. Altman 9/12/95 GJ at 25, 27-28.

⁸⁴³ Hanson 9/27/95 Int. 6-8.

C. Treasury Officials Met with White House Officials about the Referrals.

1. Jean Hanson First Met with Bernard Nussbaum about the Referrals September 29, 1993.

On September 29, 1993, around 6:30 p.m., after a meeting with other Treasury officials in Nussbaum's office about other matters,⁸⁴⁴ Hanson initiated a private conversation with Nussbaum.⁸⁴⁵ Nussbaum said Hanson told him the RTC was making or had made a number of referrals about an Arkansas S&L.⁸⁴⁶ He remembered Hanson said one of the referrals was about checks sent to a Clinton gubernatorial campaign,⁸⁴⁷ so the Clintons were mentioned in the referrals as possible witnesses.⁸⁴⁸ Nussbaum testified Hanson said she was informing the White House about the referrals to permit it to prepare for press inquiries that might follow from public disclosure of the referrals.⁸⁴⁹ At Nussbaum's request, Hanson repeated the information to associate White House Counsel, Clifford Sloan, whom Nussbaum had asked to join the meeting.⁸⁵⁰

⁸⁴⁴ Hanson 7/14/94 Senate Banking Comm. Depo. at 156-60; Hanson 3/16/94 Fiske Int. at 6-7; Hanson 9/29/95 GJ at 21; Hanson 4/21/94 Fiske GJ at 15.

⁸⁴⁵ Nussbaum 3/17/94 Fiske GJ at 19-22; Hanson 7/14/94 Senate Banking Comm. Depo. at 156-60. Nussbaum's associate, Clifford Sloan, was present at the end of the meeting. Hanson Id. at 160.

⁸⁴⁶ Nussbaum 3/17/94 Fiske GJ at 20. He did not remember the name Madison Guaranty being mentioned. Id.

⁸⁴⁷ Id.

⁸⁴⁸ Id. at 20-21. Nussbaum did not remember if Hanson mentioned anyone else named in the referrals, such as Governor Tucker. Nussbaum 7/23/94 Senate Banking Comm. Depo. at 91.

⁸⁴⁹ Nussbaum 3/17/94 Fiske GJ at 21.

⁸⁵⁰ Id. at 21-22; Nussbaum 6/13/95 GJ at 16. Sloan said Hanson told him that her briefing White House staff was to help them respond if the referrals became public. See Sloan 4/7/94 Fiske GJ at 12. Nussbaum and Sloan both remembered Hanson said she thought Altman had already sent Nussbaum some materials on the issue, but Nussbaum said he did not remember Altman sending him anything. Nussbaum 6/13/95 GJ at 18-19; Sloan 5/24/95 GJ at 13-14.

After the initial meeting between Hanson, Nussbaum, and Sloan, and before the next meeting between Treasury and White House Officials on October 14, the following occurred: 1) Bruce Lindsey, a longtime friend and advisor to the President and Director of Presidential Personnel, was told about the referrals; 2) Associate Counsel to the President Neil Eggleston was brought into the matter by Sloan; 3) the RTC and Treasury received press inquiries about the referrals, which were passed on to the White House by Hanson and were the subject of ongoing discussion between officials at the RTC and Treasury; 4) Lindsey told President Clinton about the referrals (or at least about press inquiries regarding the referrals); 5) President Clinton then met with Governor Tucker, one of the subjects of the criminal referrals; 6) the referrals were sent to the United States Attorney in Little Rock over objections from some RTC officials; and 7) press inquiries about the referrals increased, resulting in a large meeting at the White House on October 14.

2. Bruce Lindsey Was Briefed on the Referrals.

After the discussion between Hanson, Nussbaum, and Sloan, Sloan briefed Lindsey about the referrals and the press inquiries.⁸⁵¹ Sloan told Lindsey there were referrals involving Madison Guaranty, and that the 1985 Clinton campaign was mentioned.⁸⁵² Lindsey did not

Nussbaum asked Hanson to keep Sloan informed on the referrals or press inquiries. Nussbaum 6/13/95 GJ at 16; Sloan 4/5/95 Int. at 3.

⁸⁵¹ Nussbaum 6/13/95 GJ at 17-18. Nussbaum also thought that he spoke to Lindsey, but Lindsey did not remember Nussbaum speaking to him about either referral or the September 29, 1993 meeting with Hanson. Lindsey 3/24/94 Fiske GJ at 9-10. Sloan did not remember separately briefing Lindsey, but said the September 29, 1993 meeting might have come up in later conversations with Lindsey. Sloan 5/24/95 GJ at 21.

⁸⁵² Lindsey 7/21/94 Senate Banking Comm. Depo. at 34; Lindsey 3/24/94 Fiske GJ at 9-11.

remember learning during this briefing that the Clintons were mentioned in the referrals.⁸⁵³ Lindsey may have asked Sloan to keep him updated.⁸⁵⁴ Lindsey said he did nothing with the information.⁸⁵⁵

3. Clifford Sloan Discussed the September 29 Meeting with Neil Eggleston.

After the September 29, 1993 White House meeting, Sloan told Eggleston about the meeting, and the two considered whether it was appropriate for the White House to receive information about the referrals.⁸⁵⁶ After some legal research, they decided the meeting with Hanson did not violate any statutory or regulatory prohibitions.⁸⁵⁷ Sloan also discussed the legal issues with Nussbaum.⁸⁵⁸ Nussbaum did not see a legal problem with the White House's receiving information about the referrals,⁸⁵⁹ although Nussbaum did not remember this conversation.⁸⁶⁰

Eggleston testified that Sloan was sent to speak with Hanson to figure what she meant when she said Altman previously had sent some material to Nussbaum.⁸⁶¹

⁸⁵³ Lindsey 3/24/94 Fiske GJ at 9-11.

⁸⁵⁴ Lindsey 7/21/94 Senate Banking Comm. Depo. at 36; Lindsey 3/24/94 Fiske GJ at 10-11.

⁸⁵⁵ Lindsey 3/24/94 Fiske GJ at 10.

⁸⁵⁶ Sloan 4/5/94 Fiske Int. at 4-5; Sloan 4/7/94 Fiske GJ at 15-16; Eggleston 3/31/94 Fiske GJ at 15-19; Eggleston 5/15/94 Treas. IG at 11-12.

⁸⁵⁷ Sloan 4/5/94 Fiske Int. at 4-5; Sloan 4/7/94 Fiske GJ at 16.

⁸⁵⁸ Sloan 4/5/94 Fiske Int. at 5; Sloan 4/7/94 Fiske GJ at 18.

⁸⁵⁹ Nussbaum 3/17/94 Fiske GJ at 36.

⁸⁶⁰ Id. at 37.

⁸⁶¹ Eggleston 7/19/94 Senate Banking Comm. Depo. at 19-20.

4. The RTC Received Press Inquiries about the Referrals.

In August and September, Stephen J. Katsanos, an RTC press spokesman, received frequent inquiries from Susan Schmidt, a Washington Post reporter, about the Rose Law Firm ("Rose"), its representation of Madison Guaranty, the involvement of Seth Ward (Webster Hubbell's father-in-law), and Rose's potential conflict of interest in representing Madison Guaranty.⁸⁶² In that time period, Katsanos learned about referral C-0004 and the additional referrals.⁸⁶³ Katsanos said Schmidt alleged that the RTC's Washington, D.C. headquarters was blocking the new referrals.⁸⁶⁴

Katsanos testified that around October 1, 1993, he called John ("Jack") DeVore, a press spokesman at the Treasury Department, and told DeVore about the press inquiries.⁸⁶⁵ Katsanos testified that he probably told DeVore that Altman or Hanson should be briefed about the press inquiries.⁸⁶⁶

When Hanson received a copy of an internal RTC circular, the "RTC Early Bird," on September 30, she recognized the reference to press inquiries about the Rose Law Firm really referred to the criminal referrals involving Madison Guaranty, the Clintons, and Governor Tucker

⁸⁶² Katsanos 4/26/95 GJ at 14, 19-23.

⁸⁶³ Katsanos 4/26/95 GJ at 21; Katsanos 7/6/94 Treas. IG at 16-17.

⁸⁶⁴ Katsanos 7/6/94 Treas. IG at 28; Katsanos 6/2/94 Int. at 2.

⁸⁶⁵ Katsanos 6/2/94 Fiske Int. at 4; Katsanos 7/12/94 Senate Banking Comm. Depo. at 75-78.

⁸⁶⁶ Katsanos 6/2/94 Fiske Int. at 4; Katsanos 7/12/94 Senate Banking Comm. Depo. at 78-79. DeVore did not remember those conversations. DeVore 4/14/94 Fiske GJ at 20.

(even though they were not explicitly named in the Early Bird).⁸⁶⁷ Hanson sent Altman a copy of the September 30, 1993 RTC Early Bird that same day, under a cover memorandum about "The Rose Law Firm."⁸⁶⁸ Hanson's memorandum read:

Steve Katsanos has talked with Sue Schmidt (See attached RTC Early Bird).
I have spoken with the Secretary and also with Bernie Nussbaum and Cliff Sloan.
I have asked Bill Roelle to keep me informed. Is there anything else you think we should be doing?⁸⁶⁹

Altman did not remember receiving the September 30 Early Bird, but did not deny that he may have received it.⁸⁷⁰ He did not remember talking with Hanson about any conversation she had with Nussbaum and Sloan, and he did not know what Hanson's reference to her conversation with them or Secretary Bentsen meant.⁸⁷¹ Altman thought Hanson's memorandum meant she had spoken with the people named in it about the press inquiries, not that she briefed them about Madison Guaranty or Whitewater.⁸⁷² Roelle also called Hanson and said Schmidt of the Washington Post had contacted the RTC's Kansas City office in an unsuccessful effort to obtain

⁸⁶⁷ See Memo from Jean Hanson, General Counsel for Treasury Department to Roger C. Altman, Deputy Secretary of the Department of Treasury (Sept. 30, 1993) (Doc. No. 007-DC-00000154).

⁸⁶⁸ See id.

⁸⁶⁹ See id. Although Hanson did not remember preparing and sending the September 30 memorandum to Altman, she did not doubt that she sent it because she had signed it. Hanson 3/16/94 Fiske Int. at 8. Hanson did not remember ever speaking with Altman about the press inquiries in the September 30 Early Bird, nor did she remember speaking with Treasury Secretary Lloyd Bentsen, as indicated by the memorandum. Hanson 10/10/95 Int. at 8. Secretary Bentsen did not remember speaking with Hanson about the subject in the Early Bird in the fall 1993. Bentsen 7/26/94 Fiske Int. at 12-14; Bentsen 7/12/95 Int. at 4-5.

⁸⁷⁰ Altman 9/12/95 GJ at 30; Altman 7/25/94 Senate Banking Comm. Depo. at 359.

⁸⁷¹ Altman 9/12/95 GJ at 27-28.

⁸⁷² Id. at 30-32.

the unlisted home telephone numbers of RTC investigators who had worked on the referrals.⁸⁷³

5. Jean Hanson Had a Conversation with Clifford Sloan on September 30.

On September 30, 1993, Hanson and Sloan spoke by phone and Sloan took notes.⁸⁷⁴

Sloan's notes⁸⁷⁵ show that Hanson said the material previously sent to Nussbaum was not about the referrals but appeared to have been the March 1992 New York Times articles faxed from Altman's office.⁸⁷⁶ Sloan's notes on this point read: "Altman's files -- NYT -- 3/9/92 Altman

⁸⁷³ Hanson 4/21/94 Fiske GJ at 19; Hanson 7/11/94 Treas. IG at 72-73. Hanson did not remember telling Altman about this though it would have been her practice to do so. Hanson 4/21/94 Fiske GJ at 20; Hanson 7/11/94 Treas. IG at 74. Altman did not remember learning about Schmidt's work in Kansas City, but he thought that Roelle would have told him about that type of development. Altman 9/12/95 GJ at 34-35.

⁸⁷⁴ See Sloan's handwritten notes (Sept. 30, 1993) (Doc. No. 011-DC-00001086). Sloan thought that Hanson placed the call. Sloan 4/7/94 Fiske GJ at 18-19. He thought he wanted Eggleston in on the call but could not remember if Eggleston did. Sloan 4/7/94 Fiske GJ at 19-20. Hanson did not remember the September 30, 1993 Sloan conversation, or any conversation with the White House about the Schmidt inquiry Roelle had called her about. Hanson 4/21/94 Fiske GJ at 20-22. Her call sheet for that date included the names of Sloan and Eggleston, but Hanson said those notations did not reflect an actual conversation but rather served as "to do" items. Hanson 9/27/95 Int. at 8.

Hanson remembered a conversation with Altman soon after her conversation with Roelle, which agrees with some of the information contained in Sloan's notes. Hanson 4/21/94 Fiske GJ at 13; Hanson 9/29/95 GJ at 15-16; Sloan's handwritten notes (Sept. 30, 1993) (Doc. No. 011-DC-00001086). As Hanson remembered it, this discussion took place in Altman's office. Hanson 9/29/95 GJ at 15-16; Hanson 3/16/94 Fiske Int. at 5. Either during this conversation or a later one, Altman asked his secretary to retrieve a file, and after she brought it in, he took out an article about Madison Guaranty that had appeared in the New York Times during the campaign in 1992. Hanson 9/29/95 GJ at 15-16; Hanson 7/11/94 Treas. IG at 38; Hanson 7/14/94 Senate Banking Comm. Depo. at 128; see also Hanson 9/27/95 Int. at 4. Hanson did not remember Altman ever telling her that he had faxed this article to Nussbaum, or her discussing this article with anyone the White House. Hanson 9/29/95 GJ at 19; Hanson 9/29/95 GJ at 19-20.

⁸⁷⁵ Sloan had no independent memory of the conversation other than his notes. See Sloan 4/7/94 Fiske GJ at 24-26; Sloan 7/13/94 Treas. IG at 16-29.

⁸⁷⁶ See Sloan's handwritten notes (Sept. 30, 1993) (Doc. No. 011-DC-00001086) (emphasis added).

thinks."⁸⁷⁷

Sloan's notes also appeared to show Hanson reporting she had a "piece of news" from Roelle.⁸⁷⁸ The vice president of the Kansas City RTC office had received a call from reporter Schmidt claiming that unspecified vital information was suppressed.⁸⁷⁹ Schmidt also had demanded the unlisted home telephone numbers for the RTC investigators on the nine criminal referrals.⁸⁸⁰

Sloan did not know if the notes reflected Hanson's reporting of Schmidt's inquiries or if they reflected Hanson's reporting additional factual information about the referrals' handling.⁸⁸¹ The notes reported that apparently the referrals would go or had gone from Kansas City to Washington and then from Washington to Little Rock on Friday.⁸⁸² The notes indicated that a criminal referral about Whitewater Development Company and the Clintons as principals had been pending since last September.⁸⁸³ Sloan testified he thought this was the first time he had heard there might have been a prior criminal referral (C0004) involving the Clintons.⁸⁸⁴ The notes also said the nine new criminal referrals had allegations about Governor Tucker and an attempt to divert funds.⁸⁸⁵ Sloan's notes said the worst allegation was contained in one of the referrals that detailed a conspiracy to divert funds for campaign contributions involving

⁸⁷⁷ Id. (emphasis added).

⁸⁷⁸ See id.

⁸⁷⁹ See id.

⁸⁸⁰ See id.

⁸⁸¹ See id. (Doc. Nos. 011-DC-00001087 through 89).

⁸⁸² See id. (Doc. No. 011-DC-00001086).

⁸⁸³ See id.

⁸⁸⁴ Sloan 4/7/94 Fiske GJ at 31-32.

McDougal and the Clinton "1985" campaign, as co-conspirators.⁸⁸⁶ The notes said the Clintons were mentioned in other charges as potential witnesses.⁸⁸⁷

6. Clifford Sloan Briefed Bernard Nussbaum and Bruce Lindsey.

Sloan told both Nussbaum and Lindsey about the September 30, 1993 telephone call with Hanson.⁸⁸⁸ Nussbaum remembered only that Sloan told him about Hanson's correction that the material previously provided was the newspaper articles and not material about the referrals.⁸⁸⁹ Lindsey remembered a meeting with Sloan and at least one other meeting with Sloan and Eggleston.⁸⁹⁰ He said it was possible he had other updates from Sloan or Eggleston.⁸⁹¹

7. Bruce Lindsey Briefed the President about the Referrals.

On October 4, 1993, while traveling with President Clinton, Lindsey spoke on the telephone with James Lyons, a lawyer who had produced a report on Whitewater for the Clinton Presidential Campaign.⁸⁹² Lindsey testified Lyons said he had received press inquiries about Madison Guaranty and the referrals.⁸⁹³ Lindsey said the only knowledge Lyons had about the referrals was what the press told him.⁸⁹⁴ Lindsey's notes about the conversation⁸⁹⁵ indicated: "9

⁸⁸⁵ See Sloan's handwritten notes (Sept. 30, 1993) (Doc. No. 011-DC-00001086).

⁸⁸⁶ See id. (Doc. No. 001-DC-00001087).

⁸⁸⁷ Id.

⁸⁸⁸ Sloan 4/7/94 Fiske GJ at 32-33.

⁸⁸⁹ Nussbaum 6/13/95 GJ at 19.

⁸⁹⁰ Lindsey 7/21/94 Senate Banking Comm. Depo. at 174.

⁸⁹¹ Id. at 66-67, 179-80.

⁸⁹² Lindsey 3/24/94 Fiske GJ at 12-14.

⁸⁹³ Id. at 13.

⁸⁹⁴ Id.

⁸⁹⁵ See Lindsey's handwritten notes (undated) (Doc. No. 008-DC-00000078).

criminal referrals," with no more detail.⁸⁹⁶ Lyons did not remember Lindsey saying he already knew about the referrals.⁸⁹⁷

Lindsey testified that after his conversation with Lyons, he told President Clinton about the press calls to Lyons and that there were criminal referrals on Madison Guaranty that mentioned the Clinton campaign.⁸⁹⁸ Lindsey said he briefed the President because he anticipated stories would soon appear in the press.⁸⁹⁹ Lindsey testified that President Clinton thanked him for the information and did not ask Lindsey to do anything else about the referrals.⁹⁰⁰

President Clinton testified that he remembered Lindsey telling him in early October 1993 that the RTC was referring or had made a referral involving Madison Guaranty mentioning the Clinton campaign or President Clinton.⁹⁰¹ President Clinton said he acknowledged what Lindsey told him and did not ask him to do anything.⁹⁰² The President also learned the referrals alleged possible diversion of money at a fundraiser, but he did not remember talking about that issue in October 1993.⁹⁰³ Mrs. Clinton testified she first heard about the criminal referrals from a newspaper story published in late October 1993.⁹⁰⁴

⁸⁹⁶ Lindsey 3/24/94 Fiske GJ at 13.

⁸⁹⁷ Lyons 7/25/95 GJ at 68-69.

⁸⁹⁸ Lindsey 3/24/94 Fiske GJ at 15-16; Lindsey 7/21/94 Senate Banking Comm. Depo. at 217-20.

⁸⁹⁹ Lindsey 3/24/94 Fiske GJ at 15; Lindsey 7/21/94 Senate Banking Comm. Depo. at 218-19.

⁹⁰⁰ Lindsey 3/24/94 Fiske GJ at 16; see also Lindsey 7/21/94 Senate Banking Comm. Depo. at 219-21.

⁹⁰¹ W. Clinton 6/12/94 Fiske Depo. at 46-47.

⁹⁰² Id. at 47.

⁹⁰³ Id. at 51.

⁹⁰⁴ H. Clinton 7/22/95 Depo. at 38-39.

8. The President Met with Governor Tucker at the White House on October 6.

President Clinton met in the Oval Office with Arkansas Governor Jim Guy Tucker on October 6, 1993.⁹⁰⁵ Governor Tucker was in Washington to meet with Arkansas representatives in Congress and to give the President a proposal for locating a government facility in Arkansas.⁹⁰⁶ Tucker testified that at no time did he and President Clinton talk about Madison Guaranty or any of the referrals.⁹⁰⁷ This investigation found no direct evidence that the President told Governor Tucker that the latter was mentioned in the criminal referrals during their meeting.

9. William Roelle Told Roger Altman of Further Press Activity in Kansas City.

On October 6, 1993, Jean Lewis sent an e-mail to her RTC supervisors in which she reported Susan Schmidt had visited her home in Kansas City the night before.⁹⁰⁸ Schmidt had asked Lewis detailed questions about a number of topics, including a transaction between Whitewater and International Paper, about Seth Ward's relationship with Webster Hubbell, the delay in official action on C-0004, and whether Vincent Foster was connected with "any of this."⁹⁰⁹ Schmidt also asked for Lewis's unlisted home phone number.⁹¹⁰

⁹⁰⁵ See Letter from Lloyd Cutler, then Counsel to the President to Henry Gonzalez, then Chairman, House Committee on Banking (July 27, 1994) (Doc. No. 226-DC-00000002 through 04) (attaching the President's briefing memo for his meeting with Tucker).

⁹⁰⁶ Mason 7/6/95 Int. at 1-2 (Keith Mason was the Deputy Assistant to the President for Intergovernmental Affairs).

⁹⁰⁷ Tucker 4/2/98 GJ at 114.

⁹⁰⁸ See E-mail from Jean Lewis to Richard Iorio (Oct. 6, 1993) (Doc. No. 044-DC-00005664).

⁹⁰⁹ See id.

⁹¹⁰ See id.

Katsanos received a copy of Lewis's e-mail and discussed it with Roelle.⁹¹¹ Katsanos asked if Altman had been briefed on the referrals.⁹¹² Roelle said he had mentioned the subject to Altman twice -- once just after Altman became CEO of the RTC, and again more recently.⁹¹³ Roelle said he had briefed Hanson on the more recent set of referrals, and he assumed Hanson would tell Altman.⁹¹⁴

On October 7, 1993, Roelle briefed Altman about Lewis's e-mail on Schmidt's activities in Kansas City.⁹¹⁵ Altman and Roelle told Hanson what Roelle had just reported.⁹¹⁶ Roelle testified Altman instructed Hanson to advise "Jack, Bernie, the Secretary" and a list of others whose names Roelle could not remember.⁹¹⁷ Hanson said she would.⁹¹⁸

⁹¹¹ Katsanos 4/26/95 GJ at 35-37. Roelle remembered Katsanos showed him a copy of Lewis's October 6, 1993 e-mail. Roelle 2/24/95 Int. at 5.

⁹¹² Katsanos 4/26/95 GJ at 38.

⁹¹³ Id.

⁹¹⁴ Id. at 41-42. Katsanos did not remember if Roelle told Altman the Clintons were involved. Id. at 38-39.

⁹¹⁵ Roelle 2/24/95 Int. at 5. Altman did not remember learning this information about Schmidt, nor did he remember a conversation with Roelle and Hanson where he asked Hanson to brief Secretary Bentsen and DeVore and Nussbaum. Altman 9/8/95 Int. at 4. He did say the conversation might have taken place. Id.

RTC employee Lamar Kelly remembered Roelle telling him that Schmidt's activities in Kansas City were discussed at a meeting Roelle attended with Altman. Kelly 6/25/96 Int. at 4-5. Kelly said Roelle mentioned Altman evidently had told others at the Treasury Department about the referrals. Id. Kelly did not remember Roelle referring to Nussbaum in this context. Id. at 4.

⁹¹⁶ Roelle 7/20/94 Senate Banking Comm. Depo. at 65-66; Roelle 2/24/95 Int. at 5.

⁹¹⁷ Roelle 7/20/94 Senate Banking Comm. Depo. at 66-67; see also Roelle 2/24/95 Int. at 5. Hanson remembered a phone call from Roelle mentioning Schmidt had visited one of the RTC's Kansas City investigators at home and was rebuffed in an attempt to talk about the referrals and the agency's investigation. Hanson 4/21/94 Fiske GJ at 20; Hanson 7/11/94 Treas. IG at 75. Hanson did not remember when this conversation occurred, but she did remember it took place after her other conversation with Roelle about Schmidt asking for unlisted telephone numbers of RTC investigators. Hanson 7/11/94 Treas. IG at 75; see also Hanson call sheet (Oct. 6, 1993) (Doc. No. 007-DC-00000374) (indicating a discussion with Roelle about Schmidt,

10. Jean Hanson Called Clifford Sloan on October 7, 1993.

Hanson called Sloan again on October 7, 1993.⁹¹⁹ Sloan said Hanson reported Schmidt was in Kansas City and had unsuccessfully questioned an RTC investigator at home.⁹²⁰ Sloan said that Schmidt had asked about Whitewater's relationship with International Paper, Seth Ward, a Rose Law Firm partner dispute involving Joe Giroir, and the role of Vincent Foster in any of those matters.⁹²¹ Sloan said he learned from Hanson that Schmidt had interviewed McDougal the day before.⁹²² Hanson then read Sloan relevant portions of the September 30, 1993 RTC Early Bird.⁹²³

Kansas City, and nine criminal referrals); see also Hanson call sheet (Oct. 7, 1993) (Doc. No. 007-DC-00000375) (indicating a conversation with Roelle about "criminal referrals"). Hanson did not remember briefing Altman about this, and she did not believe she discussed it with Secretary Bentsen, Jack DeVore, or Joshua Steiner. Hanson 4/21/94 Fiske GJ at 20.

Bentsen thought the first time he heard about the referrals on Madison Guaranty was in a newspaper account in the fall of 1993. Bentsen 7/12/95 Int. at 3. He did not know of any discussions with the White House about the criminal referrals or potential press leaks. Bentsen 7/26/96 Senate Banking Comm. Depo. at 15-16.

⁹¹⁸ Roelle 2/24/95 Int. at 5. Roelle testified he recognized "Jack" as Jack DeVore and "the Secretary" as Treasury Secretary Lloyd Bentsen. Id.; Roelle 7/20/94 Senate Banking Comm. Depo. at 67. Later that evening he realized "Bernie" might be White House Counsel Bernard Nussbaum. Roelle 2/24/95 Int. at 5. Roelle did not speak again about Madison Guaranty or the referrals with either Altman or Hanson after that conversation. Id. at 6.

⁹¹⁹ Sloan 4/7/94 Fiske GJ at 35. Sloan remembered Eggleston was also party to the conversation. Id. at 36-37.

⁹²⁰ Id. at 37.

⁹²¹ Id. at 38-40.

⁹²² Id. at 40-41.

⁹²³ Id. at 42.

11. Sloan Briefed Nussbaum about the October 7 Hanson Telephone Call.

Sloan thought he briefed Nussbaum on the October 7 telephone call with Hanson.⁹²⁴

Sloan also wrote a memorandum to Lindsey, dated October 7, 1993, which said: "With regard to the subject that Neil Eggleston and I spoke to you about one night last week, we have some additional information that we'd like to give you in a brief update."⁹²⁵ Sloan briefed Lindsey about the October 7 Hanson call and passed on the information he had received from Hanson.⁹²⁶ Lindsey told Sloan that in 1986 International Paper sold a parcel of realty to Whitewater that was then transferred to the Great Southern Land Corporation.⁹²⁷ Sloan added what Lindsey had told him to his notes, also referring to the September 30, 1993 RTC Early Bird information.⁹²⁸

Sloan also remembered that at one of the Lindsey briefings (the one attended by Eggleston), Lindsey asked if it was proper for the White House to get information about the referrals; Sloan and Eggleston answered they thought it was appropriate.⁹²⁹ Lindsey also remembered a briefing with Sloan and Eggleston where he received an update about press inquiries about the referrals.⁹³⁰

⁹²⁴ Id. at 43.

⁹²⁵ Id. at 43-44; Memo from Cliff Sloan, Associate White House Counsel, to Bruce Lindsey, Adviser to President Clinton (Oct. 7, 1993) (Doc. No. 011-DC-00001008).

⁹²⁶ Sloan 4/7/94 Fiske GJ at 43-45. Sloan could not positively remember whether Eggleston was present for the briefing, but he thought Eggleston attended at least one of the Lindsey briefings. Id. at 45.

⁹²⁷ See id. at 46-47; Sloan 7/21/94 Senate Banking Comm. Depo. at 59-60; see also Memo from Cliff Sloan, Associate White House Counsel, to Bruce Lindsey, Adviser to President Clinton (Oct. 7, 1993) (Doc. No. 011-DC-00001008).

⁹²⁸ Sloan 4/7/94 Fiske GJ at 48.

⁹²⁹ Sloan 4/7/94 Fiske GJ at 48.

⁹³⁰ Lindsey 7/21/94 Senate Banking Comm. Depo. at 53, 58-61. Lindsey's testimony is generally consistent with Sloan's. Id. at 54, 58-61; Lindsey 3/24/94 GJ at 19-21. He had the

12. Jeff Gerth Contacted Jack DeVore about the Referrals.

DeVore testified that on October 11, 1993, New York Times reporter Gerth called with questions about Madison Guaranty and the referrals.⁹³¹ DeVore said Gerth knew the RTC's Kansas City office was investigating Madison Guaranty; part of Gerth's inquiry focused on contributions made at a 1985 fundraiser for the Clinton campaign.⁹³² Gerth said President Clinton was not a target, although Governor Tucker and a Clinton gubernatorial campaign might be.⁹³³ One of the referrals involved four cashier's checks, each for \$3,000 drawn on Madison Guaranty accounts, two of which were payable to Bill Clinton, and two payable to the Clinton for Governor campaign.⁹³⁴ Gerth said the checks were dated April 4 or 5, 1985 and were all deposited in the Bank of Cherry Valley.⁹³⁵

Gerth asked who had contributed the checks and about their endorsements.⁹³⁶ Gerth also told DeVore that other journalists were pursuing the story.⁹³⁷ Gerth discussed the referrals' handling, telling DeVore that they had been sent to the RTC's headquarters in Washington, contrary to what Gerth thought was the normal procedure of sending them to the U.S. Attorney

impression that Sloan and Eggleston were getting information from the Treasury Department. Lindsey 3/24/94 Fiske GJ at 22. They discussed conflicts of interest and the referrals' allegations about Governor Tucker, a diversion of funds involving the 1985 Clinton Committee and McDougal. Id. at 25-26; Lindsey 7/21/94 Senate Banking Comm. Depo. at 60-61; Lindsey's handwritten notes (undated) (Doc. No. 008-DC-00000074).

⁹³¹ DeVore 4/14/94 Fiske GJ at 6-8.

⁹³² Id. at 8; DeVore 7/20/94 Senate Banking Comm. Depo. at 43.

⁹³³ DeVore 4/14/94 Fiske GJ at 8; DeVore 7/20/94 Senate Banking Comm. Depo. at 43-44, 75, 129-30, 132.

⁹³⁴ DeVore 4/14/94 Fiske GJ at 37-38.

⁹³⁵ Id. at 37.

⁹³⁶ DeVore 7/20/94 Senate Banking Comm. Depo. at 45, 47, 85.

⁹³⁷ DeVore 4/14/94 Fiske GJ at 14; DeVore 7/20/94 Senate Banking Comm. Depo. at 51.

for the Eastern District of Arkansas.⁹³⁸ Gerth asked for any information DeVore could provide.⁹³⁹

DeVore told Gerth that he would see if he could come up with something.⁹⁴⁰ DeVore decided to try and get Gerth some information and tell the White House about the call so officials there would be aware that the press was asking questions about Madison Guaranty and the referrals.⁹⁴¹ DeVore did not remember whom he might have told at the Department of Treasury about Gerth's call.⁹⁴²

13. Jack DeVore Looked into the Referrals.

RTC's press spokesman Katsanos testified DeVore called him twice in early to mid-October 1993 seeking information about the referrals' handling.⁹⁴³ Katsanos told DeVore that referrals normally were not sent to Washington first but rather from the relevant RTC regional office to the U. S. Attorney's office.⁹⁴⁴ He also told DeVore about a dispute within the RTC's Kansas City office over the Madison Guaranty referrals: the investigators working on them felt they were ready to be sent to the U.S. Attorney for the Eastern District of Arkansas, but the Professional Liability Section in Kansas City thought the referrals were weak.⁹⁴⁵ Katsanos told DeVore that the referrals had been sent to the U.S. Attorney in Little Rock on October 8, 1993

⁹³⁸ DeVore 4/14/94 Fiske GJ at 8; DeVore 7/20/94 Senate Banking Comm. Depo. at 44.

⁹³⁹ DeVore 4/14/94 Fiske GJ at 9.

⁹⁴⁰ Id.

⁹⁴¹ Id. at 14-16; DeVore 7/20/94 Senate Banking Comm. Depo. at 123-24.

⁹⁴² DeVore 4/14/94 Fiske GJ at 18.

⁹⁴³ Katsanos 7/12/94 Senate Banking Comm. Depo. at 79-80; Katsanos 4/26/95 GJ at 55-57.

⁹⁴⁴ Katsanos 7/12/94 Senate Banking Comm. Depo. at 80-81; Katsanos 4/26/95 GJ at 56.

⁹⁴⁵ Katsanos 7/6/94 RTC Int. at 27-28.

(before Gerth's call to DeVore).⁹⁴⁶ Katsanos testified DeVore told him that he (DeVore) was going to brief the White House Communications Director, Mark Gearan, about the referrals.⁹⁴⁷ DeVore denied speaking with Katsanos about the procedures for handling referrals.⁹⁴⁸

14. On October 14, 1993, Treasury Officials Met with White House Officials to Discuss the Referrals.

On the afternoon of October 14, 1993, a meeting took place in Nussbaum's office at the White House.⁹⁴⁹ The White House officials who attended were Nussbaum, Sloan, Eggleston, Lindsey, and Gearan.⁹⁵⁰ Present from the Department of Treasury were Hanson, DeVore, and Josh Steiner, Treasury Department Chief of Staff.⁹⁵¹ Recollections among the participants about what was discussed varied. Each witness's memory is summarized below.

⁹⁴⁶ Katsanos 7/6/94 Treas. IG at 52; Katsanos 4/26/95 GJ at 61.

⁹⁴⁷ Katsanos 7/12/94 Senate Banking Comm. Depo. at 83.

⁹⁴⁸ DeVore 4/14/94 Fiske GJ at 36; DeVore 7/20/94 Senate Banking Comm. Depo. at 55. Hanson remembered being asked by Altman to attend a meeting in his office with DeVore (and possibly others) about the inquiries DeVore was receiving. Hanson 4/21/94 Fiske GJ at 39. Hanson said DeVore suggested at this meeting that in responding to the press inquiries, it might be helpful if someone read the criminal referrals. Hanson 4/21/94 Fiske GJ at 39. Hanson remembers telling Altman it would be unusual for a CEO to read the referrals, and then a suggestion was made that Hanson should perhaps read them. Hanson 4/21/94 Fiske GJ at 39-40. Hanson testified that in a later conversation (still before the October 14 meeting) with Roelle, she raised this possibility with him. Hanson 4/21/94 Fiske GJ at 40. According to Hanson, Roelle told her, "Jean, you don't want to do that"; she thought his advice may have been based on the fact that she was not an RTC employee. Hanson 4/21/94 Fiske GJ at 40. Hanson testified she agreed with Roelle not to read the referrals. Id.

⁹⁴⁹ Sloan 4/7/94 Fiske GJ at 51; see also Eggleston 3/31/94 GJ at 25.

⁹⁵⁰ Sloan 4/7/94 Fiske GJ at 51; Eggleston 3/31/94 Fiske GJ at 26; Nussbaum 3/17/94 Fiske GJ at 35-36; Gearan 3/10/94 Fiske GJ at 28-29; Lindsey 4/24/94 Fiske GJ at 45-46.

⁹⁵¹ Hanson 4/21/94 Fiske GJ at 25; Sloan 4/7/94 Fiske GJ at 151; Eggleston 3/31/94 Fiske GJ at 26; DeVore 4/14/94 Fiske GJ at 23-24.

a. Clifford Sloan.

Sloan testified DeVore said he had received questions from Gerth.⁹⁵² Gerth thought the referrals were being treated differently from others in that they were sent to the RTC's headquarters in Washington, D.C. rather than to the U.S. Attorney's office for the Eastern District of Arkansas.⁹⁵³ DeVore thought Gerth ought to be corrected.⁹⁵⁴ Nussbaum asked if the RTC normally would explain its procedures for dealing with referrals.⁹⁵⁵ Nussbaum also reported he had heard about the referrals from Hanson, which she acknowledged.⁹⁵⁶ Steiner said only public information was being discussed at the meeting, in response to public inquiries.⁹⁵⁷ During the meeting, Lindsey raised what was in the RTC's Early Bird.⁹⁵⁸ Nussbaum said if anything further came up on this subject, he and Eggleston would work on it.⁹⁵⁹

b. Bernard Nussbaum.

Nussbaum remembered DeVore and Lindsey did most of the talking.⁹⁶⁰ DeVore said Gerth was working on a Whitewater/Madison Guaranty story and asked about the referrals and the endorsements of four checks involved in one of the referrals.⁹⁶¹ Gerth also asked if there was

⁹⁵² Sloan 4/7/94 Fiske GJ at 52.

⁹⁵³ Id.

⁹⁵⁴ Id.

⁹⁵⁵ Id. at 52-53.

⁹⁵⁶ Id. at 53.

⁹⁵⁷ Id.

⁹⁵⁸ Id.

⁹⁵⁹ Id. at 54-55.

⁹⁶⁰ Nussbaum 3/17/94 Fiske GJ at 39.

⁹⁶¹ Id.

some attempt to affect the referrals.⁹⁶² DeVore wanted to tell Gerth that the referrals had already gone to Little Rock so Gerth would not conclude that his call had influenced the referral process.⁹⁶³ DeVore said confirming the existence of a referral was not unusual.⁹⁶⁴ Lindsey (or someone else) questioned the propriety of the step, but the issue was not resolved.⁹⁶⁵ Steiner said the meeting's participants were discussing press inquiries and the Department of Treasury's response (so the White House would be on notice) -- not the referrals' substance.⁹⁶⁶

c. Neil Eggleston.

Devore began the meeting by explaining that Gerth and Schmidt had called him about a criminal referral.⁹⁶⁷ He mentioned Schmidt went to the home of an RTC investigator in Kansas City.⁹⁶⁸ DeVore said Gerth's call led him to call the meeting: Gerth had copies of the front of four Madison Guaranty checks that were put in a Clinton gubernatorial campaign account (which were mentioned in a referral), and he wanted copies of the backs of the checks.⁹⁶⁹ DeVore said Gerth or Schmidt said the referrals were not being routed according to normal procedure.⁹⁷⁰ Eggleston learned at this meeting that the "routing" allegations were untrue and that the referrals

⁹⁶² Id. at 40.

⁹⁶³ Id. at 40-41; Nussbaum 6/13/95 GJ at 37.

⁹⁶⁴ Nussbaum 3/17/94 Fiske GJ at 41.

⁹⁶⁵ Id. at 41-42.

⁹⁶⁶ Id. at 43-44.

⁹⁶⁷ Eggleston 3/31/94 Fiske GJ at 27-28.

⁹⁶⁸ Id. at 28; Eggleston 5/17/95 GJ at 18-19.

⁹⁶⁹ Eggleston 3/31/94 Fiske GJ at 28; Eggleston 7/19/94 Senate Banking Comm. Depo. at 33-34.

⁹⁷⁰ Eggleston 7/19/94 Senate Banking Comm. Depo. at 34-35.

had in fact gone to Little Rock before Gerth's inquiry.⁹⁷¹ The issue whether the Department of Treasury should confirm the referrals' routing to Little Rock was raised.⁹⁷² Lindsey may have mentioned that he, too, had received calls from Schmidt and/or Gerth, and the substance of those calls was described at the meeting.⁹⁷³ Steiner said the information discussed at the meeting came from the press.⁹⁷⁴ Eggleston testified he understood that to mean that the meeting was about the press and not the referrals' substance; he remembered thinking that was not totally accurate because certain non-public information -- for example, the existence of criminal referrals -- was discussed with White House staff at the meeting.⁹⁷⁵

d. Bruce Lindsey.

Lindsey took notes.⁹⁷⁶ DeVore led the meeting; he wanted to discuss several inquiries that he had received.⁹⁷⁷ Lindsey's notes reflect information DeVore passed on from the press's inquiries.⁹⁷⁸ An Associated Press reporter asked about checks deposited at the Bank of Cherry Valley, an institution owned by one of President Clinton's friends.⁹⁷⁹ The 1984 Clinton

⁹⁷¹ Eggleston 5/17/95 GJ at 31-32; Eggleston 7/19/94 Senate Banking Comm. Depo. at 34-35.

⁹⁷² Eggleston 7/19/94 Senate Banking Comm. Depo. at 35-37.

⁹⁷³ Eggleston 3/31/94 Fiske GJ at 36-37.

⁹⁷⁴ Id. at 29-30.

⁹⁷⁵ Id. at 30-31.

⁹⁷⁶ See Lindsey's handwritten notes (undated) (Doc. No. 008-DC-00000079).

⁹⁷⁷ Lindsey 3/24/94 Fiske GJ at 47-48; Lindsey 7/14/94 Treas. IG. at 8.

⁹⁷⁸ See Lindsey's handwritten notes (undated) (Doc. No. 008-DC-00000079).

⁹⁷⁹ Lindsey 3/24/94 Fiske GJ at 48; see also Lindsey's handwritten notes (undated) (Doc. No. 008-DC-00000079).

gubernatorial campaign had an account there -- and Whitewater at one time had a loan from it.⁹⁸⁰ Lindsey's notes record: "US Atty --> LR --> other cashier's checks --> Jim McDougal/Susan McDougal \$300,000."⁹⁸¹ Lindsey did not know what the "US Atty LR" reference meant.⁹⁸² He assumed the "cashier's checks" entry reflected the press's belief that four checks were given at an April 1985 fundraiser.⁹⁸³ The rest of the note had to do with the \$300,000 loan from Capital Management Services ("CMS") to the McDougals.⁹⁸⁴ Lindsey's notes reflect a statement that Tucker may be indicted.⁹⁸⁵ Lindsey said the press was telling this to DeVore.⁹⁸⁶ DeVore then described the press's pursuit of RTC investigators in Kansas City; the press's claim that the referrals were not being routed normally; and Schmidt's questions about the Rose Law Firm's involvement in Madison Guaranty in 1985.⁹⁸⁷

DeVore then discussed Gerth's inquiry. Gerth had asked about four \$3,000 checks -- two were payable to Clinton and the others to the campaign; they were dated in April 1985.⁹⁸⁸ Gerth said the purpose of the checks was to retire the campaign debt.⁹⁸⁹ Gerth wanted to know who

⁹⁸⁰ Lindsey 3/24/94 Fiske GJ at 48; see also Lindsey's handwritten notes (undated) (Doc. No. 008-DC-00000079).

⁹⁸¹ Lindsey's handwritten notes (undated) (Doc. No. 008-DC-00000079).

⁹⁸² Lindsey 3/24/94 Fiske GJ at 48; Lindsey's handwritten notes (undated) (Doc. No. 008-DC-00000079).

⁹⁸³ Lindsey 3/24/94 Fiske GJ at 48-49; Lindsey's handwritten notes (undated) (Doc. No. 008-DC-00000079).

⁹⁸⁴ Lindsey 3/24/94 Fiske GJ at 49; Lindsey's handwritten notes (undated) (Doc. No. 008-DC-00000079).

⁹⁸⁵ Lindsey's handwritten notes (undated) (Doc. No. 008-DC-00000079).

⁹⁸⁶ Lindsey 3/24/94 Fiske GJ at 49.

⁹⁸⁷ Id. at 49-51.

⁹⁸⁸ Id. at 51.

⁹⁸⁹ Id.

had endorsed the checks.⁹⁹⁰ Gerth alleged the checks were funded with money from a Madison Guaranty loan.⁹⁹¹

DeVore wanted to know how to respond to the press and thought the Department of Treasury would confirm the existence of the referrals.⁹⁹² That surprised Lindsey, who advised DeVore not to comment.⁹⁹³ DeVore said he would follow Treasury Department procedure, though he thought it important to correct any impression Gerth had that his call prompted action on the referrals.⁹⁹⁴ Lindsey told DeVore to tell Gerth "off the record" that whatever was sent to Washington, D.C. had gone to Little Rock before Gerth's call.⁹⁹⁵ Lindsey said DeVore told the group that the referrals had already gone to Little Rock; he even mentioned that he confirmed that fact with the RTC.⁹⁹⁶

e. Mark Gearan.

Deputy Chief of Staff Mark Gearan was late to the meeting; he remembered DeVore, Lindsey, and Nussbaum did most of the talking.⁹⁹⁷ He took notes.⁹⁹⁸ The notes indicated the RTC's regional office had sent nine criminal referrals to Washington, D.C., which were routed

⁹⁹⁰ Id.

⁹⁹¹ Id. at 51-52.

⁹⁹² Id. at 52.

⁹⁹³ Id. at 53-55; see also Lindsey 7/21/94 Senate Banking Comm. Depo. at 76.

⁹⁹⁴ Id.

⁹⁹⁵ Id. at 55.

⁹⁹⁶ Lindsey 7/21/94 Senate Banking Comm. Depo. at 75.

⁹⁹⁷ Gearan 7/23/94 Senate Banking Comm. Depo. at 18, 23; Gearan 3/10/94 Fiske GJ at 24, 33.

⁹⁹⁸ See Gearan's handwritten notes (undated) (Doc. Nos. 004-DC-00000016 through 17).

the previous Friday to Little Rock.⁹⁹⁹ Gearan did not remember whether anyone at the meeting provided this information or simply passed on information that came from the press.¹⁰⁰⁰

Gearan remembered discussing the RTC Early Bird.¹⁰⁰¹ There also was mention of Gerth's questions about the cashier's checks described in the referrals, dated April 1985, and each for \$3,000.¹⁰⁰² Two of them were made out to Clinton personally, and the others to the Clinton campaign.¹⁰⁰³ The checks were deposited in the Cherry Valley Bank, owned by a Clinton friend and his former chief of staff while he was governor, and Gerth wanted to know about the checks' endorsements.¹⁰⁰⁴ Gerth also said Tucker may be indicted, Hubbell was named somehow, and Clinton was not a target.¹⁰⁰⁵

f. Jean Hanson.

Hanson testified DeVore led the meeting and discussed the questions he had received from the press.¹⁰⁰⁶ Hanson did not remember exactly what the questions were, but she did remember Gerth questioning how the referrals were routed.¹⁰⁰⁷ She remembered telling the group that the Clintons were named only as potential witnesses and that one referral alleged a

⁹⁹⁹ See id.

¹⁰⁰⁰ Gearan 3/10/94 Fiske GJ at 33-34.

¹⁰⁰¹ Gearan 7/23/94 Senate Banking Comm. Depo. at 23; Gearan 3/10/94 Fiske GJ at 37-38.

¹⁰⁰² Gearan 3/10/94 Fiske GJ at 38, 40.

¹⁰⁰³ Id. at 40; see also Gearan's handwritten notes (undated) (Doc. No. 004-DC-00000016).

¹⁰⁰⁴ Gearan 7/23/94 Senate Banking Comm. Depo. at 21; Gearan 3/10/94 Fiske GJ at 40, 43; see also Gearan's handwritten notes (undated) (Doc. Nos. 004-DC-00000016 through 17).

¹⁰⁰⁵ Gearan 7/23/94 Senate Banking Comm. Depo. at 21-22; Gearan 3/10/94 Fiske GJ at 43; see also Gearan's handwritten notes (undated) (Doc. No. 004-DC-00000017).

¹⁰⁰⁶ Hanson 4/21/94 GJ at 26; Hanson 9/29/95 GJ at 48; Hanson 7/11/94 Treas. IG at 105.

possible conspiracy between McDougal and the "1985" Clinton campaign.¹⁰⁰⁸ She remembered Lindsey had some material with him, and he discussed articles that had appeared in the papers.¹⁰⁰⁹ Hanson remembered Lindsey commenting that at least one of the articles was wrong.¹⁰¹⁰ DeVore said during the meeting that he planned to tell Gerth that the referrals had already been sent to Little Rock; Nussbaum asked if that information could be released.¹⁰¹¹ DeVore said he thought it was Treasury Department policy to confirm criminal referrals, which Hanson planned to check after the meeting.¹⁰¹²

g. Jack DeVore.

DeVore said he told the participants about his discussion with Gerth.¹⁰¹³ He said Schmidt and an AP reporter were pursuing Madison Guaranty and referral-related stories.¹⁰¹⁴ He remembered Lindsey mentioning the New York Times's Arkansas investigation, and that Lindsey read from an Arkansas newspaper article about Madison Guaranty/Whitewater.¹⁰¹⁵ DeVore said

¹⁰⁰⁷ Hanson 4/21/94 Fiske GJ at 26; Hanson 7/11/94 Treas. IG at 78.

¹⁰⁰⁸ Hanson 4/21/94 Fiske GJ at 26-27; Hanson 9/29/95 GJ at 49; Hanson 7/11/94 Treas. IG at 107.

¹⁰⁰⁹ Hanson 7/11/94 Treas. IG at 84-85.

¹⁰¹⁰ Hanson 4/21/94 Fiske GJ at 27-28.

¹⁰¹¹ Hanson 4/21/94 Fiske GJ at 28-29; Hanson 9/29/95 GJ at 48; Hanson 7/11/94 Treas. IG at 85.

¹⁰¹² Hanson 4/21/94 Fiske GJ at 28-31; Hanson 9/29/95 GJ at 53; Hanson 7/11/94 Treas. IG at 85-86. Hanson's search for the answer was rendered academic when DeVore confirmed the making of the referrals to Gerth. Hanson 4/21/94 Fiske GJ at 32.

¹⁰¹³ DeVore 4/14/94 Fiske GJ at 29, 32; DeVore 7/20/94 Senate Banking Comm. Depo. at 66.

¹⁰¹⁴ DeVore 4/14/94 Fiske GJ at 29-30; DeVore 7/20/94 Senate Banking Comm. Depo. at 67-68.

¹⁰¹⁵ DeVore 4/14/94 Fiske GJ at 29-30; DeVore 7/10/92 Senate Banking Comm. Depo. at 66-67, 71-72.

he learned the referrals already had been sent to the Justice Department but did not remember who mentioned that fact.¹⁰¹⁶ DeVore decided he would tell Gerth the referrals were made before Gerth's call, which DeVore told the meeting participants.¹⁰¹⁷ Nussbaum questioned whether DeVore should do that, but DeVore said the story Gerth already seemed to have was inaccurate.¹⁰¹⁸

h. Joshua Steiner.

Steiner testified DeVore discussed the inquiries from Gerth and his planned response.¹⁰¹⁹ Gerth had asked two questions: one about the cashier's checks given to a Clinton gubernatorial campaign; the other about the alleged stalling of the referrals.¹⁰²⁰ Steiner thought that Lindsey told the group the referrals had already been made.¹⁰²¹ DeVore said he planned to tell Gerth that.¹⁰²² Steiner remembered there was talk about the cashier's checks, but did not remember the details.¹⁰²³

Hanson, Steiner, and DeVore -- the Department of Treasury representatives at the meeting -- each testified that to their knowledge Altman did not know about the October 14

¹⁰¹⁶ DeVore 4/14/94 Fiske GJ at 30-31; DeVore 7/20/94 Senate Banking Comm. Depo. at 68-70.

¹⁰¹⁷ DeVore 4/14/94 Fiske GJ at 31; DeVore 7/20/94 Senate Banking Comm. Depo. at 68-70.

¹⁰¹⁸ DeVore 4/14/94 Fiske GJ at 31.

¹⁰¹⁹ Steiner 3/31/94 Fiske GJ at 14; Steiner 8/25/95 GJ at 20.

¹⁰²⁰ Steiner 8/25/95 GJ at 15-16, 21.

¹⁰²¹ Steiner 8/24/95 Int. at 4; Steiner 8/25/95 GJ at 221. Although DeVore denied having provided this information at the meeting, in light of Katsanos's testimony, see Katsanos 4/26/95 GJ at 54-62; Katsanos 6/2/94 Fiske Int. at 4, as well as the other recollections addressed in the text, it is probable that DeVore disclosed the referrals had already been sent, rather than Lindsey.

¹⁰²² Steiner 8/25/95 GJ at 20.

¹⁰²³ Id.

meeting.¹⁰²⁴

15. Jean Hanson Allegedly Received a Copy of the Professional Liability Section ("PLS") Referral Analysis.

On October 4, 1993, E. Glion Curtis was Assistant General Counsel for the RTC, and later became its Acting General Counsel.¹⁰²⁵ Curtis met regularly with Hanson and with John Bowman, Assistant General Counsel.¹⁰²⁶ On Friday, October 8, 1993, Curtis received an e-mail from the RTC's Kansas City PLS group analyzing the referrals.¹⁰²⁷ Curtis knew the referrals

¹⁰²⁴ Hanson 9/29/95 GJ at 54; Steiner 8/25/95 GJ at 29-31; Devore 4/14/94 Fiske GJ at 21-22. This Office sought to determine Secretary Bentsen's knowledge of the fall contacts. Hanson's September 30, 1993 memo suggested she may have discussed with him at least the press inquiries about the referrals (if not the White House contacts themselves). Memo from Jean Hanson, General Counsel for Treasury Department to Roger C. Altman, Deputy Secretary of the Department of Treasury (Sept. 30, 1993) (Doc. No. 007-DC-00000154). Roelle also said on another occasion, he heard Altman order Hanson to brief the Secretary about Schmidt's activities in Kansas City. Roelle 2/24/95 Int. at 5. No additional evidence was found that either of these briefings took place. Steiner said on October 15 (possibly October 14), he mentioned to Secretary Bentsen that Treasury had received a press inquiry about Madison Guaranty, and they thought there might be a story. Steiner 8/25/95 GJ at 29. Steiner did not think he mentioned the October 14 meeting to Secretary Bentsen. Steiner 7/19/94 Senate Banking Comm. Depo. at 289. Steiner told the Secretary that he received a press inquiry about Madison Guaranty. Steiner 7/19/94 Senate Banking Comm. Depo. at 290. Bentsen asked where Madison Guaranty was located, and Steiner said he did not know, that he was confused whether it was in Kansas City or Arkansas. Steiner 8/25/95 GJ at 29. Steiner said he would check. Id. He later checked and found out Madison Guaranty was in Arkansas. Steiner 7/19/94 Senate Banking Comm. Depo. at 290; Steiner 8/24/95 Int. at 11.

Secretary Bentsen claimed not to remember Altman, Hanson, or anyone else speaking to him about the referrals in September or October 1993. Bentsen 7/26/94 Senate Banking Comm. Depo. at 12; Bentsen 7/12/95 Int. at 3-4. He thought the first he heard of them was in reading press reports. Bentsen 7/12/95 Int. at 3. He did not believe he learned about any of the fall contacts with the White House until they surfaced in the press in connection with the February 24, 1994 Senate Banking Committee hearings and the resulting controversy. Id. at 4.

¹⁰²⁵ Curtis 5/2/95 GJ at 6; Curtis 11/22/94 Fiske Int. at 3.

¹⁰²⁶ Curtis 5/2/95 GJ at 31; Curtis 11/22/94 Fiske Int. at 6-7.

¹⁰²⁷ Curtis 5/2/95 GJ at 35; Curtis 11/22/94 Fiske Int. at 5; see E-mail from Julie F. Yanda to James R. Dudine; Thomas L. Hindes; E. Glion Curtis; Dennis M. Cavinaw; James G.

were sensitive.¹⁰²⁸

Curtis knew from speaking with Roelle that Roelle had briefed, or would brief, Altman on the referrals.¹⁰²⁹ Curtis thought Altman should know about PLS's analysis but wanted a final signed memorandum before Altman was told.¹⁰³⁰ He received a final version around October 14, 1993.¹⁰³¹ He thought that the same day he met with Hanson and Bowman to inform them, so that Hanson would have the details necessary to brief Altman.¹⁰³² Curtis remembered folding the PLS memorandum and slipping it inside his jacket pocket before walking over to the meeting.¹⁰³³

Curtis testified that at the meeting the memorandum was an important discussion topic -- Bowman made copies for Hanson and himself.¹⁰³⁴ The three went through the analysis, discussed that the Clintons were named, and that PLS had raised concerns about the statute of limitations and double jeopardy.¹⁰³⁵ Hanson questioned the mechanics of the referral process, and Curtis responded.¹⁰³⁶ Curtis thought he told Hanson that referrals were first sent to the RTC's Washington, D.C. headquarters for prior approval before being sent to the Justice

Thompson; L. Richard Iorio; David M. Swiss; Russell F. Kaufman; Lee O. Ausen; L. Jean Lewis; and Carl F. Gamble (Oct. 8, 1992) (Doc. No. 224-DC-00000063).

¹⁰²⁸ Curtis 5/2/95 GJ at 36; Curtis 11/22/94 Fiske Int. at 8; Curtis 7/8/94 Treas. IG at 17-18.

¹⁰²⁹ Curtis 5/2/95 GJ at 25; Curtis 7/8/94 Treas. IG at 31; Curtis 6/7/95 House Banking Comm. Depo. at 45.

¹⁰³⁰ Curtis 5/2/95 GJ at 35-36.

¹⁰³¹ Curtis 5/2/95 GJ at 36; Curtis 11/22/94 Fiske Int. at 7.

¹⁰³² Curtis 5/2/95 GJ at 38, 41; Curtis 11/22/94 Fiske Int. at 7.

¹⁰³³ Curtis 11/22/94 Fiske Int. at 8.

¹⁰³⁴ Curtis 5/2/95 GJ at 40; Curtis 11/22/94 Fiske Int. at 8.

¹⁰³⁵ Curtis 11/22/94 Fiske Int. at 8.

¹⁰³⁶ Curtis 5/2/95 GJ at 40; Curtis 11/22/94 Fiske Int. at 8.

Department.¹⁰³⁷ The latter statement was wrong; Curtis later learned referrals typically went from the RTC's field offices to the respective United States Attorney's offices, with headquarters receiving copies in high profile cases.¹⁰³⁸ Curtis remembered contacting Hanson to correct the information he gave her.¹⁰³⁹

¹⁰³⁷ Curtis 5/2/95 GJ at 40-43; Curtis 11/22/94 Fiske Int. at 8.

¹⁰³⁸ Curtis 5/2/95 GJ at 49; Curtis 11/22/94 Fiske Int. at 8.

¹⁰³⁹ Curtis 5/2/95 GJ at 43, 49; Curtis 11/22/94 Fiske Int. at 8. Hanson did not remember discussing the referrals with Curtis and Bowman. Hanson 9/29/95 GJ at 55-57. In particular, she did not remember meeting with them the afternoon of October 14, 1993, although the meeting is reflected in her own handwriting on her schedule for that day. Hanson 9/29/95 GJ at 59-60; Hanson 9/27/95 Int. at 12; see Hanson calendar (Oct. 14, 1993) (Doc. No. 007-DC-00000140). Hanson testified the meeting being written in by hand on her schedule could indicate the meeting was not regularly scheduled. Hanson 9/29/95 GJ at 60. Hanson did not remember ever learning about the disagreement over the referrals between Kansas City's legal and investigative staff. Hanson 9/29/95 GJ at 61. She denied Curtis gave her a copy of the PLS analysis or that she had seen it before the disclosure of it to her during this investigation. Hanson 9/29/95 GJ at 61-62. Hanson did remember hearing that Katsanos had told DeVore that referrals normally went from the field to the Justice Department, and it was not normal for referrals to be sent to Washington. Id. at 56. She then called Curtis to check on that; Curtis told her that it was not unusual for a referral involving a high-profile individual to be routed to Washington. Hanson 4/21/94 Fiske GJ at 37. Hanson passed that information on to DeVore, and asked Curtis to speak with and correct Katsanos. Hanson 4/21/94 Fiske GJ at 37. Hanson thought she spoke with Curtis about this on October 15, 1993. Id. at 37. Curtis did not remember Hanson asking him to correct Katsanos. Curtis 5/2/95 GJ at 49-50.

Bowman corroborated Hanson's testimony. The two of them, along with Curtis, met frequently, but Bowman did not remember the October 14 meeting. Bowman 11/9/94 Fiske 4 Int. at 5. He did not remember ever seeing the PLS memo, which he said he would have remembered. Bowman 6/7/95 GJ at 26; Bowman 11/9/94 Fiske Int. at 5-6. He did not remember Hanson getting a copy of the memorandum. Bowman 11/9/94 Fiske Int. at 6. Finally, he did not remember ever being present for a discussion with Hanson or Curtis about any RTC internal disagreement about the referrals. Bowman 6/7/95 GJ at 21.

16. The Press Publicly Reported on the Referrals.

The Washington Post first published the story about the referrals on October 31, 1993.¹⁰⁴⁰ Schmidt's article said: 1) the RTC had sent about ten criminal referrals pertaining to Madison to the U.S. Attorney for the Eastern District of Arkansas; 2) the referrals raised issues about Madison Guaranty checks deposited into Clinton gubernatorial campaign accounts, including if they were paid by diverting Madison Guaranty loan proceeds earmarked for other purposes; 3) RTC investigators were attempting to find out who endorsed and deposited checks payable to Clinton or the gubernatorial campaign; 4) Governor Tucker was under investigation about his business with Madison Guaranty; and 5) there was an internal debate at the RTC about including the transactions involving the Clintons in the referrals.¹⁰⁴¹ A number of press stories about the referrals or other aspects of Madison Guaranty/Whitewater followed this story.¹⁰⁴²

17. White House Lawyers Met with President Clinton's Personal Lawyers on November 5, 1993.

On November 5, 1993, a meeting was held at Williams & Connolly to transfer the Clintons' private legal representation to David Kendall, and to divide future representation between private and official counsel.¹⁰⁴³ Kendall, Steve Engstrom,¹⁰⁴⁴ Lyons, and -- from the

¹⁰⁴⁰ Susan Schmidt, U.S. Is Asked to Probe Failed Arkansas S&L, Wash. Post, Oct. 31, 1993, at A1.

¹⁰⁴¹ Id.

¹⁰⁴² See, e.g., Paul Barrett, U.S. Investigating S&L Chief's '85 Check to Clinton, SBA-Backed Loan to Friend, Wall St. J., Nov. 1, 1993, at A3; Michael Isikoff & Howard Schneider, Clinton's Former Real Estate Firm Probed, Wash. Post, Nov. 2, 1993, at A1; Jeff Gerth & Stephen Engelberg, U.S. Investigating Clinton's Links to Arkansas S&L, N.Y. Times, Nov. 2, 1993, at A1; Richard Keil, White House Seeks to Dissociate Clinton from Probes, A.P., Nov. 2, 1993.

¹⁰⁴³ Hearings Relating to the Investigation of Whitewater Dev. Corp. and Related Matters Before the Senate Special Comm. to Investigate Whitewater Dev. Corp. and Related Matters of

White House -- Nussbaum, Lindsey, Eggleston, and Kennedy attended.¹⁰⁴⁵ The OIC obtained the notes Lindsey and Kennedy took at the meeting, as well as a diagram Lyons constructed illustrating various Arkansas relationships involving Whitewater, Madison Guaranty, and the Clintons.¹⁰⁴⁶

Kennedy wrote a note, which read: "Try to find out what's going on in Investigation."¹⁰⁴⁷ Both Kennedy and Lindsey testified this note simply reflected a step Kendall planned to take as private counsel to the Clintons.¹⁰⁴⁸ They said it did not indicate a White House plan to obtain information from the Department of Treasury or the RTC.¹⁰⁴⁹

Kennedy's notes also mentioned an RTC referral "w/r/t McDougal;" and that the referral discussed four campaign checks from April 1985 involving Clinton personally and the campaign

the Senate Comm. on Banking, Housing, and Urban Affairs, 104th Cong. 108-09 (Jan. 16, 1996) (testimony of W. Eggleston) [hereinafter "Senate Whitewater Comm. Hearing"].

¹⁰⁴⁴ Engstrom was a Little Rock attorney who was going to work as the Clintons' counsel in Arkansas. Kennedy 2/3/98 GJ at 73, 76, 80.

¹⁰⁴⁵ Senate Whitewater Comm. Hearing, supra note 1043, at 117, 306 (Jan. 16, 1996) (testimony of W. Kennedy) (discussing Exhibit 535).

¹⁰⁴⁶ The notes were obtained only after a lengthy legal battle necessitated by the White House's and the Clintons' assertion of executive privilege, attorney-client privilege and work product protection. See Kennedy's handwritten notes (undated) (Doc. No. 396-DC-00000001) ; Typewritten version of Kennedy notes (undated) (Doc. No. 396-DC-00000014); Lindsey's handwritten notes (395-DC-00000004); see Handwritten diagram showing relationship among Whitewater/Madison Guaranty/CMS/Rose Law Firm/Clintons (Nov. 5, 1993) (Doc. No. 311-DC-00000019); Kennedy copy with handwritten notes (undated) (Doc. No. 396-DC-00000013) .

¹⁰⁴⁷ Kennedy's handwritten notes (Nov. 5, 1993) (Doc. No. 396-DC-00000001).

¹⁰⁴⁸ Senate Whitewater Comm. Hearing, supra note 1043, at 290 (Jan. 16, 1996) (testimony of W. Kennedy); Lindsey 1/10/96 Senate Depo. at 45-46.

¹⁰⁴⁹ See generally Lindsey 1/10/96 Senate Depo. at 45-51.

committee.¹⁰⁵⁰ Kennedy's notes recorded that three checks were written on Madison Guaranty accounts for \$3,000 each and that the fourth check was from McDougal's personal account signed by Susan McDougal.¹⁰⁵¹ The notes addressed a Madison Guaranty loan, the proceeds of which apparently were used for the four \$3,000 checks to the Clinton campaign at the April 1985 fundraiser.¹⁰⁵² The notes indicated that Tucker "could be" a target of the RTC referrals.¹⁰⁵³ Kennedy testified Lindsey provided this information about the referrals, and all of the information provided came from press inquiries and reports, except for some information about the checks, which Lindsey had obtained on his own.¹⁰⁵⁴

The Kennedy notes contained an entry reading:

Vacuum Rose Law Files WWDC Docs – subpoena
*Documents ---> Never know go out
Quality¹⁰⁵⁵

Kennedy testified that this entry referred to the "information vacuum" that surrounded discussion of the issues because the Rose Law Firm, Whitewater, and other records no longer existed.¹⁰⁵⁶ He also maintained the last word in the entry was "quality" -- meaning, what information was available was of poor quality.¹⁰⁵⁷ He said there was no discussion of attempting to destroy or

¹⁰⁵⁰ Kennedy's handwritten notes (undated; Dec. 22, 1995) (Doc. No. 396-DC-00000002 and 7).

¹⁰⁵¹ Id.

¹⁰⁵² See Kennedy's handwritten note (Dec. 22, 1995) (Doc. No. 396-DC-00000007).

¹⁰⁵³ See Kennedy's handwritten note (undated) (Doc. No. 396-DC-00000008).

¹⁰⁵⁴ Kennedy 1/15/96 Senate Whitewater Comm. Depo. at 146-148.

¹⁰⁵⁵ Kennedy's handwritten note (Dec. 22, 1995) (Doc. No. 396-DC-00000007).

¹⁰⁵⁶ Kennedy 1/15/96 Senate Whitewater Comm. Depo. at 180, 182; Senate Whitewater Comm. Hearing, supra note 1043, at 56-57 (Jan. 16, 1996) (testimony of W. Kennedy).

¹⁰⁵⁷ Kennedy 1/15/96 Senate Whitewater Comm. Depo. at 184-85; Senate Whitewater Comm. Hearing, supra note 1043, at 310 (Jan. 16, 1996) (testimony of W. Kennedy).

conceal relevant records.¹⁰⁵⁸

Kennedy testified that the Department of Treasury-White House contacts over the referrals did not come up at the November 5 meeting.¹⁰⁵⁹ In fact, he said there was no discussion of any information attributed to Treasury.¹⁰⁶⁰ He thought that Lyons and press reports were the sources for most of the information transmitted during the meeting, although he could not be sure none of the information came from government sources, or that government sources did not confirm the information contained in the press inquiries.¹⁰⁶¹ He said no suggestion was made at the meeting that government sources should be contacted for confidential government information.¹⁰⁶²

D. White House Officials Sought Ways to Defuse Concerns as Public Scrutiny Increased.

1. Public Scrutiny of the Madison Failure Increased in Fall 1993.

In November and December 1993, the Whitewater controversy was increasingly scrutinized by the media, Congress, the Department of Justice ("DOJ"), and the Clinton Administration itself. As described earlier in this Report, Paula Casey, the U.S. Attorney for the Eastern District of Arkansas, a Clinton appointee, recused herself and her office from

¹⁰⁵⁸ Senate Whitewater Comm. Hearing, *supra* note 1043, at 55-57 (Jan. 16, 1996) (testimony of W. Kennedy).

Later, the investigation found evidence that the "vacuum" in the files was the result of the removal of relevant Rose Law Firm files by Webster Hubbell and Vince Foster in 1992. *See* Volume II, Part B, Chapter 2, *supra*; Volume 3, Part D, *supra*.

¹⁰⁵⁹ Kennedy 1/15/96 Senate Whitewater Comm. Depo. at 134.

¹⁰⁶⁰ *Id.*

¹⁰⁶¹ *Id.* at 219.

involvement in the referrals and the Madison Guaranty matter.¹⁰⁶³ Thereafter, a team of career DOJ lawyers took over the case.¹⁰⁶⁴ In Congress, the House Banking Committee, through Representative James Leach, called upon the RTC to produce Madison Guaranty documents; Committee Chairman Henry Gonzalez also considered holding hearings about the S&L's failure.¹⁰⁶⁵

In late December 1993, allegations were published that Whitewater documents may have been taken by White House personnel from the office of Vincent Foster just after his suicide.¹⁰⁶⁶ On December 23, the DOJ team working on the referrals served a subpoena on David Kendall -- the Clintons' private counsel -- requesting the production of documents relating to Madison Guaranty, Whitewater, and CMS.¹⁰⁶⁷ There were complaints that Kendall had negotiated the subpoena with the DOJ to forestall public dissemination of the subpoenaed documents.¹⁰⁶⁸ This contributed to a sense that the DOJ was compromised in its investigation of the Whitewater/Madison Guaranty/CMS matters.

¹⁰⁶² Id. at 217-18. Lindsey, Eggleston and Lyons all said no confidential government information was discussed in the meeting. Lindsey 3/24/94 Fiske GJ at 54-55; Eggleston 5/17/94 Fiske GJ at 13-14; Lyons 6/5/96 Senate Whitewater Comm. Depo. at 133-34.

¹⁰⁶³ Casey 6/1/95 Int. at 14.

¹⁰⁶⁴ MacKay 6/27/95 GJ at 5-6, 8-10 (MacKay said Dwight Bostwick, Jim Nixon, and himself were assigned to the case after Casey's recusal). Id. at 4, 8.

¹⁰⁶⁵ See Facimile cover sheet from Jean Hanson, General Counsel for Treasury Department to Bernie Nussbaum, Counsel to the President (Feb. 3, 1994); Letter from Representative James A. Leach to Roger C. Altman, Interim CEO of the RTC (Feb. 3, 1994) (Doc. Nos. 009-DC-000000051 through 63).

¹⁰⁶⁶ See, e.g., Frank J. Murray, White House Confirms Search of Foster's Office; Banking, Sex Scandals Spur Damage Control, Wash. Times, Dec. 21, 1993, at A1.

¹⁰⁶⁷ Grand Jury Subpoena No. 55 (E.D. Ark. Dec. 23, 1993).

¹⁰⁶⁸ McLarty 4/25/95 GJ at 104-05 (Kendall's arrangement with Justice for the subpoenaed documents created some controversy).

2. The Enactment of the RTC Completion Act Raised Questions about the RTC's Approach to Resolving Civil Claims Over Madison Guaranty.

In November 1993, Congress passed the RTC Completion Act, which President Clinton signed into law on December 17, 1993.¹⁰⁶⁹ The Act had a number of significant effects, including: 1) shortening the life of the RTC by advancing its termination date from December 31, 1996 to December 31, 1995; and 2) retroactively extending the statute of limitations for certain classes of tort claims arising out of savings and loan failures, most often fraud and other kinds of intentional wrongdoing.¹⁰⁷⁰ In the latter classes of cases, the statute of limitations was expanded from three to five years. The date of accrual was to be the later of the dates on which the cause of action arose or on which the failed institution was taken over by the government.¹⁰⁷¹

Madison Guaranty was put into conservatorship on February 28, 1989, and by operation of the RTC Completion Act, the statute of limitations governing fraud and intentional misconduct claims arising from its failure would expire on February 28, 1994.¹⁰⁷² In January and February 1994, widespread attention focused on the RTC's efforts to determine by that deadline if any civil claims arising out of Madison Guaranty's failure should be pursued.¹⁰⁷³

3. The President Spoke to Comptroller of the Currency Eugene Ludwig about Madison Guaranty/Whitewater.

At the end of 1993, President Clinton attended the "Renaissance Weekend" held in Hilton

¹⁰⁶⁹ See Resolution Trust Corporation Completion Act, Pub. L. No. 103-204, § 1(a) 107 Stat. 2369 (1993).

¹⁰⁷⁰ See *id.*

¹⁰⁷¹ See *id.*

¹⁰⁷² See *id.*

¹⁰⁷³ See generally Altman 9/12/95 GJ at 57-80; Ickes 7/24/94 Senate Banking Comm. Depo. at 84-96.

Head, South Carolina.¹⁰⁷⁴ Also in attendance was Eugene Ludwig, the Comptroller of the Currency.¹⁰⁷⁵ During the weekend, the President discussed Whitewater with Ludwig.

President Clinton testified he encountered Ludwig in a hall and asked Ludwig if there were people in the financial world who might be able to study public information about Whitewater and give an opinion that would help calm some of the "hysteria" in the news.¹⁰⁷⁶ The President said he would like to discuss the issue some more.¹⁰⁷⁷ Ludwig said he would be happy to talk to the President about his request.¹⁰⁷⁸

Ludwig said he was seated at a table during one event, and the President sat down next to him.¹⁰⁷⁹ The President turned to him and said he had done nothing wrong with Whitewater; he simply lost a lot of money, and he did not understand what the "fuss" was about.¹⁰⁸⁰ The President asked whether Ludwig could advise him.¹⁰⁸¹ Ludwig understood the request to mean whether he could render legal or regulatory advice about Madison Guaranty or Whitewater.¹⁰⁸² Ludwig thought that he was to get back to the President and tell him if he could provide any advice.¹⁰⁸³

Ludwig then spoke with Hanson, Joel Klein (Deputy White House Counsel), Kennedy,

¹⁰⁷⁴ Ludwig 6/21/95 GJ at 8.

¹⁰⁷⁵ Id. at 8-13.

¹⁰⁷⁶ W. Clinton 6/12/94 Fiske Depo. at 68.

¹⁰⁷⁷ Id.

¹⁰⁷⁸ Id.

¹⁰⁷⁹ Ludwig 6/21/95 GJ at 8.

¹⁰⁸⁰ Id. at 9.

¹⁰⁸¹ Id. at 9-10.

¹⁰⁸² Id. at 10.

¹⁰⁸³ Id. at 13.

Sloan, and possibly Steiner, to get advice on the propriety of his speaking with the President and gathering public information about Madison Guaranty and Whitewater.¹⁰⁸⁴ In each case, Ludwig was cautioned about having any more discussions with the President about those matters.¹⁰⁸⁵ Klein told the President he should not approach Ludwig again on the Whitewater subject, and the President agreed.¹⁰⁸⁶ The next day, Ludwig encountered both the President and Klein, and they all agreed Ludwig would not furnish advice on this matter.¹⁰⁸⁷

4. The Whitewater Response Team Was Formed in the White House.

In January 1994, Thomas "Mack" McLarty, then White House Chief of Staff, asked John Podesta, Staff Secretary, under the direction of Harold Ickes, Deputy Chief of Staff, to assemble a group of White House officials and advisors to deal with Whitewater issues.¹⁰⁸⁸ The group would collect information about Whitewater and develop responses to the mounting media inquiries.¹⁰⁸⁹

Membership of the "Whitewater Response Team," as it came to be known, varied depending on the particular issue. Over time, participants included Mack McLarty, Maggie Williams (the First Lady's Chief of Staff), Dee Dee Myers (the White House Press Secretary), Mark Gearan, George Stephanopoulos (senior policy advisor), Joel Klein, Neil Eggleston,

¹⁰⁸⁴ *Id.* at 15-16, 19-20, 22-24; Klein 7/23/94 Senate Banking Comm. Depo. at 98-99; Sloan 4/7/94 Fiske GJ at 58-60.

¹⁰⁸⁵ Ludwig 6/21/95 GJ at 15-26; Klein 7/23/94 Senate Banking Comm. Depo. at 98-99.

¹⁰⁸⁶ W. Clinton 6/12/94 Fiske Depo. at 68-69; Klein 7/23/94 Senate Banking Comm. Depo. at 96-97.

¹⁰⁸⁷ Ludwig 7/24/94 Senate Banking Comm. Depo. at 58-60.

¹⁰⁸⁸ McLarty 4/25/95 GJ at 111-13; McLarty 5/2/94 Fiske Int. at 3; McLarty 7/21/94 Senate Banking Comm. Depo. at 38-39.

¹⁰⁸⁹ Ickes 3/17/94 Fiske GJ at 16-19.

Clifford Sloan, Bruce Lindsey, Bernard Nussbaum, David Gergen (a senior presidential advisor), James Carville (presidential advisor) Paul Begala (presidential advisor), and Lisa Caputo (Mrs. Clinton's press secretary).¹⁰⁹⁰ The Team (or portions of the Team) met frequently (sometimes twice a day) starting January 3, 1994, and continuing at least through the appointment of Robert Fiske as regulatory Independent Counsel on January 20.¹⁰⁹¹

The meetings focused on the media, public relations, political, and congressional aspects of the Whitewater/Madison controversy. The discussions centered around efforts by the White House and David Kendall to gather the facts about Whitewater and related matters, and then disseminate the White House's version of events through the media and friendly congressional members.¹⁰⁹²

The Whitewater Response Team discussed whether to contact former Arkansas Securities Commissioner Beverly Bassett Schaffer, a key witness on Mrs. Clinton's representation of Madison Guaranty while a partner at the Rose Law Firm.¹⁰⁹³ Discussions focused on the need to speak with Schaffer to be sure she did not change her story, and to get additional information from her to support the Clintons' version of events.¹⁰⁹⁴ It was also suggested that the White House simply wanted to prepare her for a possible press availability on the issue of Mrs.

¹⁰⁹⁰ McLarty 4/25/95 GJ at 113; Ickes 9/5/95 GJ at 10-11; Ickes 3/17/94 FiskeGJ at 17.

¹⁰⁹¹ Ickes 9/5/95 GJ at 11-12; Ickes 3/17/94 Fiske GJ at 17.

¹⁰⁹² McLarty 7/21/94 Senate Banking Comm. Depo. at 158-59.

¹⁰⁹³ Senate Whitewater Comm. Hearing, supra note 1043, at 45-49 (Feb. 15, 1996) (testimony of M. Gearan).

¹⁰⁹⁴ Id. at 153-59 (testimony of Gearan); Senate Whitewater Comm. Hearing, supra note 1043, at 86-88 (Feb. 22, 1996) (testimony of H. Ickes).

Clinton's representation of Madison Guaranty before the Commission.¹⁰⁹⁵

The Team ultimately rejected sending a White House official or close proxy to meet with Schaffer.¹⁰⁹⁶ It does appear that Schaffer was approached in January 1994 through her husband by Skip Rutherford, who worked for a Little Rock advertising/public relations firm, about holding a press conference or making herself available to press inquiries.¹⁰⁹⁷ Schaffer declined.¹⁰⁹⁸ There is no evidence that this approach to Schaffer was made on behalf of, with the knowledge of, or at the direction of any White House official.

Another topic of discussion at Team meetings was the looming February 28, 1994 statute of limitations for civil claims arising out of Madison Guaranty's failure.¹⁰⁹⁹ Senate Republicans, led by Senator Alfonse D'Amato, questioned whether the RTC would be able to determine by the statute of limitations deadline if civil claims should be filed against the Clintons, and were calling for the RTC to ask for tolling agreements from the Clintons and other possible civil defendants.¹¹⁰⁰

On January 8, 1994, Ickes asked Eggleston to write a memorandum about the statute of

¹⁰⁹⁵ See Handwritten meeting notes (undated) (Doc. No. 442-DC-00006233).

¹⁰⁹⁶ Lindsey 6/8/96 Senate Banking Comm. Depo. at 48-52, 88-89.

¹⁰⁹⁷ Id. at 52-53.

¹⁰⁹⁸ Schaffer 4/29/96 Senate Depo. at 24-25.

¹⁰⁹⁹ McLarty 4/25/94 Fiske GJ at 118-19; McLarty 5/2/94 Fiske Int. at 5-6; see also McLarty typewritten notes (Feb. 2, 1994) (Doc. No. 001-DC-00000231); Ickes 3/17/9 Fiske 4 GJ at 36-37, 48-50; Ickes 8/5/95 GJ at 30-33; see also Ickes notes of meeting (Feb. 2, 1994) (Doc. No. 006-DC-00000005).

¹¹⁰⁰ See Letter from United States Senate Committee on Banking, Housing, And Urban Affairs to Mr. Roger Altman, President Interim and Chief Executive Officer of the RTC (Feb. 8, 1994) (Doc. Nos. 001-DC-000000312 through 16).

limitations for civil actions by the RTC.¹¹⁰¹ On January 17, Eggleston circulated the memorandum to Ickes.¹¹⁰² The memorandum had a generic description of the statute of limitations as amended by the RTC Completion Act and applied the statute to the case of Madison Guaranty. The memorandum concluded that because Madison Guaranty was taken over on March 2, 1989, the statute of limitations for covered tort claims expired on March 2, 1994 (five years from the date of the takeover).¹¹⁰³ The memorandum also noted that the ten year statute of limitations for criminal charges accrued on the date of the allegedly criminal conduct, not on the date of the failed institution's takeover.¹¹⁰⁴ The memorandum was copied to Nussbaum.¹¹⁰⁵

¹¹⁰¹ See Ickes assignment memoranda (Jan. 9 -10, 1994) (Doc. No. 442-DC-00006328 through 329; 442-DC-00006260 through 061). Other notes taken by Mr. Ickes and produced to the OIC indicate the statute of limitations was discussed at a Team meeting held at the home of Vernon Jordan on January 16, 1994. See Ickes's handwritten notes (Jan. 16, 1994) (Doc. No. 442-DC-00006230). Notes reflecting the statute of limitations discussion state: "no allegation that [the] Clintons have broken any law and therefore – we don't know what civil refers to - always exception for fraud." *Id.* Ickes testified he did not remember assigning Eggleston do any legal research about the statute of limitations, though he may have done so. Ickes 9/5/95 GJ at 16. He also did not remember the memorandum. Ickes 9/5/95 GJ at 16; see also Memo from W. Neil Eggleston, Associate Counsel to the President to Harold Ickes, Deputy Chief of Staff at 6 (Feb. 28, 1994) (Doc. No. 006-DC-00000019).

¹¹⁰² See Memo from W. Neil Eggleston, Associate Counsel to the President to Harold Ickes, Deputy Chief of Staff (Jan. 17, 1994) (Docs. No. 014-DC-00000015 through 18).

¹¹⁰³ The source of Mr. Eggleston's information that Madison Guaranty was taken over on March 2, 1989 is unclear. In fact, the institution was put in conservatorship on February 28, 1994. See 54 Fed. Reg. 9890 (1989). The deadline for filing covered civil claims arising out of Madison Guaranty's failure was February 28, 1994, not March 2, 1994. See Resolution Trust Corporation Completion Act, Pub. L. No. 103-204, § 1(a) 107 Stat. 2369 (1993).

¹¹⁰⁴ See Memo from W. Neil Eggleston, Associate Counsel, to the President to Harold Ickes, Deputy Chief of Staff at 2 (Jan. 17, 1994) (Doc. No. 014-DC-00000016).

¹¹⁰⁵ See *id.*

5. Roger Altman's Diary Reflected Anxiety at the White House about Whitewater in January 1994.

Altman's diary in January 1994 recounted a conversation he had with Williams about Mrs. Clinton and the possible appointment of an Independent Counsel.¹¹⁰⁶ According to the diary, Williams told Altman that the First Lady was "paralyzed" by Whitewater and that "if we don't solve this 'within the next two days,' you don't have to worry about her schedule on health care."¹¹⁰⁷ Altman also wrote: "Maggie's strong inference was that the W[hite] H[ouse] was trying to negotiate the scope of an independent counsel with Reno and having enormous difficulty" and "HRC [Hillary Rodham Clinton] doesn't want (the counsel) poking into 20 years of public life in Arkansas."¹¹⁰⁸

Williams said she did not remember any such conversation with Altman.¹¹⁰⁹ Although she agreed she frequently commented about how the Whitewater issue was taking attention away from health care, she denied talking about Mrs. Clinton's personal feelings with Altman or anyone else.¹¹¹⁰ She claimed she did not even speak with the First Lady about whether the President should ask for the appointment of an independent counsel, but she knew from others,

¹¹⁰⁶ See Altman Diary Entry (Jan. 11, 1994) (Doc. No. 001-DC-0000492).

¹¹⁰⁷ See *id.*

¹¹⁰⁸ See *id.* Altman testified he did not remember the specific conversation with Williams from his diary, but testified it must have taken place and that the entry must be accurate. Altman 9/12/95 GJ at 52-53. He stressed it was his own inference from his conversation with Williams that the White House was trying to control the scope of an independent counsel's jurisdiction, which might have been wrong or unjustified. *Id.* at 54-55.

¹¹⁰⁹ Williams 3/25/94 Fiske GJ at 70-71; Williams 7/20/94 Senate Banking Comm. Depo. at 147-48.

¹¹¹⁰ Williams 6/2/95 GJ at 68.

such as Nussbaum, that Mrs. Clinton was against such an appointment.¹¹¹¹

No other witness testified that Williams had ever said that Mrs. Clinton was "paralyzed" by Whitewater or that Mrs. Clinton was afraid of an independent counsel looking into her life in Arkansas. In addition, the OIC obtained no evidence showing or implying that the White House tried to control the scope of an independent counsel's jurisdiction through discussions with the DOJ.

6. Treasury Secretary Lloyd Bentsen Met with George Stephanopoulos about Whitewater.

In Altman's January 11 diary entry, he noted "[Treasury Secretary] LMB [Lloyd M. Bentsen] went over to [s]ee George [Stephanopoulos] on Whitewater yesterday; to argue for 'lancing the boil.'"¹¹¹² Bentsen's calendar for January 10 shows a 5:30 p.m. meeting with Stephanopoulos at the White House, which Bentsen thought was the meeting referred to in Altman's diary.¹¹¹³ Bentsen said Altman's diary was accurate: Bentsen went to Stephanopoulos to advise that the White House should "lance the boil" on Whitewater by making full disclosure to put the controversy behind it.¹¹¹⁴

¹¹¹¹ Id. at 70-72. Williams denied taking part in any discussions within the White House about narrowing the scope of an independent counsel's jurisdiction. Id. at 71.

¹¹¹² See Steiner Diary Entry (Jan. 11, 1994) (Doc. No.001-DC-00000492).

¹¹¹³ See Bentsen calendar (Jan. 10, 1994) (Doc. No. 274-DC-00002216); Bentsen 7/12/95 Int. at 6; Bentsen 7/26/94 Senate Banking Comm. Depo. at 18-19.

¹¹¹⁴ Bentsen 7/26/94 Senate Banking Comm. Depo at 20. Although Stephanopoulos did not remember this specific conversation, he is certain it occurred. Stephanopoulos 9/8/95 GJ at 23-24.

7. Jean Hanson Met with RTC Officials about Madison Guaranty after Republican Senators Asked for Tolling Agreements.

On January 11, 1994, eight Republican Senators wrote to Attorney General Janet Reno urging her to seek tolling agreements from a number of potential civil defendants in the Madison Guaranty matter, including the Clintons, the McDougals, Tucker, Ward, and the Rose Law Firm. Altman received a copy of their letter in his capacity as the RTC's CEO.¹¹¹⁵ Altman forwarded a copy of the letter to Secretary Bentsen along with a note indicating that Hanson was "assembling the facts."¹¹¹⁶

On January 12, 1994 -- the day that President Clinton announced he would ask the Attorney General to appoint an independent counsel on the Madison Guaranty/Whitewater matter -- Hanson had a meeting in her office about the "Statute of Limitations Issue" with James Barker (who until January 17 was the RTC's Acting General Counsel), John Bowman, and Thomas Hinds, Chief of the RTC's PLS.¹¹¹⁷ Barker said Hanson told them that Altman was concerned about the Senators' letter and wanted to make a public statement that the Madison Guaranty matter already was investigated and was closed out.¹¹¹⁸

Hinds and Barker said that was not be a good idea because the investigation was cursory and there had not yet been a reexamination of potential civil claims.¹¹¹⁹ The participants

¹¹¹⁵ See Letter from Senate Banking Committee to Attorney General Janet Reno (Jan. 11, 1994) (Doc. Nos. 001-DC-00000347 through 48) (letter was signed by Senators D'Amato, Dole, Meyers, Parrish, Clinger, Fish Jr., Pressler, and Michell).

¹¹¹⁶ See Memo from Roger Altman, President Interim and CEO of the RTC to Lloyd Bentsen, Secretary of the Treasury (Jan. 11, 1994) (Doc. No. 274-DC-00000329).

¹¹¹⁷ Barker 5/2/95 GJ at 33-34; see also Hanson calendar (Jan. 12, 1994) (Doc. No. 007-DC-00005929) (indicating the meeting took place at 3:00 p.m.).

¹¹¹⁸ Barker 5/2/95 GJ at 34.

¹¹¹⁹ Id. at 34-36, 38.

discussed what could be said about the investigation and the statute of limitations.¹¹²⁰ Hides was asked to prepare a chronology of Madison Guaranty events to help in furnishing Altman with background information.¹¹²¹ Barker testified Hanson asked for copies of the criminal referrals, but Bowman said that would be inappropriate.¹¹²²

Hides testified he briefed Hanson on the Madison Guaranty investigation and said he would be ready by mid-February to make a recommendation about possible civil claims.¹¹²³ Hanson asked if he could brief Altman about the criminal referrals,¹¹²⁴ but Hides said he had not seen them and would have to look at them first.¹¹²⁵

Hides testified that along with Bowman and Barker, he asked if it was a good idea for Altman or Hanson to receive briefings on the referrals.¹¹²⁶ Hides recalled Hanson deferred making a decision about this, saying she would be in touch if a briefing was needed.¹¹²⁷ Bowman, Barker, and Hides then met in Bowman's office and discussed their reservations about Altman or Hanson being briefed on the referrals.¹¹²⁸

¹¹²⁰ Id. at 37-38.

¹¹²¹ Id. at 38-39; Hides did prepare a chronology; see Facsimile from John Bowman to Jean Hanson, General Counsel for Treasury Department (Jan. 25, 1994), and Memo from Thomas L. Hides, Assistant General Counsel, to James Barker, Acting General Counsel (Jan. 13, 1994) (Doc. Nos. 007-DC-000005929 through 31).

¹¹²² Barker 5/2/95 GJ at 40-41.

¹¹²³ Hides 5/9/95 GJ at 37-39; see also Hides 11/10/94 Fiske Int. at 6-7.

¹¹²⁴ Hides 5/9/95 GJ at 39; Hides 11/10/94 Fiske Int. at 7.

¹¹²⁵ Hides 5/9/95 GJ at 39-41; Hides 11/10/94 Fiske Int. at 7.

¹¹²⁶ Hides 5/9/95 GJ at 41-42; Hides 11/10/9 Fiske 4 Int. at 7.

¹¹²⁷ Hides 5/9/95 GJ at 40; Hides 11/10/94 Fiske Int. at 7.

¹¹²⁸ Hides 5/9/95 GJ at 46-47; Hides 11/10/94 Fiske Int. at 7. Bowman testified he did not remember a discussion of Hanson getting copies of the referrals. Bowman 6/7/95 GJ at 50. He also did not remember discussing whether Altman should be briefed on the referrals. Id. at

On January 14, 1994, James Dudine, the RTC's Chief of Investigations in Washington, D.C., e-mailed the RTC's Kansas City office asking for summaries of the referrals to brief Altman.¹¹²⁹ A summary section of each referral was sent to Dudine.¹¹³⁰ Dudine gave the summaries he received, and copies of the referrals, to Ellen Kulka, who started as the RTC's permanent General Counsel on January 17.¹¹³¹

51. He did remember there was a brief meeting with Hindes and Barker in his office right after the meeting with Hanson. Id. at 52-53.

Hanson vaguely remembered a meeting on January 12 where there was a discussion about whether the prior Madison Guaranty investigation was adequate. Hanson 9/29/95 GJ at 70-72. She denied asking for a copy of the referrals, or asking for Altman to be briefed on them. Id. at 74-75.

¹¹²⁹ See E-mail from James R. Dudine to L. Richard Iorio (Jan. 14, 1994) (Doc. No. 044-DC-00004995) ("In preparation for a briefing of CEO Altman on the Madison Criminal referrals, could you produce, or have you on hand, a brief summary of each referral, in plain English that tells the story in a way that anyone could quickly grasp the substance of the matter? Sound bites, if you will"); see also Dudine 5/13/94 Fiske Int. at 7.

¹¹³⁰ See E-mail from Michael X. Caron to James R. Dudine (Jan. 14, 1994) (Doc. No. 044-DC-00004994). Altman claimed he never requested or received a briefing on the referrals, and never requested or received copies of any of the criminal referrals. Altman 9/12/95 GJ at 59-60; Altman 9/7/95 Int. at 5.

Katsanos remembered telling Dudine to be prepared to brief senior officials at the RTC about the criminal referrals. Katsanos 4/26/95 GJ at 71-72. Katsanos thought this conversation took place in October 1993 to provide senior staff with information to respond to the press inquiries then. Katsanos 4/26/95 GJ at 72; Dudine 5/13/94 Fiske Int. at 7.

¹¹³¹ Dudine 5/13/94 Fiske Int. at 7. Hindes testified that after January 12 he did not prepare for a briefing of Altman on the referrals because he was waiting to hear back from Hanson. Hindes 5/9/95 GJ at 48. He had no knowledge of the origin of Dudine's January 14 e-mail that mentioned a briefing of Altman. Hindes 5/9/95 GJ at 49-50.

8. Roger Altman Was Briefed on the Statute of Limitations Issue and Considered Recusing from Madison Guaranty Matters.

On January 25, 1994, Senator D'Amato sent a letter to Altman, again urging that the RTC seek tolling agreements from all relevant potential defendants in the Madison Guaranty matter.¹¹³² Senator D'Amato also asked how the RTC planned to handle the statute of limitations deadline.¹¹³³ The RTC drafted a response stating the RTC would vigorously pursue all appropriate claims arising from the Madison Guaranty matter, and take all necessary steps required by the imminent deadline, including seeking voluntary tolling agreements.¹¹³⁴

The last week of January 1994, Kulka and others began preparing Altman for his testimony before the Senate about the semi-annual oversight hearing.¹¹³⁵ (Altman's letter in response was sent the same day).¹¹³⁶ Kulka told Altman that

The issues that were raised were how could the agency come to any conclusions and decide whether to take action in the very short period of time that we had to come to it, and in discussing that, I think I explained to Mr. Altman that in certain circumstances, [when] the statute was about to run; the agency has attempted, as a matter of practice, depending on the facts and circumstances, to obtain a tolling agreement from potential defendants that would voluntarily extend the statute of limitations for a period of time that was negotiated and agreed upon by the parties, the agency and the defendant who might be willing to enter into it

We told Mr. Altman that we would put ourselves in a position of either making a

¹¹³² See Letter from Senator Alfonse D'Amato to Roger Altman, President Interim and CEO of RTC (Jan. 25, 1994) (Doc. No. 007-DC-00003736-37).

¹¹³³ See Letter from Senator Alfonse D'Amato to Roger Altman, President Interim and CEO of RTC (Jan. 25, 1994) (Doc. No. 007-DC-00003736-37).

¹¹³⁴ See Letter from Roger C. Altman, Interim CEO of RTC, to Senator Robert J. Dole (Feb. 1, 1994) (Doc. No. 007-DC-00003753).

¹¹³⁵ Kulka 6/2/94 Fiske GJ at 16, 18-19; Kulka 7/19/94 Senate Banking Comm. Depo. 27-29; Altman 9/12/95 GJ at 66-67.

¹¹³⁶ See Letter from Roger C. Altman, Interim CEO of RTC, to Senator Alfonse M. D'Amato (Feb. 1, 1994) (Doc. No. 007-DC-00003738).

decision, making a recommendation to whomever was the ultimate decider at the agency, about whether to bring an action by February 28th, or to be in a position to seek tolling agreements. With respect to people who might otherwise be interested in suing, that we would not guarantee we would get the tolling agreements, and to the extent that we thought we had a reasonable basis to bring a case and it would not be a frivolous action or one in which we might be held accountable for doing an improper thing, we would file the action if we could not obtain the tolling agreement, assuming whoever had the right to make the decision at the agency decided to go forward with respect to various people who we thought would be recommended.¹¹³⁷

Kulka said potential defendants might make such agreements hoping that further investigation might lead the RTC not to file suit at all.¹¹³⁸ Kulka told Altman that the February 28 deadline did not leave the RTC as much time as it would have preferred, but that the agency would be able to make a complete presentation to Altman before the deadline.¹¹³⁹ Altman said he told Kulka that the decision on which alternatives to pursue was hers.¹¹⁴⁰ Shortly after his meeting with Kulka, Altman spoke with the White House about the statute of limitations on Madison Guaranty.¹¹⁴¹

9. Roger Altman Met with Secretary Lloyd Bentsen and Jean Hanson about Recusal.

On February 1, at her confirmation hearing before the Senate Banking Committee, Ricki Tigert, a friend of the President nominated to be chairman of the board of the FDIC, ran into opposition for refusing to state whether she would recuse herself from Madison Guaranty-related matters before the FDIC.¹¹⁴² Tigert's experience prompted Altman to consider whether he should

¹¹³⁷ Kulka 7/6/94 Treas. IG at 17-19.

¹¹³⁸ Kulka 5/5/95 GJ at 26; Kulka 7/6/94 Treas. IG at 19.

¹¹³⁹ Altman 7/25/94 Senate Banking Comm. Depo. at 409-14.

¹¹⁴⁰ Altman 9/12/95 GJ at 72.

¹¹⁴¹ Id. at 78-79.

¹¹⁴² Id. at 75-76.

recuse himself from Madison Guaranty matters at the RTC.¹¹⁴³ That day, Altman discussed his possible recusal with senior Treasury and RTC officials and asked for their advice.¹¹⁴⁴ Hanson and Kulka told Altman that the law did not mandate recusal because of his friendship with the Clintons, but that as a political matter he should because he already had said he would follow Kulka's recommendation on Madison Guaranty, and failure to step aside would put him in a "no win" position.¹¹⁴⁵

In the early afternoon of February 1, 1994, after his briefing on the statute of limitations issue and his discussion of possible recusal with RTC and Treasury officials, Altman met with Secretary Bentsen and Hanson in the Secretary's office.¹¹⁴⁶ Altman testified he brought up the issue of whether he should recuse, and asked Bentsen for advice.¹¹⁴⁷ Altman said Bentsen described recusal as a personal decision, but encouraged him to recuse himself in his own self-

¹¹⁴³ Id. at 75-77.

¹¹⁴⁴ Id. at 76-78; Hanson 9/29/95 GJ at 75.

¹¹⁴⁵ Kulka 7/19/94 Senate Banking Comm. Depo at 55-56; Hanson 9/29/95 GJ at 77. Dennis Foreman, the Deputy General Counsel of the Treasury and Designated Agency Ethics Official, testified that before February 2, Hanson asked him for his quick reaction to the question whether Altman should recuse himself, and Foreman responded he thought Altman should do so. Foreman 6/27/95 GJ at 30-31. Hanson said she agreed with Foreman. Id. at 30. Foreman said Hanson returned to him some short time later and said she had been talking with Altman, told him her view on recusal, and that Altman was leaning towards recusal. Id. at 31.

¹¹⁴⁶ Altman 9/12/95 GJ at 72-77; Altman 9/7/95 Int. at 8.

¹¹⁴⁷ Altman 9/12/95 GJ at 75; see also Altman 5/13/94 Statement to the Office of the Independent Counsel at 10; Altman 9/7/95 Int. at 8. Hanson testified Altman told the Secretary he had decided to recuse himself from the Madison Guaranty matter, and that Hanson had recommended it. Hanson 9/29/95 GJ at 86. Hanson also testified that Altman had previously told her that he decided to recuse. Hanson 3/16/94 Fiske Int. at 14; Hanson 7/16/94 Senate Banking Comm. Depo. at 315. Secretary Bentsen wanted to know who would handle decisions about Madison Guaranty if Altman recused himself, and Altman responded that decisions would be made by John Ryan, the RTC's Deputy CEO, and Kulka. Hanson 4/21/94 Fiske GJ at 80; Hanson 9/29/95 GJ at 87; Hanson 7/16/94 Senate Banking Comm. Depo. at 315.

interest.¹¹⁴⁸ Altman remembered Hanson agreed he should recuse.¹¹⁴⁹ He could not remember if he told Secretary Bentsen he would follow this advice, or if he just noted that the Secretary's advice was sound.¹¹⁵⁰ Altman also did not think he told Secretary Bentsen he would be discussing the statute of limitations issue for Madison Guaranty-related matters with the White House.¹¹⁵¹

¹¹⁴⁸ Altman 9/12/95 GJ at 77; Altman 5/13/94 Statement to the Office of the Independent Counsel at 10; Altman 9/7/95 Int. at 8-9. Hanson remembered Secretary Bentsen said Altman's decision to recuse sounded correct. Hanson 4/21/94 Fiske GJ at 61-62; Hanson 3/16/94 Fiske Int. at 15; Hanson 7/16/94 Senate Banking Comm. Depo. at 316. Altman said his decision did not matter because he would follow Kulka's recommendation anyway. Hanson 7/16/94 Senate Banking Comm. Depo. at 316. Hanson said Altman told Bentsen that Altman thought he should talk to the White House because the officials there should hear about Altman's recusal directly from Altman rather than another source. Hanson 3/16/94 Fiske Int. at 15; Hanson 7/11/94 Treas. IG at 154; Hanson 7/16/94 Senate Banking Comm. Depo. at 316.

Secretary Bentsen testified that at the meeting Altman said he was considering recusal because of his friendship with the Clintons. Bentsen 7/12/94 Fiske Int. at 10; but see Bentsen 7/26/94 Senate Banking Comm. Depo. at 27 (Bentsen explained members of Congress were calling for him to recuse). Bentsen said he told Altman he had to decide for himself, but he was sympathetic to Altman's situation. Senate Banking Comm. Hearing, supra note 831, at 33, 72-73, 127 (Oct. 3, 1994) (testimony of Bentsen); Bentsen 7/12/95 Int. at 11. Bentsen thought that Altman might have understood Bentsen's sympathy to be a recommendation in favor of recusal, but that was not Bentsen's intent. Senate Banking Comm. Hearing, supra note 831, at 33, 72-73 (Oct. 3, 1994) (testimony of L. Bentsen). Bentsen testified there was no discussion at this meeting about Altman's discussing recusal with the White House. Bentsen 7/26/94 Senate Banking Comm. Depo. at 30; Bentsen 7/12/95 Int. at 10. He thought that Altman left the meeting still undecided about recusal. Bentsen 7/12/95 Int. at 10.

¹¹⁴⁹ Altman 9/12/95 GJ at 77; Altman 9/7/95 Int. at 8.

¹¹⁵⁰ Altman 9/12/95 GJ at 77-78.

¹¹⁵¹ Id. at 78. Hanson said she should accompany him if he planned to go to the White House to discuss both the recusal and legal issues. Hanson 9/29/95 GJ at 88-90; Hanson 3/16/94 Fiske Int. at 15-16; Hanson 7/11/94 Treas. IG at 154-55. Hanson testified another purpose of the proposed White House meeting was to brief the White House on the Madison Guaranty statute of limitations issue, because Altman had previously told Hanson that White House officials had expressed some confusion over that. Hanson 9/29/95 GJ at 89-90; Hanson 4/21/94 Fiske GJ at 49; Hanson 3/16/94 Fiske Int. at 15-16; Hanson 7/11/94 Treas. IG at 154-55.

10. Roger Altman Arranged a February 2, 1994 White House Meeting.

Hanson thought that later on February 1 she suggested that Altman should make sure Nussbaum attended the White House gathering.¹¹⁵² Altman remembered that after his February 1 briefing with Kulka, he told Hanson that they "ought to explain the process to the White House."¹¹⁵³ Altman testified the impetus for calling the meeting was the inquiries he was receiving from Congress.¹¹⁵⁴ Because he was providing statute of limitations-related information to Congress, he thought he should provide the same information to the White House.¹¹⁵⁵

That same day, Altman called McLarty and asked for a meeting with both McLarty and Ickes.¹¹⁵⁶ Altman said he wanted to meet at the White House to talk about the procedural options the RTC had in view of the approaching statute of limitations deadline.¹¹⁵⁷

11. Jean Hanson Prepared Talking Points for the February 2 Meeting.

Hanson drafted one page of talking points for Altman to use at his White House briefing.¹¹⁵⁸ The document described the Republican Senators' request for tolling agreements, the RTC Completion Act's extension of the statute of limitations for certain kinds of civil claims, and

¹¹⁵² Hanson 3/16/94 Fiske at 17; Hanson 7/11/94 Treas. IG at 155.

¹¹⁵³ Altman 3/15/94 Fiske Int. at 3.

¹¹⁵⁴ Altman 9/12/95 GJ at 69-70; Altman 5/13/94 Statement to the Office of the Independent Counsel at 12; Altman 9/7/95 Int. at 9-10.

¹¹⁵⁵ Altman 9/12/95 GJ at 70; Altman 5/13/94 Statement to the Office of the Independent Counsel at 12; Altman 9/7/95 Int. at 10.

¹¹⁵⁶ Altman thought that he spoke with McLarty to set up the meeting. Altman 9/12/95 GJ at 78-79. Ickes thought that he spoke with Altman to set up the meeting. Ickes 9/5/95 GJ at 21-22; Ickes 3/17/94 Fiske GJ at 28; Ickes 7/12/94 Senate Banking Comm. Depo. at 104. McLarty thought that at most, he referred Altman to Ickes to set up the meeting. McLarty GJ at 121.

¹¹⁵⁷ Altman 9/12/95 GJ at 78-79.

the statute's expiration on February 28.¹¹⁵⁹ The talking points discussed three options available to the RTC for potential civil claims arising from Madison Guaranty's failure.¹¹⁶⁰ They also explained certain negative aspects as to those options -- for example, in the case of the RTC's seeking tolling agreements, such agreements had to be consented to by the potential defendants; or for the protective lawsuit option, the suit had to be non-frivolous, or the filing party risked sanctions.¹¹⁶¹ The document noted John Ryan and Ellen Kulka supervised the RTC's investigation, and said: "It is not certain when the analysis will be completed, but it will be before February 28."¹¹⁶² The last talking point on the document -- item number twelve -- stated as to Altman: "I have decided that I will recuse myself from the decision making process, as interim C.E.O. of the RTC, because of my relationship with the President and Mrs. Clinton."¹¹⁶³

Dennis Foreman, the Department of Treasury's Designated Agency Ethics Officer, testified that on the afternoon of February 2, Hanson came to his office, told him she was going to the White House with Altman, and asked Foreman to look at the talking points.¹¹⁶⁴ He

¹¹⁵⁸ See Talking points for Roger Altman: Information meeting with Mack McLarty (Feb. 2, 1994) (Doc. No. 001-DC-00000231) (produced by Altman).

¹¹⁵⁹ See Talking points for Roger Altman: Information meeting with Mack McLarty (Feb. 2, 1994) (Doc. No. 007-DC-00000158) (produced by Hanson), Outline of RTC/Madison Guaranty Issues (Feb. 10) (Doc. No. 007-DC-00000159).

¹¹⁶⁰ See Talking points for Roger Altman: Information meeting with Mack McLarty (Feb. 2, 1994) (Doc. No. 007-DC-0000158) (produced by Hanson).

¹¹⁶¹ See id.

¹¹⁶² Id.

¹¹⁶³ Id.

¹¹⁶⁴ Foreman 6/27/95 GJ at 31, 36-38. Hanson did not remember showing Foreman the talking points, only that she sought out Foreman for his political and ethical advice on their upcoming White House meeting. Hanson 3/16/94 Fiske Int. at 16; Hanson 7/11/94 Treas. IG at 164-65; Hanson 7/15/94 Treas. IG at 59. She claimed Foreman saw no problem with a meeting

remarked that the document had public information except for the recusal point.¹¹⁶⁵ Foreman was surprised by Altman's recusal decision, because he had understood from Hanson that, Altman was only leaning toward recusal.¹¹⁶⁶ He raised this issue with Hanson to ensure that item twelve was factually true, pointing out that if Altman decided against recusal after the White House meeting, item twelve on the talking points could cause problems if the issue ever surfaced in public.¹¹⁶⁷ Foreman did not remember if Hanson responded to his point.¹¹⁶⁸

Before the White House meeting, Hanson gave Altman a copy of the talking points.¹¹⁶⁹ Hanson testified that she asked Altman if he had read item twelve (about his recusal) and if he was inclined to change his mind.¹¹⁷⁰ Hanson testified she told Altman that if he was inclined to change his mind she would change the last talking point.¹¹⁷¹ Altman said the recusal point was fine.¹¹⁷² Hanson claimed she wanted the recusal point to be accurate, but if Altman did eventually change his mind she did not want it to appear that Altman changed his mind because of the White House meeting.¹¹⁷³

to discuss the statute of limitations and Altman's recusal. Hanson 7/11/94 Treas. IG at 165-66; Hanson 7/15/94 Treas. IG at 59.

¹¹⁶⁵ Foreman 6/27/95 GJ at 31, 36-38.

¹¹⁶⁶ Id. at 40.

¹¹⁶⁷ Id. at 40-46.

¹¹⁶⁸ Id. at 39, 45-46.

¹¹⁶⁹ Hanson 3/16/94 Fiske Int. at 16.

¹¹⁷⁰ Id.; Hanson 9/29/95 GJ at 92; Hanson 4/21/94 Fiske GJ at 60.

¹¹⁷¹ Hanson 4/21/94 Fiske GJ at 60; Hanson 9/29/95 GJ at 92; Hanson 7/11/94 Treas. IG at 155; Hanson 3/16/94 Int. at 16.

¹¹⁷² Hanson 4/21/94 Fiske GJ at 60.

¹¹⁷³ Hanson 3/16/94 Fiske Int. at 16-17. Altman did not remember discussing the talking points with Hanson, saying he first saw them on the way to the White House. Altman 3/22/94 Fiske GJ at 47; Altman 9/12/95 GJ at 82-83; Altman 5/13/94 Statement to the Office of the

12. The February 2, 1994 White House Meeting.

At about 5:00 p.m. on February 2, 1994, a meeting took place in McLarty's office at the White House between Hanson, Altman, Ickes, Nussbaum, Eggleston, and Williams. Altman reviewed the talking points at the beginning of the meeting.¹¹⁷⁴ Hanson remembered that during Altman's discussion about the statute of limitations issue, Williams asked if the RTC would have to get tolling agreements from the potential defendants if the investigation could not be finished by February 28.¹¹⁷⁵ Hanson remembered Altman answered, "Yes."¹¹⁷⁶

Ickes claimed Altman said it was unclear whether the RTC would fully complete its investigation before February 28.¹¹⁷⁷ Ickes also testified he understood that although the RTC would not be able to conclude a final investigation and analysis of potential claims by February 28, the agency would be able to determine by then whether there were potential claims, and if necessary, file suits to preserve those claims -- even if the agency later decided to amend the complaints or dismiss the cases.¹¹⁷⁸ Ickes took notes at the meeting.¹¹⁷⁹ They reflect Altman's

Independent Counsel at 12. Altman thought Hanson added the recusal item to the talking points on her own to nudge him into announcing his recusal. Altman 9/12/95 GJ at 85; Altman 5/13/94 Statement to the Office of the Independent Counsel at 12. He did not remember if he asked Hanson to prepare the talking points. Altman 9/12/95 GJ at 82; Altman 9/8/95 Treas. IG at 10.

¹¹⁷⁴ Altman 3/22/94 Fiske GJ at 53-54; Hanson 3/16/94 Fiske Int. at 17. Only Nussbaum remembered Altman started by saying the RTC already had provided a similar statute of limitations briefing to Congress. Nussbaum 3/17/94 Fiske at 52-53.

¹¹⁷⁵ Hanson 4/21/ Fiske GJ at 66-67; Hanson 3/16/94 Fiske Int. at 15.

¹¹⁷⁶ Hanson 4/21/94 Fiske GJ at 67; Hanson 7/11/94 Treas. IG at 174; Hanson 7/16/94 Senate Banking Comm. Depo. at 358.

¹¹⁷⁷ Ickes 9/5/95 GJ at 29; Ickes 3/17/94 Fiske GJ at 37.

¹¹⁷⁸ Senate Banking Comm. Hearing, supra note 831, at 374-75 (Aug. 4, 1994) (testimony of H. Ickes).

¹¹⁷⁹ See Ickes's handwritten notes (Feb. 2, 1994) (Doc. No. 006-DC-00000005); Ickes 7/24/94 Senate Banking Comm. Depo. at 118.

presentation about the February 28 deadline for the RTC to decide whether to file a claim for fraud, preserve a claim by filing a protective lawsuit, or obtain a tolling agreement.¹¹⁸⁰

Ickes was questioned about the February 2 meeting during his July 24, 1994 Senate Banking Committee deposition. When he was asked what Altman said about the statute of limitations issue, Ickes's counsel asked that his client be permitted to review his notes of that meeting to refresh his memory.¹¹⁸¹ The Democratic Majority Counsel refused and insisted that Ickes attempt to answer the questions with his best present memory.¹¹⁸² Ickes testified:

[H]e discussed . . . that that investigation was going to take a longer period of time to conclude and that it might not conclude until after the expiration of the statute of limitations.

. . . .

[H]e said, at least in so many words, that it was his understanding that the investigation probably would not be concluded and that a determination could not be made by the RTC's general counsel as to whether there was a basis for a civil claim until after the expiration of the statute of limitations had applied to that particular investigation. . . .

I just wanted to get a sense from him as to how long he thought it was going to take for the general counsel to wrap up the investigation and to make a determination -- or I guess it was a recommendation. I think that's the phrase that Altman used, that general counsel would make a recommendation as to what action, if any, should be taken based on the investigation. And basically, I was trying to get a sense from him, because this was pretty new to me, as to his best estimate of when that investigation would be concluded and a recommendation could be made because as I understood it, general counsel made a recommendation and that recommendation was then moved up the chain in the RTC to determine whether or not the recommendation would be acted upon. . . .

[T]he general information from Altman was based on what he knew, that it was unlikely that the investigation could be completed and a recommendation made by

¹¹⁸⁰ See Ickes's handwritten notes (Feb. 2, 1994) (Doc. No. 006-DC-00000005).

¹¹⁸¹ Ickes 7/24/94 Senate Banking Comm. Depo. at 119, 121.

¹¹⁸² Id. at 122.

the general counsel prior to the expiration of the statute of limitations.¹¹⁸³

Ickes tried to clarify his July 24 testimony two weeks later at a Senate Banking Committee hearing on August 4, 1994:

As I understood it, the RTC probably would need more time to complete a thorough investigation and an internal review, before making a final determination as to whether there were sufficiently meritorious claims to justify committing agency resources to pursuing a full-blown lawsuit. But I also understood that the RTC could file a protective lawsuit to preserve future claims, if there was not a tolling agreement.

It has been suggested, based on my deposition, that I did not believe the RTC would be in a position to file such a protective suit by the February 28th deadline. That is simply not so. To the contrary, I understood that the RTC was in a position to file such a protective claim if it did not obtain tolling agreements.¹¹⁸⁴

Ickes also claimed that if he had he been able to review his notes he would have remembered that Altman had said the RTC would be able to (in the words of his notes) "commence litigation to preserve claim."¹¹⁸⁵

Ickes's explanation was consistent with his March 17, 1994 testimony before the grand jury. Using his notes to refresh his memory, he recalled that Altman said at the February 2 meeting that one alternative was for the RTC to file protective suits to preserve its claims.¹¹⁸⁶ Williams asked if the potential defendants' private counsel would get a similar briefing on the RTC's procedures and on the statute of limitations.¹¹⁸⁷ Altman was not sure, but thought his

¹¹⁸³ Ickes 7/24/94 Senate Banking Comm. Depo. at 120-23.

¹¹⁸⁴ Senate Banking Comm. Hearing, supra note 831, at 212 (Aug. 4, 1994) (testimony of Ickes).

¹¹⁸⁵ See Ickes's handwritten notes (Feb. 2, 1994) (Doc. No. 006-DC-00000005).

¹¹⁸⁶ Ickes 3/17/94 Fiske GJ at 37.

¹¹⁸⁷ Altman 9/12/95 GJ at 90-91.

response was something like "I guess so."¹¹⁸⁸ Williams did not remember asking that question, but said it was possible.¹¹⁸⁹

Hanson's tenth talking point for Altman stated that Kulka and Ryan were supervising the Madison Guaranty investigation.¹¹⁹⁰ Altman and Hanson both testified that either at that point or later when Altman reached item twelve, Altman announced he had been told to recuse and that he intended to follow that advice.¹¹⁹¹ Nussbaum recalled Altman said either he intended to recuse or he was considering it.¹¹⁹² Eggleston and Ickes testified Altman said he was considering the issue.¹¹⁹³ Williams remembered Altman said hypothetically that if he were to recuse, the Madison Guaranty decision maker would be Ryan.¹¹⁹⁴

However Altman phrased the recusal issue, almost all participants remembered that at this point Nussbaum's demeanor became negative.¹¹⁹⁵ Altman also remembered Williams discouraged recusal.¹¹⁹⁶ Altman testified Nussbaum and Williams questioned him about the

¹¹⁸⁸ Id. at 91.

¹¹⁸⁹ Williams 3/25/94 Fiske GJ at 88.

¹¹⁹⁰ See Talking points for Roger Altman: Information meeting with Mack McLarty (Feb. 2, 1994) (Doc. No. 001-DC-00000231) (produced by Altman).

¹¹⁹¹ Altman 9/12/95 GJ at 92; Hanson 4/21/94 Fiske GJ at 48-49, 163.

¹¹⁹² Nussbaum 3/17/94 Fiske GJ at 56.

¹¹⁹³ Eggleston 7/19/94 Senate Banking Comm. Depo. at 99-100; Eggleston 3/31/94 Fiske GJ at 55-56; Ickes 3/17/94 Fiske GJ at 41.

¹¹⁹⁴ Williams 3/10/94 Fiske GJ at 49-50.

¹¹⁹⁵ At this point in the meeting, Nussbaum became "agitated," "displeased," or "pugnacious." Hanson 3/16/94 Fiske Int. at 14; Altman 9/12/95 GJ at 101; Altman 7/25/94 Senate Banking Depo. at 455-56.

¹¹⁹⁶ Altman 9/12/95 GJ at 102; Altman 3/22/94 Fiske GJ at 61.

recusal issue and about his replacement.¹¹⁹⁷ Hanson remembered Nussbaum asked if Ryan and Kulka would make the decisions on Madison Guaranty without Altman.¹¹⁹⁸ Altman said he had total confidence in Kulka and that he would follow her recommendation anyway,¹¹⁹⁹ rendering his participation superfluous.¹²⁰⁰ Hanson recalled Nussbaum questioned Altman about why he felt he should recuse.¹²⁰¹

Nussbaum said he told Altman he should recuse if there was a legal or ethical requirement to do so,¹²⁰² but absent such a requirement, even if he planned to follow Kulka's recommendation, his continued participation would assure thoroughness and fairness by his staff.¹²⁰³ Nussbaum said recusal was Altman's decision to make.¹²⁰⁴ Altman testified he felt pressured by Nussbaum about Altman's decision to follow whatever decision Kulka made.¹²⁰⁵

Ickes remembered asking why Altman thought he should recuse from something not yet before him; he also questioned whether Altman's friendship with the President was a valid basis

¹¹⁹⁷ Altman 5/13/94 Statement to the Office of the Independent Counsel at 13; Altman 3/22/94 Fiske GJ at 61-62. Williams was the only White House meeting participant to remember that she offered Altman "advice," about recusal issue by lamenting that many people of integrity in the government were saying that they could not participate in anything. Williams 3/10/94 Fiske GJ at 50-52. Williams agreed Nussbaum said the decision was Altman's. Williams 6/2/95 GJ at 83-84.

¹¹⁹⁸ Hanson 7/11/94 Treas. IG at 173.

¹¹⁹⁹ Hanson 7/16/94 Senate Banking Comm. Depo. at 316.

¹²⁰⁰ Hanson 7/11/94 Treas. IG Int. at 174; Altman 5/13/94 Statement to the Office of the Independent Counsel at 13; Altman 3/22/94 Fiske GJ at 62.

¹²⁰¹ Hanson 7/11/94 Treas. IG at 174.

¹²⁰² Nussbaum 3/17/94 Fiske GJ at 59; see also Eggleston 7/19/94 at Senate Banking Comm. Depo at 124.

¹²⁰³ Nussbaum 3/17/94 Fiske GJ at 60-61.

¹²⁰⁴ Id. at 62.

¹²⁰⁵ Altman 3/22/94 Fiske GJ at 62.

for recusal.¹²⁰⁶ Ickes recalled giving his opinion that Altman should not recuse, but he stressed it was Altman's decision.¹²⁰⁷

During the meeting, Ickes said that if Altman were going to recuse it was better to do so sooner rather than later.¹²⁰⁸ The meeting ended with Altman telling the group that he would "sleep on" the recusal issue.¹²⁰⁹ Nussbaum replied that was all the White House could ask for.¹²¹⁰

13. Roger Altman Discussed the White House Meeting with Joshua Steiner.

After his February 2 meeting at the White House, Altman met with Joshua Steiner, the Treasury Chief of Staff, and discussed the meeting with him. Altman told Steiner that the officials he met with were "disquieted" by his recusal point, which he did not understand because he had told them the decision on Madison Guaranty would be made by Kulka anyway.¹²¹¹ Altman could not remember what he told Steiner about Nussbaum's reaction, but he testified he probably mimicked Nussbaum's reaction.¹²¹²

Altman told Steiner that Nussbaum had also voiced concerns about the RTC's reputation for being partisan against Democrats, so that without Altman's involvement in the Madison

¹²⁰⁶ Ickes 9/5/95 GJ at 36-37.

¹²⁰⁷ Ickes 7/24/94 Senate Banking Comm. Depo. at 135.

¹²⁰⁸ See Hanson 3/16/94 Fiske Int. at 18; Hanson 4/21/94 Fiske GJ at 68; Hanson 7/11/94 Treas. IG 176; Hanson 7/16/94 Senate Banking Comm. Depo. at 358; Altman 9/12/95 GJ at 101-02.

¹²⁰⁹ Altman 3/22/94 Fiske GJ at 62.

¹²¹⁰ Hanson 7/11/94 Treas. IG at 176; Hanson 7/16/94 Senate Banking Comm. Depo. at 359.

¹²¹¹ Altman 3/22/94 Fiske GJ at 64; Altman 9/7/95 Int. at 10.

¹²¹² Altman 9/12/95 GJ at 101; see also Altman 9/7/95 Int. at 11; Altman 3/22/94 Fiske GJ at 64. Benjamin Nye, an assistant to Altman, testified that after the February 2 meeting, Altman told him the White House officials he met with were not inclined toward Altman's

Guaranty matter, the investigation might not be fairly conducted.¹²¹³ Steiner thought that Altman felt pressured by the White House not to recuse.¹²¹⁴

Steiner kept a diary, and for his February 12, 1994 entry,¹²¹⁵ he recorded that Altman "originally decided to recuse himself but under intense pressure from the White House, he said he would make the final determination based on a recommendation from Ellen Kulka, the GC."¹²¹⁶ About two weeks later, in a February 27 entry,¹²¹⁷ Steiner again referred to the February 2 meeting at the White House:

At a fateful WH mtg w/ Nussbaum, Ickes and Williams, however, the WH staff told RA that it was unacceptable. . . . They reacted very negatively to the recusal and RA backed down the next day and agreed to a defacto recusal where the RTC would handle this case like any other and RA would have no involvement.¹²¹⁸

recusal and thought his continuing supervision of the case would ensure the RTC staff did a more thorough analysis. Nye 7/24/94 Senate Banking Comm. Depo at 58-62.

¹²¹³ Steiner 7/12/94 Treas. IG at 49.

¹²¹⁴ Steiner 3/31/94 Fiske GJ at 29-30.

¹²¹⁵ Steiner Diary (Dec. 12, 1993 through Feb. 27, 1994) (Doc. Nos. 010-DC-00000014 through 15) (typewritten version).

¹²¹⁶ See id.

¹²¹⁷ The February 27 entry covered the period February 13 through February 27, 1994.

See id.

¹²¹⁸ See id. (emphases added). Steiner testified Altman did not use the words "intense pressure" when he described his February 2 meeting at the White House. Steiner 8/25/95 GJ at 120. Further, Steiner did not necessarily believe on February 2 that Altman was under "intense pressure." Steiner 3/31/94 Fiske GJ at 36. Steiner claimed the words he used captured his impression at the time he wrote them, ten days after the February 2 White House meeting. Id. When he testified in 1995, Steiner said he would describe Altman as under "pressure" from the White House not to recuse, but not "intense pressure." Steiner 8/25/95 GJ at 120.

In explaining his February 27 entry, Steiner said the word "unacceptable" described only Steiner's own impression from what Altman reported after the White House meeting on February 2. Id. at 129-31. He said he did not believe the word "unacceptable" was accurate and that he used the word often and imprecisely. Id. at 129-31. By the term "White House staff," Steiner said he meant only Nussbaum. Id. Similarly, the word "[t]hey" used later in the February 27 entry referred only to Mr. Nussbaum. Id. at 131. Steiner said he knew of no time when

Altman denied he was under "intense pressure" not to recuse, and he did not remember telling Steiner he was.¹²¹⁹ He denied the White House told him a decision to recuse would be "unacceptable."¹²²⁰

14. Roger Altman Phoned McLarty about the February 2 Meeting.

Altman telephoned McLarty to tell him about what happened at the February 2 meeting, because McLarty had not been there.¹²²¹ Altman told McLarty he had discussed the statute of limitations issue and that he was leaning toward recusal.¹²²² He told McLarty recusal would make no difference because he would accept Kulka's recommendation anyway.¹²²³

McLarty said Altman told him he was weighing the recusal issue.¹²²⁴ McLarty said he understood Altman's situation and told Altman that he should do what he thought was right.¹²²⁵

E. Roger Altman Decided Not to Recuse.

1. Roger Altman Told Others That His Decision Not to Recuse Was Influenced by the Reactions at the White House Meeting.

Altman testified he slept on the recusal issue and decided not to recuse himself because 1) he was not required to step aside, 2) he would be following Kulka's recommendation, and 3) he

Nussbaum told Altman he could not recuse. Id. Steiner said the term "backed down" meant that Altman changed his mind about recusal, a decision Steiner thought was a mistake when he wrote the diary entry Id. at 132.

¹²¹⁹ Altman 8/25/95 GJ at 120.

¹²²⁰ Steiner 8/25/95 GJ at 130-31.

¹²²¹ Altman 9/12/95 GJ at 104-05; McLarty 4/25/95 GJ at 124; McLarty 7/21/94 Senate Banking Comm. Depo. at 77.

¹²²² Altman 9/12/95 GJ at 104.

¹²²³ Altman 3/22/94 Fiske GJ at 77.

¹²²⁴ McLarty 4/25/95 GJ at 124.

¹²²⁵ Id.

did not want the White House taking his recusal personally.¹²²⁶ Hanson testified that when Altman called her the morning of February 3, he said he had decided against recusal because he would be following his staff's recommendation about Madison Guaranty, and his decision would make the White House staff happy.¹²²⁷

Altman also told Hanson that the White House wanted Kendall told about the legal issues on the statute of limitations.¹²²⁸ Altman asked Hanson to have Kulka contact Kendall, which Hanson did that morning.¹²²⁹ When Kulka advised it was too early to contact private counsel,¹²³⁰ Altman accepted that advice.¹²³¹

Hanson recalled discussing with Altman the need to get rid of his copy of the talking points prepared for the February 2 White House meeting.¹²³² Hanson was concerned the talking points did not reflect what happened in the meeting and would require explanation if produced.¹²³³

¹²²⁶ Altman 3/22/94 Fiske GJ at 65.

¹²²⁷ Hanson 9/29/95 GJ at 102-05; Hanson 4/21/94 Fiske GJ at 70-71; Hanson 7/16/94 Senate Banking Comm. Depo. at 369.

¹²²⁸ Hanson 4/21/94 Fiske GJ at 71; Hanson 9/29/95 GJ at 103; Hanson 7/16/94 Senate Banking Comm. Depo. at 369 .

¹²²⁹ Hanson 4/21/94 Fiske GJ at 74; Hanson 2/29/95 GJ at 105; Hanson 7/16/94 Senate Banking Comm. Depo. at 369.

¹²³⁰ Hanson 4/21/94 Fiske GJ at 75; Hanson 9/29/95 GJ at 105-06; Hanson 7/16/94 Senate Banking Comm. Depo. at 375.

¹²³¹ Hanson 4/21/94 Fiske GJ at 75; Hanson 9/29/95 GJ at 106; Hanson 7/16/94 Senate Banking Comm. Depo. at 375. John "Jack" Ryan, RTC Deputy CEO, testified that Kulka raised this issue with Altman, and Altman told her that approach was fine. Ryan 5/3/95 GJ at 68-69; Ryan 7/14/94 Senate Banking Comm. Depo. at 76.

¹²³² Hanson 9/29/95 GJ at 110. Altman did not remember that conversation. Altman 3/22/94 Fiske GJ at 73.

¹²³³ Hanson 9/29/95 GJ at 110.

2. Roger Altman Met Again with Secretary Lloyd Bentsen.

Altman and Hanson met again with Secretary Bentsen on February 3, 1994.¹²³⁴ Hanson remembered Altman told the Secretary about his meeting with White House officials, and that he had decided not to recuse.¹²³⁵ Altman said his decision to stay on the Madison Guaranty matter should not affect the outcome.¹²³⁶ Bentsen said Altman probably would face some heat for staying on, but it was a personal decision.¹²³⁷

3. Roger Altman Went to the White House to Tell White House Officials about His Decision.

After meeting with Secretary Bentsen, Altman went to the White House and told various officials he had decided not to recuse. Altman remembered that on the afternoon of February 3, he called Ickes and said he wanted to see him briefly.¹²³⁸ There was a health care meeting

¹²³⁴ See Bentsen schedule (Feb. 3, 1994) (Doc. Nos. 060-DC-00004340, 060-DC-00004345) (showed a meeting planned for 11:45 a.m. on February 3 with Altman and Steiner, and in fact taking place at 11:50 a.m. on February 3 with Altman and Hanson); see also Altman calendar (Feb. 3, 1994) (Doc. No. 001-DC-00000487) (showing a meeting scheduled with the Secretary and Hanson for 11:45 a.m. on February 3).

¹²³⁵ Hanson 9/29/95 GJ at 108. Altman recalled meeting with Secretary Bentsen to tell him about his recusal decision before a meeting at the White House that same day. Altman 9/12/95 GJ at 106-08. He remembered he might have mentioned Nussbaum was not happy with Altman's initial choice to recuse. Altman 9/12/95 GJ at 108. Bentsen had said the decision was a difficult and personal one. Id.

¹²³⁶ Hanson 4/21/94 Fiske GJ at 79-80; Hanson 9/29/95 GJ at 108.

¹²³⁷ Hanson 4/21/94 Fiske GJ at 80; Hanson 9/29/95 GJ at 109. Secretary Bentsen did not remember if the meeting happened on February 3. Bentsen 7/26/94 Senate Banking Comm. Depo. at 31-32. He did remember learning that Altman had decided not to recuse, but did not believe he furnished any advice to Altman. See Bentsen 7/26/94 Senate Banking Comm. Depo. at 31-32. Bentsen also said he did not remember learning that Altman had spoken with or planned to speak with the White House about recusal. Bentsen 7/26/94 Senate Banking Comm. Depo. at 30.

¹²³⁸ Altman 9/12/95 GJ at 109. Williams recalled Altman called her around noon one or two days after the February 2 meeting. Williams 3/10/94 Fiske GJ at 59-60. He told her he had decided not to recuse and wanted to let other people at the White House know before he went to

scheduled that evening for 6:00 p.m. in Williams's office, and Altman thought that he may have told Ickes that he wished to talk with him before that meeting.¹²³⁹

Altman testified he went to Williams's office to meet with Ickes and, while standing in the doorway, told him that he would not recuse for the time being.¹²⁴⁰ Ickes might have said something to the effect of "good."¹²⁴¹ After Altman told Ickes this, Stephanopoulos arrived in Williams's office.¹²⁴² Altman did not remember if Eggleston and Nussbaum were present when he told Ickes he would not recuse, and did not believe that Williams was there.¹²⁴³

Williams did not remember if Eggleston or Nussbaum were there, but recalled that

another meeting. Williams 3/10/94 Fiske GJ at 59-60; Altman calendar (Feb. 3, 1994) (Doc. No. 001-DC-00000487) (showing that Altman had a meeting on Capitol Hill at 1:15 p.m. on February 3, 1994). Williams thought Altman asked if she could assemble Ickes and Stephanopoulos so he could tell them about his decision. Williams 3/10/94 Fiske GJ at 60. Williams said she agreed to get them together, and then called Ickes and Stephanopoulos to ask them to meet in her office in five minutes. Id.

Ickes first testified in the grand jury that within one or two days of the February 2 meeting, Altman either called him or told him at the White House that he was not going to recuse. Ickes 3/17/94 Fiske GJ at 56-60. In a later grand jury appearance, Ickes remembered meeting with Altman and Williams in her office doorway before a 6:00 p.m. health care meeting at Williams's office. Ickes 9/5/95 GJ at 44. Altman announced he was not going to recuse. Ickes 9/5/95 GJ at 48. Stephanopoulos remembered being in Williams's office before the health care meeting began, and Altman arrived and said he was not recusing. Stephanopoulos 3/22/94 Fiske GJ at 22.

¹²³⁹ Altman 9/12/95 GJ at 109. Ickes's phone log for February 3 shows an entry stating, "Roger Altman needs another meeting today." Ickes 9/5/95 GJ at 45; see also Ickes phone log (Feb. 3, 1994) (Doc. No. 006-DC-00000206). Ickes was not sure whether that entry referred to the meeting where Altman announced his recusal decision. Ickes 9/5/95 GJ at 45.

¹²⁴⁰ Altman 9/12/95 GJ at 110-11.

¹²⁴¹ Id. at 112.

¹²⁴² Id. at 111.

¹²⁴³ Id. at 110-11.

someone from the White House Counsel's office was.¹²⁴⁴ She said Altman then came into her office and announced he had decided not to recuse.¹²⁴⁵ Ickes may have asked if Altman was comfortable with his decision.¹²⁴⁶

Nussbaum testified at his first grand jury appearance that he remembered running into Ickes or Altman at the White House within a few days after the February 2 White House meeting, and was told that Altman was leaning against recusal.¹²⁴⁷ At a second grand jury appearance, Nussbaum remembered he had this conversation with Altman on February 3, and may have discussed the same matter with Ickes.¹²⁴⁸

Hanson testified she went to the White House in response to a lunchtime page on February 3, and found Williams, Eggleston, and Ickes in Williams's office.¹²⁴⁹ She was told Altman had just left.¹²⁵⁰ Hanson said Ickes asked her who knew of her recommendation to Altman that he recuse himself.¹²⁵¹ Hanson replied Benjamin Nye, Treasury Assistant Secretary for Legislative Affairs Michael Levy, and a third person whom she could not remember.¹²⁵² Hanson said Ickes replied that was good, because if her advice became known the situation

¹²⁴⁴ Williams 6/2/95 GJ at 95; Williams 7/20/94 Senate Banking Comm. Depo. at 95. Eggleston confirmed he was in Williams's office February 3, along with Williams and Ickes, but he did not remember the reason. Eggleston 5/17/94 Fiske GJ at 85. He was not sure whether he knew Altman was coming, but Altman stuck his head into the office and said he was not going to recuse for the time being. Id. at 85-86. Altman then left. Id. at 85.

¹²⁴⁵ Williams 3/10/94 Fiske GJ at 61.

¹²⁴⁶ Id.

¹²⁴⁷ Nussbaum 3/17/94 Fiske GJ at 106.

¹²⁴⁸ Nussbaum 6/13/95 GJ at 78.

¹²⁴⁹ Hanson 9/29/95 GJ at 116.

¹²⁵⁰ Id.

¹²⁵¹ Id. at 117.

would not look good given Altman's decision not to recuse.¹²⁵³ Hanson told Ickes that she would have recused had she been in a similar position, and Ickes said again that it would be better if the substance of her advice did not get out.¹²⁵⁴ Hanson responded that if asked, she would say what she advised.¹²⁵⁵

4. Harold Ickes Told the President and Mrs. Clinton about Roger Altman's February 2 Meeting at the White House on the Statute of Limitations and Recusal.

Ickes testified that although he did not remember precisely what he said, he told the President about the statute of limitations and the recusal discussions at the February 2 meeting.¹²⁵⁶ Ickes thought that he may also have told President Clinton about the February 3 meeting with Altman.¹²⁵⁷

Although not positive, Ickes thought his discussion with the President about the February 2 meeting took place before February 12 -- the date the statute of limitations was extended.¹²⁵⁸

¹²⁵² Id.

¹²⁵³ Hanson 4/21/94 Fiske GJ at 77.

¹²⁵⁴ Id. at 78.

¹²⁵⁵ Id. Ickes testified he saw Hanson at the White House one or two days after the February 2 meeting, but did not remember discussing Altman's recusal. Ickes 3/17/94 Fiske GJ at 61; Ickes 9/5/95 GJ at 47-48. Williams did not remember if anyone else was in her office by the time Hanson arrived. Williams 6/2/95 GJ at 96. She said they did not talk about Madison Guaranty or Altman's recusal decision. Id. Eggleston remembered telling Hanson that Altman had announced he would not recuse. Eggleston 5/17/95 GJ at 86. He also remembered Ickes asking Hanson who else knew she had recommended recusal. Id. Eggleston said Hanson listed names (including Levy, Steiner, and possibly others), and Ickes appeared uncomfortable. Eggleston 3/31/94 Fiske GJ at 73-74.

¹²⁵⁶ Ickes 9/5/95 GJ at 50-52.

¹²⁵⁷ Ickes 3/17/94 Fiske GJ at 89-91; Ickes 9/5/95 GJ at 52-53.

¹²⁵⁸ Ickes 9/5/95 GJ at 51-52. In early February 1994, Congress was considering H.R. 3759, the Emergency Supplemental Appropriations and Rescissions Act, designed to furnish earthquake relief to Southern California. An amendment to the Act extended the statute of

He also testified he might have told the President the RTC would not have enough time to determine if it had claims it would pursue.¹²⁵⁹ Ickes said he did not discuss with the President whether the President should sign a tolling agreement.¹²⁶⁰ Ickes recalled having a separate but identical conversation with the First Lady, probably before February 12.¹²⁶¹

White House lawyers Jane Sherburne and Sheila Cheston met with Ickes's private counsel during the summer of 1994 and took notes about Ickes's communications with President and Mrs. Clinton on Altman's discussions. Sherburne's notes read:

HI Recalls informing both WJC and HRC (meets w/ them several times/wk) separately that Altman not going to recuse.¹²⁶²

Cheston's notes read:

Informed HRC + BC individually that RA w/d not recuse self, mtg w/ each [at least] 1/day at this time. Told between 2/3-24.¹²⁶³

The First Lady testified she did not learn about the February 2 meeting until about

limitations for pursuing the same classes of claims allowed under the RTC Completion Act (claims alleging fraud and certain types of intentional misconduct) until the later of December 31, 1995 or the date on which the RTC terminated, which the President signed into law on February 12, 1994. Emergency Appropriations and Rescissions Act, Pub. L. No. 103-211, 108 Stat. 3 (1994).

¹²⁵⁹ Ickes 9/5/95 GJ at 51.

¹²⁶⁰ Id. at 51-52.

¹²⁶¹ Id. at 55. During the fall of 1992, Betsy Wright, Chief of Staff to Governor Clinton had told Mrs. Clinton of a report that she had heard that there was a criminal referral involving a savings and loan "that might touch on the Clintons." Senate Whitewater Comm. Hearing, supra note 1043, at 117-21 (Apr. 25, 1996) (testimony of B. Wright).

¹²⁶² Sherburne notes of meeting with Ickes (approx. July 1994) (Doc. Nos. 442-DC-00006538-6539).

¹²⁶³ Cheston notes of meeting with Ickes (approx. July 1994) (Doc. No. 442-DC-00006542).

February 25 – when Altman publicly announced he would recuse.¹²⁶⁴ She denied any discussions with Ickes about the RTC's investigation of Madison Guaranty before February 24, 1994, when Altman testified before the Senate Banking Committee during RTC oversight hearings.¹²⁶⁵ She said she did not remember Ickes briefing her on the three options the RTC had with respect to Madison Guaranty.¹²⁶⁶ She also said she did not remember Ickes speaking with her, before February 24, about Altman's possible recusal.¹²⁶⁷

The President testified he did not find out that Altman had spoken to White House officials about procedural issues and the RTC's investigation until it was revealed in the press.¹²⁶⁸ He did not learn that Altman had discussed his possible recusal.¹²⁶⁹ The President said he first learned Altman was thinking about recusal when Altman publicly announced he was taking that step.¹²⁷⁰ He did not think he knew before then that Altman had discussed his possible recusal with White House officials.¹²⁷¹

5. Jean Hanson and Bernard Nussbaum Discussed Roger Altman's Recusal and the Hiring of Ellen Kulka.

On February 3, 1994, Representative Leach, Ranking Minority Member of the House Banking Committee, sent Altman a letter asking Altman to request a formal ethics opinion on whether he was required to recuse "from any decisions concerning the resolution of Madison

¹²⁶⁴ See H. Clinton 7/22/95 Depo. at 44-45.

¹²⁶⁵ Id. at 44.

¹²⁶⁶ Id. at 45.

¹²⁶⁷ Id. at 47.

¹²⁶⁸ W. Clinton 6/12/94 Fiske Depo. at 52.

¹²⁶⁹ Id. at 54.

¹²⁷⁰ Id.

¹²⁷¹ Id. at 56.

Guaranty."¹²⁷² Altman, still uncomfortable with the issue, requested an opinion from the RTC and Department of Treasury ethics officers.¹²⁷³

Nussbaum testified Hanson unsuccessfully tried to reach him by phone on the morning of February 3.¹²⁷⁴ At 5:51 p.m. that evening, Hanson faxed Nussbaum a copy of Leach's letter, and the two spoke about it on the phone shortly after.¹²⁷⁵ Hanson said the Treasury Department would prepare a response to Leach's letter and continue to research the ethics issue.¹²⁷⁶ Nussbaum suggested that if they needed help, they could ask Associate White House Counsel Beth Nolan, a former ethics professor.¹²⁷⁷ Hanson said she would consider that idea.¹²⁷⁸

The RTC ethics officer eventually produced an opinion (after consultation with the Office

¹²⁷² Letter from Rep. James Leach, Ranking Minority Member of the House Banking Committee to Roger Altman, Interim CEO of the RTC at 2 (Feb. 3, 1994) (Doc. No. 009-DC-00000053). Leach charged it was "structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President." Id.

¹²⁷³ Altman 3/22/94 Fiske GJ at 75-76.

¹²⁷⁴ Nussbaum 3/17/94 Fiske GJ at 95-96; see also Nussbaum phone log (Feb. 3, 1994) (Doc. No. 009-DC-00000072) (showing call from Hanson at 11:05 a.m.). Hanson testified she spoke on the phone with Nussbaum on February 3, 1994. Hanson 9/29/95 GJ at 106. She did not remember faxing Leach's letter to Nussbaum discussing the letter with him; she vaguely remembered Nussbaum suggesting that the Treasury Ethics Officer (Dennis Foreman) consult Nolan about the ethics issue. Hanson 4/21/95 GJ at 88-89. She was not sure if this phone conversation took place before or after her February 3 trip to the White House. Hanson 9/29/95 GJ at 107. Hanson said during this phone call, Nussbaum once again asked how Kulka was hired. Id. at 106; Hanson 4/21/95 at 86. Foreman did tell Nolan about ethics issues related to Altman's possible recusal. Foreman 4/20/94 Fiske Int. at 3; Foreman 7/12/94 Senate Banking Comm. Depo. at 135-37.

¹²⁷⁵ See Facsimile from Jean Hanson, General Counsel for Treasury Department, then General Counsel for the RTC to Bernie Nussbaum, White House Counsel (Feb. 3, 1994) (Doc. No. 009-DC-00000051); Nussbaum 3/17/94 Fiske GJ at 96-97.

¹²⁷⁶ Nussbaum 3/17/94 Fiske GJ at 97.

¹²⁷⁷ Id. at 98.

¹²⁷⁸ Id. at 98-100.

of Government Ethics, Hanson, Foreman, Altman, and others at Department of Treasury and the RTC) concluding that friendship did not require recusal, but that Altman would still need to consider whether his friendship with the Clintons should lead to discretionary recusal.¹²⁷⁹

6. Jean Hanson and Bernard Nussbaum Discussed Independent Counsel Fiske's Jurisdictional Charter.

Hanson testified that on February 4, 1994, Nussbaum called and told her that Fiske's jurisdictional grant included civil as well as criminal jurisdiction.¹²⁸⁰ He suggested Altman might wish to consider whether the RTC's civil investigation of Madison Guaranty was included in Fiske's jurisdiction.¹²⁸¹ Hanson immediately obtained a copy of Fiske's grant, and then discussed it with Altman that same day.¹²⁸² Hanson said on Saturday, February 5, 1994, she called Kulka, and the two discussed the Fiske charter.¹²⁸³ Kulka reported she had previously spoken with Fiske and thought he was not interested in taking over the RTC's civil investigation.¹²⁸⁴

¹²⁷⁹ Memo from Dennis I. Foreman, Deputy General Counsel and Designated Agency Ethics Officer to Roger Altman, Deputy Secretary (Feb. 23, 1994).

¹²⁸⁰ Hanson 7/16/94 Senate Banking Comm. Depo. at 414-15.

¹²⁸¹ Id. at 415.

¹²⁸² Id. Nussbaum remembered a discussion with Hanson in which he mentioned Fiske's charter and suggested Hanson review it because it encompassed civil jurisdiction. Nussbaum 3/17/94 Fiske GJ at 97-100. In earlier testimony, Nussbaum appeared to state that this call happened shortly after the February 3 telephone call. Id. at 95-96. In later testimony, Nussbaum said the Fiske-related discussion was part of the February 3 telephone call. Nussbaum 6/13/95 GJ at 67-70. He suggested transferring the RTC's civil investigation to Special Counsel Fiske might provide a solution to Altman's recusal issue. Nussbaum 3/17/94 Fiske GJ at 99-100. Hanson said she would consider that. Id. at 100.

¹²⁸³ Hanson 7/16/94 Senate Banking Comm. Depo. at 420-21.

¹²⁸⁴ Id. at 421. Kulka testified Hanson called her and asked if the RTC's civil investigation could be given to Fiske. Kulka 5/5/95 GJ at 36-37. In light of the RTC's independent authority to pursue the civil claims, Kulka questioned the Attorney General's authority to cede it to Fiske. Id. at 36. Further, Kulka mentioned that from a prior discussion she had with Fiske, she concluded he did not want the RTC's jurisdiction over Madison Guaranty.

7. Joshua Steiner Met with George Stephanopoulos about Roger Altman's Recusal Decision.

Steiner remembered that on February 16, 1994, he visited Stephanopoulos at the White House to talk about recusal.¹²⁸⁵ Steiner told Stephanopoulos he favored recusal.¹²⁸⁶ Stephanopoulos agreed and offered to speak with other White House officials to determine their opinion.¹²⁸⁷ Steiner declined, concerned Altman might not want to revisit the issue.¹²⁸⁸ Steiner recalled speaking with Altman about this conversation with Stephanopoulos, and Altman said he did not want to revisit the issue then.¹²⁸⁹

8. The Alleged Third Meeting with Secretary Bentsen about Recusal.

There was evidence that Altman and Hanson met a third time about Altman's recusal with Secretary Bentsen and Ed Knight, the Secretary's senior advisor.¹²⁹⁰ Hanson testified that at the meeting, Secretary Bentsen said he wanted Knight to remain,¹²⁹¹ and Altman reviewed the first

Id. at 36-37. Kulka also testified that if Fiske assumed the RTC's jurisdiction, he would have difficulty evaluating potential civil claims by February 28. Id. at 37.

¹²⁸⁵ Steiner 7/18/94 Senate Banking Comm. Depo. at 171; Steiner 8/24/95 Int. at 11

¹²⁸⁶ Steiner 7/18/94 Senate Banking Comm. Depo. at 172.

¹²⁸⁷ Id.

¹²⁸⁸ Id.

¹²⁸⁹ Id. Altman said he did not remember Steiner telling him of a February 16 meeting he had with Stephanopoulos. Altman 9/12/95 GJ at 119. Stephanopoulos did not remember this meeting with Steiner but assumed it must have happened. Stephanopoulos 9/8/95 GJ at 33-36. He testified he thought Altman should just recuse himself. Id. at 34.

¹²⁹⁰ Hanson 4/21/94 Fiske GJ at 81.

¹²⁹¹ Id. at 70-81; Hanson 9/29/95 GJ at 111. Knight remembered only one discussion about Altman's possible recusal, and thought it took place in a meeting with Altman, Hanson and Secretary Bentsen on February 23, the day before Altman testified before the Senate Banking Committee. Knight 6/5/95 Int. at 7-11. Each of the participants' respective calendars shows a meeting on February 23 at 10:00 a.m.; see Knight calendar (Feb. 21-23, 1994) (Doc. No. 274-DC-00002117) (showing "Whitewater Mtg."); see Bentsen Calendar (Feb. 23, 1994) (Doc. No. 060-DC-00004341) (showing RTC testimony briefing); see Altman monthly calendar (Feb. 1994)

meeting, saying that he had described the statute of limitations issue, mentioned he was reserving judgment on his recusal, and intended to talk to the White House.¹²⁹² Altman said that in their second meeting, he told Secretary Bentsen that after he had spoken with the White House he had decided not to recuse.¹²⁹³

Hanson also testified that after the meeting she remained with the Secretary, and Bentsen said, "That is not quite the way I recalled it."¹²⁹⁴ Hanson told him she did not think it mattered.¹²⁹⁵ She understood the Secretary to mean that he remembered Altman had decided in their first meeting that he was going to recuse, not that he was reserving judgment on the issue.¹²⁹⁶

(Doc. No. 001-DC-00000487) (showing a testimony briefing); see Hanson schedule card (Feb. 23, 1994) (Doc. No. 007-DC-00000141) (showing "RTC meeting w/Altman, et al"). In the discussion, Altman mentioned he had discussed the issue with Bentsen earlier. Knight 6/5/95 Int. at 8. Bentsen stopped Altman, pointed a finger at him, and said he had told Altman that it was Altman's decision to make. Id. Knight testified there was no mention at this meeting of any meetings that had taken place at the White House. Id. at 9.

¹²⁹² Hanson 4/21/94 Fiske GJ at 81; Hanson 9/29/95 GJ at 112.

¹²⁹³ Hanson 4/21/94 Fiske GJ at 81-82. In her second grand jury appearance, Hanson testified for the first time that in this meeting with Secretary Bentsen, Altman said he had told the White House that he decided not to recuse. Hanson 9/29/95 GJ at 112. Altman did not remember the Secretary cutting him off on the recusal issue in any meeting, although he said it could have happened. Altman 9/12/95 GJ at 147. Based on his review of a memorandum mentioning a discussion he had with Bentsen about recusal, Altman also thought that he may have discussed recusal with Secretary Bentsen shortly before the February 24 hearing. Altman 9/7/95 Int. at 21; see Memo from Josh Steiner, then Department of Treasury Chief of Staff to Roger Altman, then Interim CEO of the RTC (Mar. 4, 1994) (Doc. No. 007-DC-00003315); Altman 9/7/95 Int. at 21.

¹²⁹⁴ Hanson 4/21/94 Fiske GJ at 84; Hanson 9/29/95 GJ at 115. Bentsen did not remember this third meeting. Bentsen 7/12/95 Int. at 11-12; Bentsen 7/26/94 Senate Banking Comm. Depo. at 46-47. He generally remembered saying something to Hanson in February or March of 1994 about Altman remembering something differently from the way Bentsen remembered it. Bentsen 7/12/95 Int. at 12. He did not know if his remark to Hanson referred to Altman's recusal issue. Id.

¹²⁹⁵ Hanson 9/29/95 GJ at 115; Hanson 4/21/94 GJ at 84.

¹²⁹⁶ Hanson 4/21/94 Fiske GJ at 84; Hanson 9/29/95 GJ at 115.

9. Jean Hanson and Ellen Kulka Discussed Roger Altman's Failure to Recuse.

Around February 3, Hanson and Kulka were walking together at the Department of Treasury when Kulka asked why Altman would not recuse himself.¹²⁹⁷ Hanson responded: "Think about it."¹²⁹⁸ Hanson testified that by saying that she meant that if Kulka thought about it, she would realize that Altman would not recuse because the White House had asked him not to do so.¹²⁹⁹

Kulka testified she responded to Hanson's statement by asking, "Because that's what the White House wants him to do?"¹³⁰⁰ Kulka said Hanson said nothing in response, which Kulka understood to be confirmation of her statement.¹³⁰¹ Kulka testified she did not mean that the White House was pressuring Altman not to recuse, just that Altman might feel the need to remain on the case out of loyalty to the White House.¹³⁰²

10. The Statute of Limitations on Certain RTC Civil Claims Were Extended.

Sometime around February 12, 1994, the statute of limitations on certain RTC civil claims was extended until at least December 31, 1995.¹³⁰³ The RTC was given significantly more time to finish its investigation and analysis of potential civil claims arising from Madison Guaranty's failure. Given this development, it was evident that Altman would not have to make

¹²⁹⁷ Hanson 9/29/95 GJ at 120.

¹²⁹⁸ Id.

¹²⁹⁹ Id.

¹³⁰⁰ Kulka 6/2/94 Fiske GJ at 55-57.

¹³⁰¹ Id. at 57.

¹³⁰² Kulka 5/5/95 GJ at 52. Ryan testified Kulka recounted her conversation with Hanson to him. Ryan 5/3/95 GJ at 51.

¹³⁰³ Emergency Appropriations and Rescissions Act, Pub. L. No. 103-211, 108 Stat. 3 (1994).

decisions on any Madison Guaranty matter before his Vacancy Act appointment as CEO of the RTC expired at the end of March 1994.¹³⁰⁴

11. The Media Asked about the February 2, 1994 White House Meeting.

In February 1994, a Department of Treasury press officer received calls from a television news producer who claimed to have information that Altman had briefed the White House on certain Madison Guaranty matters.¹³⁰⁵ Over time, this caller said he knew Altman had met at the White House on February 2, 1994 and briefed White House personnel on the statute of limitations issue.¹³⁰⁶ The caller also alleged the White House had asked Altman to arrange for a similar briefing for the Clintons' private counsel.¹³⁰⁷ These calls resulted in a number of meetings involving Altman, Hanson, and Treasury press officials Howard Schloss and Michelle Andrews-Smith, to decide how to respond.¹³⁰⁸

At these meetings, Altman confirmed the meeting at the White House had taken place to discuss the statute of limitations issue.¹³⁰⁹ Altman also confirmed he was asked if Kendall could get the same briefing, and he had asked Hanson to call Kulka on that point.¹³¹⁰ Kulka had responded it would not then be appropriate for a briefing of private counsel.¹³¹¹ Although neither

¹³⁰⁴ See Altman 7/11/94 Treas. I G at 6-7; Altman 5/13/94 Statement to the Office of the Independent Counsel at 6-7, 11.

¹³⁰⁵ Michelle Andrews-Smith 7/6/95 Int. at 4; Schloss 6/14/95 Int. at 2-3; Schloss 6/27/95 GJ at 9.

¹³⁰⁶ Andrew-Smith 7/6/95 Int. at 4-5; Schloss 6/14/95 Int. at 3.

¹³⁰⁷ Andrews-Smith 7/6/95 Int. at 5; Schloss 6/27/95 GJ at 10-11.

¹³⁰⁸ Andrews-Smith 7/6/95 Int. at 4; Schloss 6/14/95 Int. at 2-3; Schloss 6/27/95 GJ at 13.

¹³⁰⁹ Schloss 6/27/95 GJ at 12; Andrews-Smith 7/6/95 Int. at 4.

¹³¹⁰ Schloss 6/27/95 GJ at 12; Andrews-Smith 7/6/95 Int. at 5.

¹³¹¹ Schloss 6/27/95 GJ at 12.

Altman nor Hanson appeared defensive, both expressed concern about how the earlier meeting would be perceived by the public.¹³¹² Both said the earlier meeting was informational only, involving the same information that already was given to Congress.¹³¹³ Neither claimed Secretary Bentsen knew of the White House meeting or had approved it.¹³¹⁴ Altman did not mention that his recusal was also an issue that was discussed at the February 2 meeting.¹³¹⁵

Andrews-Smith confirmed the story to the news organization.¹³¹⁶ The story was not published, reportedly because the news organization wanted to get Altman on camera answering questions about the February 2 meeting.¹³¹⁷ Altman would not be interviewed, so Schloss thought it likely the news organization would prepare one of the Senators who would be sitting at the February 24 Banking Committee hearings to question Altman on his White House contacts.¹³¹⁸ Schloss told Altman that he should be prepared to answer such questions.¹³¹⁹

Schloss alerted Ginny Terzano, one of his counterparts at the White House, about the news organizations' calls, and that the Department of Treasury planned to confirm that a meeting

¹³¹² Andrews-Smith 7/6/95 Int. at 6; Schloss 6/14/95 Int. at 5; Schloss 6/27/95 GJ at 13, 15, 20.

¹³¹³ Andrews-Smith 7/6/95 Int. at 6; Schloss 6/14/95 Int. at 4; Schloss 6/27/95 GJ at 13, 15, 20.

¹³¹⁴ Andrews-Smith 7/6/95 Int. at 9.

¹³¹⁵ When the press later reported Altman's possible recusal was discussed at the February 2 White House meeting, Altman told Schloss it had taken place at the end of the meeting and had not been the purpose of the meeting. Schloss 6/27/95 GJ at 18-19.

¹³¹⁶ Schloss 6/14/95 Int. at 3; Schloss 6/27/95 GJ at 13.

¹³¹⁷ Schloss 6/14/95 Int. at 5; Schloss 6/27/95 GJ at 21.

¹³¹⁸ Schloss 6/27/95 GJ at 21-22.

¹³¹⁹ Id. at 21.

at the White House took place to discuss the statute of limitations issue.¹³²⁰ The Department of Treasury also planned to confirm that Altman was asked to determine if Kendall could get the same briefing.¹³²¹

A note to Lindsey over Terzano's name reported that the Department of Treasury had confirmed Altman checked with Kulka to see if the RTC would brief private counsel on the statute of limitations issue.¹³²² The memorandum also indicated the Department of Treasury was seeking White House guidance on how to respond to a question whether the White House had asked Altman to pressure Kulka to give the briefing.¹³²³

After receiving the memorandum on February 3 or 4, Lindsey called Altman.¹³²⁴ Altman described the meeting, telling Lindsey that his possible recusal had been discussed, as well as procedure the RTC would follow through February 28, 1994.¹³²⁵ Altman also related that Williams asked him if private attorneys (the Clintons' private counsel was not singled out) would receive a statute of limitations briefing.¹³²⁶ Altman told Lindsey that Kulka told him that private counsel would be briefed, but not then.¹³²⁷ Altman denied anyone at the White House told him to brief Kendall.¹³²⁸

Lindsey told Altman to tell the press that the White House did not instruct him to do

¹³²⁰ Schloss 6/14/95 Int. at 6; Schloss 6/27/95 GJ at 23-24.

¹³²¹ Schloss 6/27/95 GJ at 24.

¹³²² Terzano 8/15/95 Int. at (2-3 with attached memo).

¹³²³ Id.

¹³²⁴ Lindsey 3/24/94 Fiske GJ at 79.

¹³²⁵ Id. at 79.

¹³²⁶ Id. at 79-80.

¹³²⁷ Id. at 80.

anything;¹³²⁹ that the White House asked him if he would be reviewing the same procedures with private counsel; that Altman checked with the RTC's General Counsel, and that a decision was made to defer the private counsel briefing until later.¹³³⁰ Altman agreed to follow Lindsey's advice.¹³³¹

12. Roger Altman Prepared for the February 24, 1994 Hearing.

Altman and Secretary Bentsen prepared to testify at the Senate Banking Committee's semi-annual oversight hearings on the RTC Thrift Depositor Protection Oversight Board scheduled for February 24, 1994. In the weeks before the hearings, RTC and Treasury staff created briefing books containing the types of questions that might be asked at the hearings with proposed answers.¹³³² Altman said Ryan and Kulka were responsible for the formulation of questions and answers ("Q&As"), though various RTC persons were consulted.¹³³³

Altman said he approved the wording of every answer as it appeared in his final briefing book.¹³³⁴ His preparation involved a number of long meetings with eight to ten senior RTC and Treasury staff members, where Altman reviewed the draft Q&As, and edited the responses.¹³³⁵

¹³²⁸ Id.

¹³²⁹ Id. at 80-81. Altman remembered Lindsey called him and explained the discussions at the February 2 meeting for Lindsey. Altman 9/12/95 GJ at 114; Altman 9/7/95 Int. at 14. It was decided one of them would speak to the news organization, but Altman did not remember who actually did so. Altman 9/12/95 GJ at 114; Altman 9/7/95 Int. at 14.

¹³³⁰ Lindsey 3/24/94 Fiske GJ at 80-81.

¹³³¹ Id. at 81.

¹³³² Altman 3/22/94 Fiske GJ at 79-80; Altman 9/7/95 Int. at 15-16; Altman 3/15/94 Fiske Int. at 6; Hanson 4/21/94 Fiske GJ at 96-99; Gross 6/21/95 Int. at 13; Nye 6/23/95 GJ at 60-61.

¹³³³ Altman 6/1/94 Fiske Int. at 2.

¹³³⁴ Altman 9/12/95 GJ at 127; Altman 9/7/95 Int. at 18.

¹³³⁵ See Altman 9/12/95 GJ at 125-26; Altman 9/7/95 Int. at 18.

At a meeting two evenings before the hearing, Hanson read questions aloud, and Altman read through the prepared responses, editing them as they went.¹³³⁶

The Q&As on Madison Guaranty-related issues were prepared at the highest levels of the RTC and the Department of the Treasury, and circulation was carefully limited until the final briefing books were prepared the evening of February 23.¹³³⁷ Hanson prepared and edited the most politically sensitive Q&As on Madison Guaranty, with substantial help by Kulka.¹³³⁸ Secretary Bentsen, his immediate staff, and the Oversight Board staff were not involved in preparing the draft Madison Guaranty Q&As.¹³³⁹

Whether because it appeared logical that the Committee might ask about contacts, or because Altman and Hanson knew the existence of the February 2 meeting had leaked, they devoted considerable attention to preparing a Q&A on contacts with the White House. As early as February 10, 1994, Peter Knight prepared a list of possible questions for Altman on Madison Guaranty, including the question, "Secretary Altman, have you or any other Treasury officials held any conversations with the White House concerning this matter?"¹³⁴⁰ Knight said he thought this would be a logical question for some senator to ask, but assumed the answer would be "No."¹³⁴¹

Hanson said Altman told her he would prepare a draft answer to a question about contacts

¹³³⁶ Hanson 4/21/94 Fiske GJ at 104-05; Altman 3/18/94 Fiske Int. at 9.

¹³³⁷ Altman 9/12/95 GJ at 125-26.

¹³³⁸ Id. at 127-28.

¹³³⁹ Id. at 125-26.

¹³⁴⁰ Knight 6/22/95 Int. at 2-3; see also Possible Questions for the Oversight Board Hearing (Feb. 10, 1994) (Doc. No. 007-DC-00002138).

¹³⁴¹ Knight 6/22/95 Int. at 3.

with the White House, and she should prepare her own draft, which they would exchange.¹³⁴²

Hanson's draft said:¹³⁴³

Q. Mr. Altman, have you or any of the Treasury officials held any conversation with the White House concerning this matter?

A. I have had one meeting with White House staff on this matter. Jean Hanson, General Counsel of the Treasury, and I met earlier this month with Bernard Nussbaum, White House Counsel, one of his assistants, [Mack McLarty], Harold Ickes, and Margaret Williams.

The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline. That was: due to the enactment of the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); the extended statute of limitations, as it related to Madison Guaranty, would expire the end of February; and the RTC was in the process of determining whether any claims existed under the extended statute of limitations. Finally, if it were determined that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

I told them that it was my understanding that the RTC's review was ongoing and that, as far as I was aware, the RTC had reached no conclusions. I also told them that any decision would be made with complete impartiality [and that I fully expected to follow the recommendation of the RTC General Counsel on these matters].

It was agreed that any discussions by the RTC on matters that might in any way affect the President or Mrs. Clinton should take place with David Kendall, and not with White House staff.

....

Q. Mr. Altman, why did you meet with White House staff on the Madison Guaranty matter?

A. Solely to ensure that they understood the legal, procedural framework

¹³⁴² Hanson 9/29/95 GJ at 121.

¹³⁴³ Hanson's very first draft of this answer was produced to this Office with her handwritten stylistic edits written on it. See Q&A on Madison/Whitewater: Conversations with the White House (approx. Feb. 1994) (Doc. No. 007-DC-00000620).

within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers, this was simply a legal briefing with a larger audience.¹³⁴⁴

Hanson testified that she intentionally omitted any description of the recusal discussion at the February 2 meeting because she wanted to see what Altman was going to say.¹³⁴⁵ Hanson also left blank a follow-up question on whether Altman had further discussions with the White House, because she had not been present at Altman's February 3 meeting and had not discussed it with him.¹³⁴⁶

Although Altman did not remember drafting a contacts answer or exchanging drafts with Hanson, he did testify that one particular draft reflected his style of writing so he must have had a large amount of input into that draft.¹³⁴⁷ It said in relevant part:

What Conversations Have You Had with the White House on this Matter?

I've had one substantive conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Nussbaum, White House Counsel. At that time, the statute of limitations on matters like this was set to expire on February 28.

We advised Nussbaum that the RTC would be reaching a decision on this matter before that date. That there were only two decisions which could be reached: (1) finding that there existed a basis for a civil claim which lead either to a tolling agreement between the RTC and the parties at interest or to the RTC's filing a claim in court. Alternatively, the RTC could conclude that there was not a sufficient basis for a claim and permit the statute of limitations to lapse.

¹³⁴⁴ See Q&A on Madison/Whitewater: Conversations with the White House (approx. Feb. 1994) (Doc. No. 274-DC-00002604) (emphasis in original).

¹³⁴⁵ Hanson 9/29/95 GJ at 122; Hanson 3/18/94 Fiske Int. at 8.

¹³⁴⁶ Hanson 9/29/95 GJ at 123; Altman 4/21/94 Fiske GJ at 106-07.

¹³⁴⁷ Altman 9/12/95 GJ at 130; see also Q&A for What Conversations have you had with the White House on this matter? (approx. Feb 10, 1994) (Doc. No. 274-DC-00002610).

We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.

We were only asked one question. Did we intend to provide the same briefing on the RTC's processes to attorneys for the parties at interest. I said that I assumed so but would check with the RTC General Counsel.

Jean Hanson did check and was told "in due course" I said "fine".

Why did you brief the White House on those processes?

We wanted them to know that we would handle this on a strictly professional arms length basis. Just like the October decision on referring the Madison matter to Justice.

Why did you judge it wise to brief them?

It was intended as a warning to the effect that anything could happen.

Who else attended the meeting?

Ickes, Williams and Mrs. [sic] Nussbaum's deputy.

Were there any other conversations at all[?]

The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal.¹³⁴⁸

Hanson testified she and Altman exchanged their drafts, and that she received comments back on her draft from Altman.¹³⁴⁹ She remembered discussing the drafts with Altman at that point, telling him that she had already used his draft as the basis for the answer with some changes.¹³⁵⁰ Hanson testified she did not remember any additional discussion about the wording

¹³⁴⁸ See Q&A for "What conversations have you had with the White House on this matter?" (approx. Feb 10, 1994) (Doc. No. 274-DC-00002610-2611) (underlining in original) (handwritten original edits in italics).

¹³⁴⁹ Hanson 9/29/95 GJ at 121-25.

¹³⁵⁰ Id. at 124.

of the contacts answer; she thought all editing of this answer was done by circulation of written drafts.¹³⁵¹

Hanson said she kept most of what Altman had provided in his original draft in formulating the final version of this Q&A.¹³⁵² The most substantial change she made was to substitute her second paragraph (about the statute of limitations discussion at the February 2 meeting) for Altman's second paragraph on the same issue.¹³⁵³ This modified Altman draft of the Q&A remained unchanged until the last minute, when the response was changed from stating, "I've had one substantive conversation" (with a follow-up answer describing the February 3 meeting), to "I've had one brief meeting and one incidental conversation."¹³⁵⁴

Altman identified the final version of the Q&As that he used at the hearing on February 24.¹³⁵⁵ The final contacts Q&A said:

Question:

What conversations/contacts have you had with The White House on this matter?

Answer:

I've had one brief meeting and one incidental conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Nussbaum, White House Counsel.

¹³⁵¹ Id. at 129-31.

¹³⁵² Id. at 125.

¹³⁵³ Id. In addition, it appears that Hanson substituted her paragraph about the purpose of the procedural briefing for Altman's. Hanson identified the draft Q&A that is Altman's Q&A modified that way. See Q&A for "What conversations have you had with the White House on this matter?" (Mar. 10, 1994) (Doc. No. 007-DC-00000426).

¹³⁵⁴ See Q&A for "What conversations/contacts have you had with the White House on this matter." (Feb. 24, 1994) (Doc. No. 274-DC-00002529).

¹³⁵⁵ See id.

The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: Due to the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.

We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.

Jean Hanson did check and was told "in due course." I said "fine."

Question:

Why did you brief the White House on those processes?

Answer:

Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Question:

Who else attended that meeting?

Answer:

Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Question:

Were there any other conversations at all?

Answer:

The only other discussion -- which lasted about five minutes -- occurred later

when I indicated that I was not inclined towards a recusal.¹³⁵⁶

Contrary to Hanson's testimony, Altman thought that the issue of contacts came up in one of the earlier preparation sessions (not the last session on February 23) in his office, that he provided information about the content of the contacts, and that others drafted his response.¹³⁵⁷

Altman said the answer on contacts was "very, very carefully prepared" because he thought the February 2 meeting could be misinterpreted.¹³⁵⁸ He knew there were draft materials on that Q&A circulated before the hearing, and he thought Hanson may well have been the individual who drafted the answer.¹³⁵⁹

According to Kulka, Altman said he had discussed procedural aspects of the case with the White House, and that the statute of limitations would run soon.¹³⁶⁰ He told the White House

¹³⁵⁶ See Table of Contents for the Q&A's (approx. Mar. 1994) (Doc. No. 274-DC-00002520 and 274-DC-00002529-30) (emphasis in original).

¹³⁵⁷ Altman 3/22/94 Fiske GJ at 80-81. Like Altman, Kulka testified the issue of contacts with the White House first came up in one of the preparation sessions with Altman. Kulka 6/2/94 Fiske GJ at 19. She and others asked Altman possible difficult questions he might encounter at the hearing. Kulka 6/2/94 Fiske GJ at 19; Kulka 5/5/95 GJ at 69. Ryan asked if Altman had ever spoken with anyone in the White House about Madison Guaranty. Kulka 6/2/94 Fiske GJ at 19-20; Kulka 5/5/95 GJ at 76. Kulka thought Altman or Hanson may have provided a draft of a written response to that question (or an oral briefing about what happened for someone else to use as the basis for drafting a written response), and that was when she first learned the substance of the February 2 meeting. Id. at 72-74.

¹³⁵⁸ Altman 3/22/94 Fiske GJ at 81.

¹³⁵⁹ Altman 9/12/95 GJ at 128-29.

¹³⁶⁰ Kulka 5/5/95 GJ at 78. Ryan testified that in one of the late night preparation sessions in Altman's office (he believes the last one) a day or two before the hearing, Altman asked everyone to ask him tough questions that might come up at the hearing. Ryan 5/3/95 GJ at 30. Ryan said someone (possibly Ryan himself) asked Altman if he had ever talked to the White House about Madison Guaranty. Id. Altman said he had had one meeting at the White House where procedural aspects of what the RTC was doing were discussed. Id. at 32.

Ryan remembered some discussion about the need to ensure that the contacts Q&A made clear that the February 2 meeting was purely a procedural discussion, not a discussion about any

officials that the RTC would have to make decisions about bringing actions and perhaps seek tolling agreements so that suits did not need to be filed by February 28.¹³⁶¹

Ryan posed a possible follow-up question about whether the meeting was appropriate, and Altman replied the meeting was not substantive, merely procedural.¹³⁶² Altman admitted he frequently used the word "substantive" to relate to the case, meaning the "substance" or "essence" of the case, and that this descriptive term undoubtedly came from him.¹³⁶³

Kulka testified that as the Q&A was being edited, she became concerned Altman was describing the February 2 meeting as being only about "procedures."¹³⁶⁴ Altman understood her concerns and thought it was fair to call the meeting "substantive."¹³⁶⁵ Kulka did not believe the word "substantive" was meant to exclude any particular additional contacts from disclosure.¹³⁶⁶ Kulka also testified the word "substantive" was intended to encompass both the statute of limitations discussion and the recusal discussion.¹³⁶⁷ Altman denied discussing the need to avoid

of the facts of the case. Id. at 29, 34. He did not remember learning that Altman's recusal had also been discussed at the February 2 meeting. Id. at 38.

¹³⁶¹ Kulka 6/2/94 Fiske GJ at 20-21.

¹³⁶² Ryan 5/3/95 GJ at 33-34.

¹³⁶³ Altman 9/12/95 GJ at 138-39.

¹³⁶⁴ Kulka 5/5/95 GJ at 78-79; Kulka 7/19/94 Senate Banking Comm. Depo. at 156-57. She testified that although the meeting included a discussion about the statute of limitations and tolling agreements, "procedural" issues in a legal sense, discussion of those issues might appear to others to be significant because they were serious issues. Kulka 5/5/95 GJ at 78-79; Kulka 7/19/94 Senate Banking Comm. Depo. at 156-57.

¹³⁶⁵ Kulka 5/5/95 GJ at 79. Barker remembered raising concerns about the term "substantive" in a Q&A preparation session, but Altman was apparently not present for this meeting. Barker 5/2/95 GJ at 73, 78. His concern was the word "substantive" was sufficiently ambiguous that it invited further questioning about contacts. Id. at 81-82. Barker testified the others at the meeting, including Gross and Hanson, did not share his concern. Id. at 82, 84.

¹³⁶⁶ Kulka 5/5/95 GJ at 79-80; Kulka 7/19/94 Senate Banking Comm. Depo. at 158.

¹³⁶⁷ Kulka 5/5/95 GJ at 79-80.

the modifier "substantive" so as not to exclude disclosure of other types of contacts.¹³⁶⁸

Gross was the only witness able to provide some understanding about the last minute change to the descriptions of the February 2 and 3 meetings in Altman's contacts Q&A. She said she and Nye stayed all night February 23 at the RTC building putting together Altman's final briefing books.¹³⁶⁹ Sometime during that process, the two discussed the answer to the contacts question.¹³⁷⁰ Gross, a lawyer, objected to using "substantive" to describe what was characterized as a procedural meeting.¹³⁷¹ She thought it incongruous to say a meeting about procedures was substantive.¹³⁷² She thought they might have consulted a dictionary.¹³⁷³ Gross felt it was more accurate to change "one substantive conversation" to "one brief meeting and one incidental conversation."¹³⁷⁴ Gross said she and Nye authored this change in the early hours of February 24.¹³⁷⁵ Gross did not point out the change to anyone when she delivered the finished briefing books to the Department of Treasury.¹³⁷⁶

As for recusal, the final, revised Q&A said: "I also said that I was reserving judgment on a recusal."¹³⁷⁷ Hanson testified that she took this from Altman's draft where he said he told the

¹³⁶⁸ Altman 9/12/95 GJ at 137-39. Hanson claimed not to remember any discussions about whether it would be correct to use the word "substantive" to refer to a meeting supposedly about "procedures." Hanson 9/29/95 GJ at 126.

¹³⁶⁹ Gross 6/21/95 Int. at 13.

¹³⁷⁰ Id.

¹³⁷¹ Id.

¹³⁷² Id.

¹³⁷³ Id.

¹³⁷⁴ Id.

¹³⁷⁵ Id. Nye did not remember this incident. Nye 6/25/95 GJ at 61.

¹³⁷⁶ Gross 6/21/95 Int. at 13.

¹³⁷⁷ See Final Q&As (Mar. 1994) (Doc. Nos. 007-DC-000000184 through 234).

White House he "was reserving judgment on a recusal."¹³⁷⁸ Hanson thought this description accurately presented the end result of Altman's recusal discussion and would elicit questions sufficient to bring out details of the entire conversation.¹³⁷⁹

The Madison Guaranty Q&As also addressed conversations Altman had had with Secretary Bentsen about Madison Guaranty.¹³⁸⁰ The early drafts said Altman had no "substantive discussions" about Madison Guaranty with Secretary Bentsen,¹³⁸¹ though the draft answer did say Altman had told the Secretary about the general process the RTC was following with Madison Guaranty in light of the statute of limitations deadline.¹³⁸² A modified answer was later prepared.¹³⁸³ Late in the evening on February 23, Hanson faxed a modified answer with her own handwritten additions to the RTC.¹³⁸⁴ The modified draft said:

I have had three brief discussions with Secretary Bentsen on matters relating to Madison.

I alerted him that there was a possibility of criminal referrals being made in later September.

In early February I described to him the process that the RTC was undertaking in connection with its review of Madison in light of the then impending February 28 deadline, and that I had received Congressional inquiries on whether I would recuse myself from the matter.

I told him that I was reserving judgment on the recusal.

¹³⁷⁸ Hanson 9/29/95 GJ at 127.

¹³⁷⁹ Id.

¹³⁸⁰ Final Q&A's (Mar. 1994) (Doc. Nos. 007-DC-000000184 through 234).

¹³⁸¹ See id.

¹³⁸² See id.

¹³⁸³ See Q&A for "I have had 3 brief discussions with Secretary Bentsen on matters relating to Madison" (Feb. 23, 1994) (Doc. No. 004-DC-00000337).

¹³⁸⁴ See id.

Somewhat later I told him that I was not inclined toward a recusal.

Why did you have those conversations?

To give him a "heads up" so that he would not be caught by surprise if he were to receive inquiries on these matters as Chairman of the Oversight Board.

Question:

What has he said to you about the Madison investigation?

Answer:

Nothing.

Question:

Do you mean that he said nothing during your conversations?

Answer:

Only that he appreciated the "heads-up."¹³⁸⁵

Hanson testified that although she remembered reviewing this Q&A, she did not draft the answer or discuss it with Altman.¹³⁸⁶ She said only the first two meetings with Secretary Bentsen were described in the answer, not the third meeting that included Knight.¹³⁸⁷ Hanson said she did not suggest including the third meeting because the answer basically described the first two meetings the way Altman had described them during the third meeting, so that the inclusion of the third meeting would be superfluous.¹³⁸⁸ Hanson testified she had no idea where the point

¹³⁸⁵ See id. The final version put in Altman's Q&A binder was essentially the same as the draft faxed by Hanson. See Q&A for "Why are you unwilling to Recuse Yourself?" (Feb. 1994) (Doc. No. 274-DC-00002598).

¹³⁸⁶ Hanson call sheet (Feb. 23, 1994) (Doc. No. 007-DC-00000386) (states, "Josh --> Sec. Q: meeting on recusal).

¹³⁸⁷ Hanson 9/29/95 GJ at 132-33.

¹³⁸⁸ Id.

about Altman alerting Secretary Bentsen about the criminal referrals in September came from, because she had no knowledge of such a conversation.¹³⁸⁹

F. On February 23, 1994, Treasury and White House Officials Had Further Contact.

Altman's appointment under the Vacancy Act as Interim CEO of the RTC expired on March 30, 1994. In anticipation that Altman might be asked at the hearings about his failure to recuse from the Madison Guaranty matter, his staff proposed he answer that, given the extension of the statute of limitations, he probably would not participate in any decision because the staff's recommendation would not reach the CEO before March 30, 1994.¹³⁹⁰

1. Discussions Involved Roger Altman's Testimony on Recusal.

Hanson said that on February 23, the day before the hearings, Altman asked her to tell Nussbaum that Altman planned to state at the hearings that he would not participate in the Madison Guaranty matter because his Vacancy Act appointment would expire.¹³⁹¹ Later on

¹³⁸⁹ Late on the night of February 23, Steiner called Hanson and said he thought there should be a similar Q&A prepared for Secretary Bentsen's briefing book. Hanson 9/29/95 GJ at 134. Such an answer was prepared. Id. Before the hearing, Steiner prepared a memorandum for Altman addressing issues Altman needed to raise with Secretary Bentsen. See Memo from Josh Steiner, Department of Treasury Chief of Staff to Roger Altman, Interim CEO for the RTC (Mar. 5, 1994) (Doc. No. 010-DC-00000023). One was how Altman would answer questions about "the conversation between LMB and you concerning your recusal." See id. Steiner testified he did not remember preparing this memorandum and did not remember the substance of any conversation that may have taken place between Secretary Bentsen and Altman about Altman's recusal. Steiner 8/25/95 GJ at 88-89.

¹³⁹⁰ See Typewritten note "Why are You Unwilling to Recuse Yourself" (undated) (Doc. No. 274-DC-00002607) (produced by Altman). As it turned out, at the hearings, Altman was not asked about his failure to recuse, so he did not make his Vacancy Act announcement on February 24.

¹³⁹¹ Hanson 4/21/94 Fiske GJ at 107. Nussbaum vaguely remembered Hanson's telephone call. Nussbaum 3/17/94 Fiske GJ at 108-09. Altman did not remember asking Hanson to make the call, but he said it would have made sense for him to do so, to spare Nussbaum from learning about Altman's statement from press accounts. Altman 9/12/95 GJ at 149-51.

February 23, Eggleston called Hanson; he wanted to make sure that Altman would testify about the February 2 White House meeting if asked.¹³⁹² Hanson read Eggleston the draft answer on that topic, as well as the proposed follow-up answer about the February 3 meeting; Eggleston said both proposed answers were fine.¹³⁹³ Eggleston remembered the proposed answers revealed the recusal discussion and that Altman planned to let his Vacancy Act appointment expire in lieu of recusing.¹³⁹⁴ Eggleston testified he probably had called Hanson at Ickes's request to be sure Altman understood the significance of the February 2 meeting and that it should be disclosed if a question arose about contacts.¹³⁹⁵

Altman testified that the night of February 23, he called Ickes to let him know that at the hearings he would announce his March 30 departure as RTC CEO.¹³⁹⁶ He asked Ickes for a reaction; Ickes told him to do what he had to do and that he would call Altman if he had anything further to say.¹³⁹⁷ Ickes testified Altman said he was contemplating announcing his recusal before

¹³⁹² Eggleston 3/31/94 Fiske GJ at 81-82; Hanson 4/21/94 Fiske GJ at 106. On February 18, 1994, Eggleston had called Hanson to get some background information about the mechanics of the Oversight Board hearing. Eggleston 3/31/94 Fiske GJ at 79-80, 86. Eggleston said the White House (through Eggleston, Staff Secretary John Podesta, and Stern) was attempting to help the Oversight Board with this hearing and coordinate Democratic members of the Committee. *Id.* at 79. Although these additional communications between the White House and Treasury about the hearings included the likely Madison Guaranty questioning, there is no evidence the issue of contacts came up in these discussions. Altman did not remember Hanson telling him about her conversations with Nussbaum or Eggleston. Altman 9/12/95 GJ at 153.

¹³⁹³ Hanson 4/21/94 Fiske GJ at 106-07.

¹³⁹⁴ Eggleston 3/31/94 Fiske GJ at 84-85.

¹³⁹⁵ *Id.* at 81-82. Ickes did not remember asking that Eggleston make this call. Ickes 9/5/95 GJ at 62.

¹³⁹⁶ Altman 9/12/95 GJ at 151-52.

¹³⁹⁷ Altman 3/22/94 Fiske GJ at 78; Ickes 9/5/95 GJ at 63.

or during the hearings.¹³⁹⁸ Ickes said he told Altman it was his decision, but that he did not see how things had changed since Altman's earlier decision not to recuse.¹³⁹⁹ Altman then asked Ickes to call him back with any further thoughts.¹⁴⁰⁰

Ickes testified that shortly thereafter, he called Steiner, told him about his earlier conversation with Altman, and said he had nothing more to say about the recusal issue, which was Altman's decision.¹⁴⁰¹ Steiner testified Ickes said the White House preferred that Altman not announce his March 30 departure from the RTC, but if he felt he had to, that would be all right with the White House.¹⁴⁰² Ickes also said if Altman thought he should recuse during the hearing, then he should do so.¹⁴⁰³ Steiner reported this call to Altman the night of February 23.¹⁴⁰⁴

Steiner's February 27, 1994 diary entry, covering the period from February 13 through February 27, said:

We are very concerned that at the RTC oversight hearings the GOP would hammer away at the recusal issue so we renewed discussions w/ the WH about what RA would do when his term expired on March 30. Once again they were very concerned about him turning the RTC [over to] people they didn't know so RA did not formally commit himself to stepping down (he could stay on if we had formally nominated a successor).¹⁴⁰⁵

¹³⁹⁸ Ickes 9/5/95 GJ at 62-63.

¹³⁹⁹ Id. at 63-64.

¹⁴⁰⁰ Id.

¹⁴⁰¹ Id. at 64.

¹⁴⁰² Steiner 8/25/95 GJ at 78-79.

¹⁴⁰³ Id. at 79.

¹⁴⁰⁴ Id.

¹⁴⁰⁵ See Steiner Diary (Dec. 12, 1993 through Feb. 27, 1994) (Doc. No. 010-DC-00000014) (typewritten version). Steiner said he called several people at the White House (including Podesta) on February 23 to see what they thought about Altman making an announcement about recusal. Steiner 8/25/95 GJ at 78. Steiner said his diary entry reflected the concerns expressed by Nussbaum at the February 2 meeting that the RTC was very partisan and, without Altman, might politicize the investigation. Id. at 73-74.

2. Roger Altman Spoke with Senator Alfonse D'Amato before the Hearings.

Altman testified that late on February 23, he spoke with Senator D'Amato to advise that the RTC was producing documents Senator D'Amato had requested.¹⁴⁰⁶ Altman thought the Senator told him he planned to ask Altman about recusal at the hearing.¹⁴⁰⁷ Altman did not remember being told that the issue of White House contacts would arise.¹⁴⁰⁸

3. Roger Altman Testified at the February 24, 1994 Senate Banking Committee Hearing.

During the hearing on February 24, Senator Phil Gramm raised the issue of communications by the RTC or the Department of Treasury with the White House on Madison Guaranty or Whitewater. The following exchange ensued:

Q. . . . Mr. Altman, I want to ask you first.

Have you or any member of your staff had any communication with the President, the First Lady, or any of their representatives, including their legal counsel, or any member of their White House staff, concerning Whitewater or the Madison Savings & Loan?

A. I have had one substantive contact with White House staff, and I want to

¹⁴⁰⁶ Altman 9/12/95 GJ at 148-49.

¹⁴⁰⁷ Id. at 149.

¹⁴⁰⁸ Id. During public hearings over the summer of 1994, Senator D'Amato confirmed that on February 23, he spoke with Altman and advised he would ask Altman about both recusal and contacts the Department of Treasury had with the White House about Madison Guaranty. Senate Banking Comm. Hearing, supra note 831, at 256-57 (Aug. 2, 1994) (questioning by A. D'Amato). Altman agreed about the former, but he could not remember discussing the latter. Id. There were two contemporaneous or near-contemporaneous witnesses to Altman's end of the phone call. Levy and Schloss testified that right after the call, Altman told each of them the Senator planned to ask whether he had any meetings at the White House about Madison Guaranty. Levy 6/9/96 GJ at 21; Schloss 6/27/95 GJ at 22. According to Levy, Altman responded, "It's a very simple answer. I had one subsequent meeting." Levy 6/9/96 GJ at 20-21. Also, Gross testified she found out that Senator D'Amato told Treasury before the February 24 hearings that he knew about the February 2 White House meeting. Gross 6/29/95 GJ at 12 .

tell you about it.

Q. Let me, if I may, just given that "yes," I would like to know what the substance of the communication was, when it occurred, who initiated it, and what you were asked to do.

A. First of all, I initiated it.

About three weeks ago, Jean Hanson [sic], who is Treasury's General Counsel.

The purpose of that meeting was to describe the procedural reasons for the -- the procedural reasons for the then-impending -- then-impending -- February 28th deadline as far as the then-statute of limitations was concerned.

I am sure you know that that statute of limitations has subsequently been retroactively reinstated for certain types of civil claims.

And we explained the process which the RTC would follow in reaching a decision before that February 8 [sic] deadline; that it would be exactly identical to procedures used in any other case, any other PLS case, and that the RTC fundamentally would come to a conclusion as to whether or not there existed the basis for a claim, or whether there did not.

In the event a basis for a claim existed, then it would pursue either a tolling agreement -- which is the equivalent of a voluntary extension of the statute of limitations from the parties at interest -- or it would file that claim in court.

That was the whole conversation. I was asked one question. That question was whether we intended to provide the same briefing to attorneys for the parties at interest.

I said, I assume so.

I went back. Jean Hanson [sic] checked with the RTC General Counsel. The answer was: In due course.

I said, fine, that was it.

I have not had any contact with the President of the United States or the

First Lady on any matter like this.¹⁴⁰⁹

Hanson noticed right away that Altman had not mentioned the recusal discussion in describing the February 2 meeting.¹⁴¹⁰ He had missed the entire paragraph on his prepared Q&A that included the sentence on recusal. Gross, who was sitting right behind Hanson, tapped Hanson on the shoulder and said Altman had not mentioned recusal, and Hanson responded she knew.¹⁴¹¹ Hanson said she considered handing Altman a note to remind him about the recusal discussion, but when Altman stated, "That was the whole conversation," Hanson thought the opportunity had passed to correct his testimony.¹⁴¹²

Eggleston also attended the hearing and testified that he was immediately concerned Altman had failed to mention the recusal discussion from the February 2 meeting.¹⁴¹³ He telephoned Podesta from the hearing to tell him that Altman had not mentioned recusal.¹⁴¹⁴ Stern remembered receiving a call from Eggleston as the hearing ended, in which Eggleston reported the recusal issue had not come up during the hearing.

Altman testified he used the word "substantive" to mean "relating to the substance of the

¹⁴⁰⁹ Senate Banking Comm. Hearing, supra note 831, at 55-56 (Feb. 24, 1994) (testimony of R. Altman).

¹⁴¹⁰ Hanson 4/21/94 Fiske GJ at 109; Hanson 9/29/95 GJ at 135.

¹⁴¹¹ Hanson 9/29/95 GJ at 135. Gross did not remember this brief communication. Gross 6/29/95 GJ at 9.

¹⁴¹² Hanson 9/29/95 GJ at 136. Hanson testified she was not then concerned about Altman's failure to mention the February 3 follow-up meeting because she actually was under the impression that he had mentioned it; she claimed it was not until she later reviewed the transcript that she realized he had failed to include this information. Id. at 136-37.

¹⁴¹³ Eggleston 3/31/94 Fiske GJ at 87, 99-100.

¹⁴¹⁴ Eggleston 3/31/94 Fiske GJ at 100-03. Podesta did not remember speaking with Mr. Eggleston while the latter attended the hearing or this early reference to Altman's failure to mention the recusal discussion. Podesta 4/7/94 Fiske GJ at 21.

case," "the facts of the case," "the merits of the case," "the status of the case," "or where the case [was] going."¹⁴¹⁵ He also testified that by "substantive" he meant "about the case, about the procedures applying to the case."¹⁴¹⁶ He said he did not consider a discussion about his possible recusal a "substantive" discussion since he never associated himself with the substance of the case. He was de facto recused and thus did not view his recusal as relating to the procedures (and in his terminology "substance") of the case.¹⁴¹⁷ Altman testified when he used the word "substantive," he was not thinking of other meetings that would be excluded by that word (other than the February 3 meeting).¹⁴¹⁸

Altman testified when he said, "That was the whole conversation," he meant that was the whole conversation about the "substance" of the case.¹⁴¹⁹ He also said he was referring to what he thought was the purpose of the meeting, which was to discuss the statute of limitations procedures; the recusal discussion was a "by the way" remark.¹⁴²⁰ He claimed his failure to disclose the recusal discussion was not an attempt to conceal it, even asking the grand jury, "I mean, if I had had an intent, would I have sat around the night before with all these people, with the line 'recusal' in there? -- I mean, 10 or 12 people -- if I'd intended to conceal it? . . . and would

¹⁴¹⁵ Altman 9/12/95 GJ at 138.

¹⁴¹⁶ Altman 3/22/94 Fiske GJ at 85.

¹⁴¹⁷ Id. at 85-86.

¹⁴¹⁸ Id. at 96; Altman 9/12/95 GJ at 139. Altman claimed he did not intentionally omit the prepared sentence on recusal, and wished he had read it out loud. Altman 3/22/94 Fiske GJ at 90. He agreed his answer as given was "susceptible to misinterpretation," and his distinction between the substance of the case and his recusal was "stupid" in retrospect given that few agreed with the distinction. Altman 9/12/95 GJ at 139. Reviewing the transcript of his testimony, Altman said he knew people must have thought he was trying to hide the recusal discussion. Altman 3/22/94 Fiske GJ at 90; Altman 3/22/94 GJ at 90.

¹⁴¹⁹ Altman 3/22/94 Fiske GJ at 88-89.

I have gone over to the White House and talked -- with our general counsel, taking with me, and four White House staff members, if I intended to conceal it?"¹⁴²¹ Altman testified he did not think disclosing the recusal discussion would create more controversy.¹⁴²²

Altman explained his statement that he was asked only one question during the February 2 meeting about the statute of limitations issue: "One question about the substance, that's what I meant."¹⁴²³ According to Altman, that explains why he did not disclose the questions he admits were asked by Senators during the recusal discussion.¹⁴²⁴ Altman said he did understand that Senator Gramm's question required him to answer for himself and for his staff; i.e., he had to address if either had any contacts with the White House about Madison Guaranty.¹⁴²⁵

A short while later, Senator D'Amato, with reference to Altman's contacts asked:

Q. Let me ask you this. Prior to this meeting, was there any representation, was there any counsel, that was representing the President's interests or Mrs. Clinton's interests, or anyone else that you were aware of, as it relates to the matter that you went to brief them on?

A. No. Not to my knowledge. Nor were there any substantive conversations -- subsequent conversations.

Q. Did anyone request this meeting?

A. I requested the meeting.

Q. Was there any other meeting that may have been requested?

¹⁴²⁰ Id. at 90.

¹⁴²¹ Id. at 89.

¹⁴²² Id. at 90-91. He also claimed that in the preparation sessions nobody ever said the recusal aspect of the discussion was an explosive or particularly embarrassing fact. Id.

¹⁴²³ Id. at 91.

¹⁴²⁴ Id. at 91-92.

¹⁴²⁵ Altman 9/12/95 GJ at 133-34.

A. No.

Q. There was no other meeting that you were aware of that the White House counsel requested?

A. No.

Q. Or anyone else from the White House?

A. No.

Q. Ickes?

A. I had no subsequent -- I received no subsequent requests for meetings.

Q. What about private counsel? Did private counsel -- I find it hard to believe that there was no private counsel. Are you saying to me that there was not even private counsel meeting with staff lawyers at some level?

A. Not to my knowledge, Senator.¹⁴²⁶

Altman testified he meant to say there were no later, substantive conversations with the White House.¹⁴²⁷ He claimed he did not intentionally leave out his request for the February 3 meeting because as he understood the question, Senator D'Amato was asking if the White House had requested any other meetings.¹⁴²⁸ Altman claimed although he may have misinterpreted the question, he did not intentionally conceal the February 3 meeting.¹⁴²⁹

Senator Bond then asked Altman questions about the criminal referrals:

Q. Next, when did you become aware of the RTC recommendations that further criminal prosecution be taken against Madison?

A. Last fall. I was advised that the question of a referral to the Justice

¹⁴²⁶ Senate Banking Comm. Hearing, supra note 831, at 63-64 (Feb. 24, 1994) (testimony of R. Altman).

¹⁴²⁷ Altman 3/22/94 Fiske GJ at 92-93.

¹⁴²⁸ Id. at 94.

¹⁴²⁹ Id. at 95.

Department was under consideration at the RTC. And as other members of the RTC staff will attest, I said that normal procedures with no deviations whatsoever should be pursued, including chain of command procedures, in terms of reaching that conclusion.

I might tell you that typically decisions like that are made at the Regional Office level, and it was in this case.

Q. Were you aware that the Regional Office had asked the National Office to make a determination as to whether the Clintons' name should be in the new expanded referral?

A. No.

Q. You did not know they were asking for the National Office to make a determination?

A. No. I was simply informed that this issue was on the table, and my reaction was -- and I had only one conversation about it -- that normal procedure should be followed. That is the way we are going to handle this thing from beginning to end.

Q. How was the White House notified of the referral?

A. They were not notified by the RTC, to the best of my knowledge.

Q. Nobody in your agency, to your knowledge, advised the White House staff that this was going to be a major -- this could be a major source of concern?

A. Not to my knowledge.¹⁴³⁰

As soon as Altman provided this last response, Hanson said he turned back toward her (sitting behind him) and asked her a question.¹⁴³¹ Hanson testified Altman asked her whether his answer was correct, and she responded she thought it was.¹⁴³² Hanson then spoke with Kulka,

¹⁴³⁰ Senate Banking Comm. Hearing, supra note 831, at 276-77 (Feb. 24, 1994) (testimony of R. Altman).

¹⁴³¹ Hanson 9/29/95 GJ at 138.

¹⁴³² Id. Altman also remembered that as soon as Senator Bond finished with him, he turned to Hanson to double-check his response. Altman testified he said to Hanson, "They didn't,

seated next to her, and asked her if she knew whether the RTC had notified the White House about the referrals, and she said, "No."¹⁴³³

Senator Domenici concluded the questioning on contacts:

Q. Mr. Altman, you spoke a while ago of your one contact with the White House regarding this, and you and your counsel went up to talk to the White House counsel.

A. One substantive contact.

Q. Please?

A. One substantive or meaningful contact.

Q. Well, I assume we are not arguing there that you had -- you are not suggesting you had more than one are you?

A. No. I am just saying that if you, you know, you run into someone in the hall, if you see that thing in the paper this morning, I am not including

did they?" and Hanson responded, "No." Altman 9/12/95 GJ at 155. This Office retained lip reading experts from the FBI to examine the videotape of this incident. Because of the camera angles, they were not able to provide a definitive analysis of exactly what Altman said to Hanson. They did conclude the videotape is consistent with the versions given by both Altman and Hanson, that Altman asked Hanson a negative question along the lines of, "We didn't do that, did we?" and Hanson responded in the negative by shaking her head side to side to confirm Altman's memory.

¹⁴³³ Hanson 9/29/95 GJ at 138. Hanson remembered when Senator Bond asked his question she had a vague memory of speaking with Nussbaum, but remembered no other details other than the conversation was about the criminal referrals in some way. Id. at 138-39. Hanson testified she did not remember the October 14 White House meeting at the time of the February 24 hearings. Id. at 130. Hanson did not remember if she had her "flash" of recollection about the Nussbaum conversation before Altman turned to her or afterwards. Id. at 139. Hanson said she did not mention her conversation with Nussbaum to Altman after the hearing. Id. at 140. When she did recall this information, she did not believe Altman had to correct his testimony because she understood the questions as asking simply whether the RTC had notified the White House, not the Treasury Department. Id. at 139-40. Hanson also remembers thinking at the time that Treasury had not prepared a Q&A about the fall contacts for Altman. Id. at 139. Eggleston testified he did not have immediate concerns with Altman's response to Senator Bond. Eggleston 3/31/94 Fiske GJ at 87-88. He thought he may have temporarily forgotten about the fall contacts or simply not had concern for whatever unidentified reason. Id. at 88.

that.¹⁴³⁴

Altman testified he emphasized to Senator Domenici that he was referring to one "substantive or meaningful contact" to stress again that he was only talking about meetings about the substance of the case, and that he did not associate himself and his recusal with any such aspect of the case.¹⁴³⁵ Altman claimed while he was sitting there testifying he did not think about his conversation with McLarty and his February 3 meeting with Ickes and decide that they were not substantive.¹⁴³⁶ Rather, he thought the Senators were asking about only contacts with the White House about the case.¹⁴³⁷ Altman said his staff had already prepared a Q&A about the Ickes meeting calling their contact not substantive, but rather "incidental."¹⁴³⁸ He claimed he excluded his telephone conversation with McLarty because he viewed it as even less than "incidental."¹⁴³⁹ In defining what an "incidental" contact would be -- a hallway conversation about what had appeared in the press that morning -- Altman said he might have chosen a bad example, but simply meant to say he was not talking about incidental contacts.¹⁴⁴⁰

Steiner recorded in his diary entry dated February 27, 1994 (covering the period February 13 through February 27):

At the hearing, the recusal amazingly did not come up. The GOP did hammer away at whether RA had had any mtgs. w/ the WH. He admitted to having had

¹⁴³⁴ Altman 5/13/94 Statement at 19-20.

¹⁴³⁵ Altman 3/22/94 Fiske GJ at 95-96.

¹⁴³⁶ Id. at 86-87.

¹⁴³⁷ Id. at 87.

¹⁴³⁸ Id. at 86, 97. As discussed above, Altman consistently defended his testimony on the grounds that he did not prepare the contacts Q&A and that his staff chose the descriptive terms "substantive" and "incidental." Id.

¹⁴³⁹ Id. at 86.

¹⁴⁴⁰ Id. at 97-98.

one to brief them on the statute deadline. They also asked if staff had met, but RA gracefully ducked the question and did not refer to phone calls he had had.¹⁴⁴¹

The evidence does not indicate that anyone expressed to Altman immediately after his testimony any concerns about the accuracy or completeness of that testimony.

4. The RTC Hired Outside Counsel to Pursue the Madison Guaranty Matter.

The RTC retained the law firm Pillsbury, Madison & Sutro to handle the civil case on Madison Guaranty.¹⁴⁴² Pillsbury partner Jay Stephens, a former U. S. Attorney for the District of Columbia, would be involved.¹⁴⁴³ At the February 24 hearings, Altman disclosed that the Pillsbury firm had been retained, though he did not mention Stephens by name.¹⁴⁴⁴

¹⁴⁴¹ See Steiner Diary (Dec. 12, 1993 through Feb. 27, 1994) (Doc. No.010-DC-00000014-15) (typewritten version). Steiner testified the phrase "gracefully ducked" was "an unfortunate choice of words." Steiner 3/31/94 Fiske GJ at 50. Steiner said when he wrote "ducked," he was referring to his own conversation with Stephanopoulos on February 16. Id. at 50-52. Steiner remembered telling Altman about his conversation with Stephanopoulos, so either Altman forgot about it or he had "gracefully ducked" the question by defining "meetings" such that he need not disclose this or other contacts. Id. at 51. Steiner assumed it was the latter. Id. Steiner testified that when he wrote this entry he still did not remember the October 14 meeting. Id. He testified that as he left the hearing he was concerned only about Altman's use of the term "heads-up," and Altman's failure to mention Steiner's February 16 meeting with George Stephanopoulos. Id. at 53-54.

¹⁴⁴² Kulka 5/5/95 GJ at 54-56.

¹⁴⁴³ Id. at 56.

¹⁴⁴⁴ Senate Banking Comm. Hearing, supra note 831, at 69 (Feb. 24, 1994) (testimony of R. Altman). A Q&A was prepared for Altman about the retention of the Pillsbury firm; it did not mention Stephens by name. See Q & A at 35 (undated) (Doc. No. 274-DC-00002576). Klein learned on the afternoon of February 24 that Jay Stephens would be involved on the Madison Guaranty matter. Klein 7/23/94 Senate Banking Comm. Depo. at 81. He then told a number of people at the White House, such as Eggleston, Lindsey, and maybe Stephanopoulos. Id. at 81. On February 24 or 25, Eggleston called Hanson to confirm Stephens's involvement. Eggleston 3/31/94 Fiske GJ at 90-91. Hanson thought (incorrectly at that time) Pillsbury, Madison's retention was still confidential, so Hanson said she would get back to Eggleston with an answer. Hanson 9/29/95 GJ at 167; Hanson 4/21/94 Fiske GJ at 118-19. She did not do so. Id. at 118-19. Eggleston said he made this call to Hanson to ascertain whether the Jay Stephens who was hired was the former U.S. Attorney from the District of Columbia. Eggleston 3/31/94 Fiske GJ at 91.

5. Altman's February 25 Recusal.

On February 25, the New York Times published a front-page article about Altman's testimony that was highly critical of the February 2 meeting, implying that the White House had received an update on the underlying facts of the case.¹⁴⁴⁵ The article upset Altman, and he decided early that morning, without consulting anyone at Treasury, to recuse and avoid any appearance of a conflict of interest.¹⁴⁴⁶

Altman prepared a press release announcing his recusal.¹⁴⁴⁷ Later Altman spoke with Howell Raines, the New York Times's editorial page editor.¹⁴⁴⁸ Raines reported he was in the process of writing a harsh editorial about the February 2 meeting.¹⁴⁴⁹ Altman tried to explain the meeting, allegedly without success as Raines appeared to have his mind made up about the content of his planned editorial.¹⁴⁵⁰ During this conversation, Altman told Raines that he had decided to recuse himself.¹⁴⁵¹ Then, Altman directed release of his previously drafted recusal statement.¹⁴⁵²

Steiner's diary entry for February 27, 1994 (covering the period February 13 through

¹⁴⁴⁵ Stephen Labaton, Regulator Briefed White House Aides in Inquiry on S. & L., N.Y. Times, Feb. 25, 1994, at A1.

¹⁴⁴⁶ Altman 9/12/95 GJ at 157-59. Altman did have several conversations with Jack DeVore, who by that date had retired and was in Texas. Id. at 158. Altman sought DeVore's advice about how to make his recusal announcement. Id. at 158-59. DeVore recommended Altman avoid "pour[ing] kerosene on the fire," and suggested Altman wait a few days before making his announcement. Id. at 161.

¹⁴⁴⁷ Id. at 162.

¹⁴⁴⁸ Id. at 160.

¹⁴⁴⁹ Id.

¹⁴⁵⁰ See Altman 9/12/95 GJ at 160-61.

¹⁴⁵¹ Id. at 162.

¹⁴⁵² Id.

February 27) reads:

The next day, the NYT ran a frontpage story on the mtg. The heat was on. We spent a tortured day trying to decide if he should recuse himself. I spoke w/ Podesta to let him know of our deliberations. Very frustrating that he was the chosen point of contact since he clearly was not in the complete confidence of George and Harold. After Howell Rains [sic] from the NYT called to say that they were going to write a brutal editorial, RA decided to recuse himself.¹⁴⁵³

Steiner remembered it was only during his telephone call with Raines that Altman decided to remove himself from the Madison Guaranty matter.¹⁴⁵⁴ After that call, Steiner called Podesta to tell him of Altman's decision.¹⁴⁵⁵ Podesta confirmed the relevant details of Steiner's story, and testified he thought he told Stephanopoulos and perhaps Ickes after he learned of Altman's recusal announcement.¹⁴⁵⁶

6. Ickes and Stephanopoulos Telephoned Altman.

Altman testified that shortly after he announced his recusal on February 25, he received a call from Ickes and Stephanopoulos who were both on the line.¹⁴⁵⁷ Altman said they were upset that Altman had not told the White House about his recusal in advance.¹⁴⁵⁸ They were trying to subdue press concerns about the February 2 meeting before the recusal announcement,

¹⁴⁵³ See Steiner Diary (Dec. 12, 1993 through Feb. 27, 1994) (Doc. No. 010-DC-00000014-15) (typewritten version).

¹⁴⁵⁴ Steiner 3/31/94 Fiske GJ at 59-60.

¹⁴⁵⁵ Id. at 60. Stern remembered a similar conversation with Steiner on February 25. Stern 6/6/95 GJ at 46. He testified Steiner called him to say that Altman was seriously considering recusing himself from the Madison Guaranty matter and that he would not be consulting with the White House on the issue. Id. Altman said he was unaware of any effort by anyone at the Treasury Department to tell the White House that he was again considering recusal. Altman 9/12/95 GJ at 159-60.

¹⁴⁵⁶ Podesta 4/7/94 Fiske GJ at 28-30

¹⁴⁵⁷ Altman 9/12/95 GJ at 162.

¹⁴⁵⁸ Id.

attempting to persuade the media that nothing improper happened.¹⁴⁵⁹ On the heels of that effort, Altman's recusal announcement could imply that something out of the ordinary had taken place.¹⁴⁶⁰ Altman also remembered being told that President Clinton was livid about the recusal decision for the same reason.¹⁴⁶¹ Altman told them that he was past the point of discussion, and wanted to get the matter over with.¹⁴⁶² Altman recalled Stephanopoulos did most of the talking during this part of the conversation (with some contributions from Ickes).¹⁴⁶³ It was Stephanopoulos who mentioned the President's reaction to the recusal decision.¹⁴⁶⁴

Altman testified "they were in a sufficiently angry frame of mind that pretty quickly I got tense too."¹⁴⁶⁵ Stephanopoulos then asked him about the retention of Jay Stephens to pursue the civil investigation of the Madison Guaranty matter.¹⁴⁶⁶ When Altman asked who Jay Stephens was, Stephanopoulos identified him as an extremely partisan former U.S. Attorney and Republican who was hired by the RTC as outside counsel on the Madison matter.¹⁴⁶⁷ Stephanopoulos asked how that could happen.¹⁴⁶⁸ Altman told Stephanopoulos he knew nothing about it, and that the RTC did not clear such decisions through him.¹⁴⁶⁹ Either Ickes or

¹⁴⁵⁹ Id. at 163.

¹⁴⁶⁰ Id.

¹⁴⁶¹ Id.; see also Altman 3/22/94 Fiske GJ at 101.

¹⁴⁶² Altman 9/12/95 GJ at 164.

¹⁴⁶³ Id. at 164.

¹⁴⁶⁴ Id. at 163-64.

¹⁴⁶⁵ Id. at 164.

¹⁴⁶⁶ Id. at 164-65.

¹⁴⁶⁷ Id. at 165.

¹⁴⁶⁸ Id.

¹⁴⁶⁹ Altman 3/22/94 Fiske GJ at 101-02.

Stephanopoulos asked if the hiring of Stephens was final.¹⁴⁷⁰ Altman, bothered by the question, replied if the agency had hired Stephens, the decision was final.¹⁴⁷¹ Ickes and Stephanopoulos told Altman that the President was also upset about the retention of Jay Stephens.¹⁴⁷² Stephanopoulos then told Altman to write a handwritten note to the President on your recusal decision.¹⁴⁷³

7. Altman Told Steiner about the White House Call.

Shortly after his February 25 telephone conversation with Ickes and Stephanopoulos, Altman told Steiner about it.¹⁴⁷⁴ He remembered telling Steiner that he thought Ickes and Stephanopoulos were "nuts" to bring up the issue of Stephens's retention and ask if it was final.¹⁴⁷⁵ The implication was that if the retention was not final, then perhaps it could be reversed, and that notion, to Altman, was "crazy and stupid."¹⁴⁷⁶ Altman thought he asked Steiner to check with his White House contacts if President Clinton really was angry or just blowing off steam.¹⁴⁷⁷

¹⁴⁷⁰ Id. at 102. In his second grand jury appearance, Altman said they "might" have asked if the retention was final. Altman 9/12/95 GJ at 165.

¹⁴⁷¹ Altman 3/22/94 Fiske GJ at 102-03.

¹⁴⁷² Id. at 102.

¹⁴⁷³ Id. at 103.

¹⁴⁷⁴ Id. at 106-07.

¹⁴⁷⁵ Id. at 107.

¹⁴⁷⁶ Id.

¹⁴⁷⁷ Id. Steiner said although he was in Altman's office for part of the Ickes/Stephanopoulos phone call, his knowledge of it came from Altman's later discussion with him. Steiner 8/25/95 GJ at 99; Stephanopoulos 9/8/95 GJ at 38-40; Ickes 3/17/94 Fiske GJ at 76-83; Steiner 8/25/95 GJ at 100. Steiner testified Altman described the call as raising two issues: first, the manner of Altman's recusal; and second, how Stephens was selected and if anything could be done about his retention. Id. Altman described the hiring process, and said there was nothing that could now be done about it. Id. at 98-99. Altman also reported that Stephanopoulos

8. Ickes Testified about the February 25 Call with Altman.

Ickes testified that on March 17, 1994, Stephanopoulos called Altman upon learning that Altman "had apparently recused himself in a telephone conversation with a member of the New York Times." Ickes described the conversation as follows:

A. I think George did most of the talking, and asked if it was true that he had recused himself, and he said he had.

Q. And what else happened?

A. That was about it. George said we were caught way off base . . . since he had taken the opposite position during the Senate Banking hearings

. . . .

Q. You would not characterize this as any anger coming from you or Mr. Stephanopoulos to Mr. Altman?

A. It wasn't anger, it was, you know, very much of a surprise because of what had transpired the day before.

Q. Was anything else discussed during this telephone conversation?

A. Not that I recall. I think George -- either George or I suggested that he write the President about it, but that -- it was, again, a very short conversation.

. . . .

Q. Was anything told to Mr. Altman about what the President's reaction was to this?

A. Not that I recall. I don't know what the President's reaction was, because I had not talked to him.

Q. Did you or Mr. Stephanopoulos say to Mr. Altman, in words or substance, the President was angry about this?

suggested Altman write the President a letter apologizing about the way he recused himself. Steiner 3/15/94 Fiske Int. at 8.

A. I don't recall anything, because I don't know -- I had not talked to the President, so I had no way of knowing whether he was or whether he wasn't. And I don't know whether George had talked to the President. I didn't even know where the President was that day.

Q. But do you recall Mr. Stephanopoulos saying words to the effect that the President was angry about this?

A. I don't recall him saying that.

.....

Q. Do you recall anything else that went on during this telephone conversation?

A. No, it was fairly short -- it was a fairly short phone conversation.

Q. Do you know whether there were any other topics discussed?

A. Not that I recall.

.....

Q. Do you remember Jay Stephens coming up in this conversation with Mr. Altman?

A. No, I do not recall anything about Jay Stephens in that conversation.

Q. Do you recall ever discussing Jay Stephens with Mr. Altman?

A. I may have, I doubt it.

Q. Do you recall discussing Jay Stephens with anybody from the Department of the Treasury?

A. I think Altman -- if I discussed it with anybody in the Department of the Treasury it would have been Altman, and I don't recall discussing Stephens with Altman.¹⁴⁷⁸

In an interview with the Treasury Department's Office of Inspector General on July 15, 1994 (which included representatives from the RTC Office of Inspector General), Ickes was once

again asked if there was any talk about Stephens during the February 25 telephone call with Altman.¹⁴⁷⁹ Ickes responded: "There may have been. I don't know whether that was discussed then, but it may well have been. That may well have been a topic of the conversation. It was a very short telephone conversation."¹⁴⁸⁰ When asked if he ever participated in a discussion with the Treasury Department about Stephens and his role in the Madison Guaranty matter, Ickes responded, "I don't recall a specific conversation. If it occurred, I think it would have occurred during that telephone conversation. I don't recall any other time in which I would have discussed Stephens."¹⁴⁸¹

In his testimony before the Senate Banking Committee on July 24, 1994, Ickes said, "I do not recall exactly when I learned that [Stephens's] firm had been retained by the RTC. I tend to think it was after the 25th, but as I sit here today, I don't recall. It could have been shortly before the 25th."¹⁴⁸² Ickes also said the President "did express a view" about the Stephens retention,¹⁴⁸³ and Ickes "tend[ed] to think" President Clinton did so "after the 25th, but I can't guarantee that."¹⁴⁸⁴ Ickes also testified the President expressed his view in Ickes's presence, that no one else was present, and that "[t]he gist of it was he expressed grave concern about the fact that Stephens's firm and we understood that they had been retained and we understood Stephens in particular was going to be working with the RTC on that" Ickes said he "probably did" tell

¹⁴⁷⁸ Ickes 3/17/94 Fiske GJ at 80-84.

¹⁴⁷⁹ Ickes 7/19/94 Treas. IG at 30.

¹⁴⁸⁰ Id.

¹⁴⁸¹ Id.

¹⁴⁸² Ickes 7/24/94 Senate Banking Comm. Depo. at 243-45.

¹⁴⁸³ Id. at 244.

¹⁴⁸⁴ Id. at 245-46.

Stephanopoulos about the conversation.¹⁴⁸⁵

During his September 5, 1995 appearance before the grand jury, Ickes was asked whether Stephanopoulos indicated during or after the February 25, 1994 conversation that he had spoken to the President about Altman's recusal. He testified as follows:

A. I don't recall that. He may well have. I know that I had not spoken to the President and had no idea whether the President knew or what his view was on it, and I don't recall whether George said that he had spoken with the President or not. I don't even know where the President was that day

. . . .

Q. Was there any suggestion by Stephanopoulos that the President was or might be upset about Altman's recusal decision?

A. I don't recall either was or might be. The was implies that George had talked to the President, and I don't recall that he had, although he may have. I can't recall. And there might be, I think, at most if George expressed any indication about what the President might feel is again surprise, which would not have been uncommon.¹⁴⁸⁶

Ickes was "absolutely" confident that he spoke with the President and the First Lady about the recusal decision, but he could not remember the "time, date, place, or who was present."¹⁴⁸⁷

Ickes testified that "the only view [the President] had was the view that all of us had, we were surprised" On Jay Stephens's retention, Ickes testified as follows:

Q. Were you ever a participant in any discussions at the White House about trying to see if Stephens could be removed from the RTC's civil investigation?

A. No. It was my -- when I say "no," I don't recall any. It was my impression and it was an impression only that the decision to retain his firm had, in fact been made. . . . So, I don't recall participating in any discussions about removing him because my impression was that he was immovable.

¹⁴⁸⁵ Id. at 243-45.

¹⁴⁸⁶ Ickes 9/5/95 GJ at 69-70

¹⁴⁸⁷ Id. at 71.

Q. And are you aware if anyone on the White House staff trying to take any steps to reverse that decision by the RTC to hire Stephens?

A. No, I don't recall having any discussions about removing him. . . ¹⁴⁸⁸

9. Stephanopoulos Testified about the February 25 Call with Altman.

During his March 22, 1994 grand jury appearance, Stephanopoulos testified as follows:

Q. Tell me to the best of your recollection what your conversation was with Roger Altman.

A. Just asked him what happened with the New York Times. He talked about his interview with Hal [sic] Raines. And I remember saying at the end of it, "I think as a courtesy, you should write the President a note to explain your decision."

Q. Regarding the recusal?

A. Mm-hmm.

....

Q. And that's all you remember about --

A. That's really -- you know, that was the general -- it wasn't a long conversation.

Q. But you don't remember anything else specifically about the conversation?

A. Just, again, that Harold was there.

Q. Nothing else?

....

A. . . . No, I don't really remember.

Q. Do you remember telling Roger Altman that the President was upset?

A. Again, I don't remember that.

Q. Do you remember speaking to the President, either before or after your conversation with Roger Altman, about Roger Altman's decision to recuse

¹⁴⁸⁸ Id. at 78.

himself?

A. Not before.

.....

Q. So, you don't remember any reaction at all of the President?

A. No.

Q. Do you remember the President being angry at any time about the fact that Roger Altman recused himself?

A. No. I mean, just -- I don't remember. I just -- I remember giving him the facts, and we just didn't really talk about it.

Q. But you don't remember him being angry in any way?

A. No.

Q. Now, as part of your conversation with Roger Altman on that Friday, February 25th, you also raised Jay Stephens with him?

A. I don't remember doing that.

Q. You don't remember doing that?

A. No.

Q. Do you remember saying to Roger Altman that the President . . . was angry about the fact that Jay Stephens was hired?

A. I don't remember that.

Q. Do you remember talking to the President about the fact that Jay Stephens had been hired on the Madison matter?

A. Again, not before the conversation with Roger. I think it was just at the end of a day, after all this, I went to him and said, you know, "Here's what Roger said." And I probably reported that this is how the Jay Stephens thing got -- here's how he got picked -- it's something about a board. And that was it.

Q. Did he have any reaction to your statements about what you learned about Jay Stephens being picked?

A. No particular one, no.

.....

Q. Just so I understand it, you are clear that before your conversation with Roger Altman, you did not have a conversation with the President about Altman's recusal or about Jay Stephens?

A. I have no memory of any.¹⁴⁸⁹

Before the Senate Banking Committee, Stephanopoulos testified that "[a]ll I remember of the conversation is I suggest that you write a letter to the [P]resident, essentially explaining what happened, as a courtesy."¹⁴⁹⁰ Stephanopoulos said he had no discussion with Altman about the latter's decision to recuse himself.¹⁴⁹¹ He also testified he could not remember saying anything to Altman about the President's state of mind about either recusal or removing Stephens.¹⁴⁹²

During his September 8, 1995 grand jury appearance, Stephanopoulos testified as follows about his February 25 telephone conversation with Altman:

A. The only thing I remember about the conversation is, we discussed the New York Times recusal. Roger sort of explained what happened, and I suggested to him that he write the President a note explaining it to him.

Q. You asked Altman about how the recusal had happened?

A. No. I think he was calling to say how it happened.

.....

Q. On the subject of recusal, what did Altman say?

.....

A. Again, I don't remember the words. But it is irregular to let the newspaper know before you let your boss know, sure.

.....

¹⁴⁸⁹ Stephanopoulos 3/22/94 Fiske GJ at 42-46.

¹⁴⁹⁰ Stephanopoulos 7/19/94 Senate Banking Comm. Depo. at 49.

¹⁴⁹¹ Id. at 50.

¹⁴⁹² Stephanopoulos 3/22/94 Fiske GJ at 46-47; Stephanopoulos 9/8/95 GJ at 50, 52.

- Q. Did any other subject come up with him?
- A. I don't think so. I've read accounts since then about discussing Jay Stephens with him. I don't remember it in that conversation.
- Q. You don't remember any discussion with him about the hiring [of] Jay Stephens?
- A. No.
- Q. You don't remember saying anything to him during that conversation, or any other time on February 25th, with respect to the hiring of Jay Stephens?
- A. No. . . . As I've said in all the other testimony, I have no specific contemporaneous memory of that.
- Q. Do you remember specifically expressing to Mr. Altman any concern about the hiring of Jay Stephens?
- A. I just don't remember that, no.
- Q. Do you remember saying anything to Mr. Altman about the President's reaction to the hiring of Jay Stephens?
- A. No. I remember asking him to write the President a note explaining it, but not characterizing the President's reaction, because I hadn't talked to the President about it.
-
- Q. . . . with respect to Altman, do you remember ever discussing the subject of the hiring of Jay Stephens with Mr. Altman?
- A. I just don't, no.
- Q. So I take it that you also don't remember ever saying to Mr. Altman words to the effect of, "Can anything be done about the hiring of Jay Stephens?" or "Can this be undone?"
- A. Right, I just don't. I mean, again, hearing that he was hired by an independent board and bidding process, that is the end of it to me. I mean,

I know there's nothing to be done.¹⁴⁹³

Stephanopoulos remembered talking with the President about both the recusal and the Stephens retention, but said he was "sure it was after" his conversations with Altman and Steiner.¹⁴⁹⁴ About the President's reaction to both the issues, Stephanopoulos testified it was "[s]imilar to the way I have discussed my kind of resignation. He shrugged his shoulders. Nothing to be done."

10. Stephanopoulos Spoke with Steiner.

During his March 22, 1994 grand jury appearance, Stephanopoulos testified Steiner called him on February 25, 1994 to say that Altman told the New York Times that he would be recusing himself. Stephanopoulos also testified as follows:

A. I think in the course of that conversation, I had also found out that Jay Stephens had been involved in some way in the Madison investigation, so I asked him about that, what happened there.

Q. What did you say to him?

A. I don't remember the exact words. I know I wanted -- frankly, I couldn't understand how Jay Stephens had been chosen, and I wanted to know the facts.

....

Q. Do you remember how you learned that Jay Stephens had some role in connection with Madison?

A. I don't remember exactly. I mean, I knew -- you know, these things you just pick up during the day. I knew. I don't --

...

Q. Do you remember specifically what you asked Josh Steiner about Jay Stephens?

¹⁴⁹³ Stephanopoulos 9/8/95 GJ at 49-52, 65.

¹⁴⁹⁴ Id. at 54-55.

A. Again, I don't remember specifically. I know -- I just wanted the facts of how he was chosen because I expected we were going to get questions on it.

.....

Q. What did he tell you?

A. Again, I don't remember exactly. It was something along the lines of that it was some independent board and a bidding process.

Q. Do you remember anything else that occurred during that conversation?

A. I know that I -- you know, mostly I remember that I was just very puzzled. I just couldn't understand how somebody like Jay Stephens could get picked. I probably blew off some steam, asked him the facts, he gave me the facts, and that was that.

.....

Q. Do you remember asking him whether there was any way to get rid of Jay Stephens?

A. I don't remember that.

Q. You don't know one way or the other?

A. I just don't remember. I don't remember the words to the conversation. I knew I wanted to know the facts; I know that I was probably more expressive than I normally am; and I knew that once I got facts, that that was that, and we went on.

Q. When you say you don't remember that -- when I ask did you say that, I mean in words or in substance. Did you say to him in words or in substance, "Is there any way to get rid of this guy?"

A. Not that I can remember¹⁴⁹⁵

At his September 8, 1995 grand jury appearance, Stephanopoulos testified, in part, as follows:

Q. Were there any other topics raised during this conversation?

¹⁴⁹⁵ Id. at 34-39.

A. I think it was during the course of that conversation where I asked how Jay Stephens came to be hired.

Q. When did you learn that Jay Stephens had been hired?

A. I'm not sure. I assume it was either that day or at some point the day before. It had more or less even become common knowledge. I don't know how I found out, but I knew I knew that day.

....

Q. What did you say to Mr. Steiner about Jay Stephens being hired?

A. Again, I'll just preface it all with, I don't remember any of the exact words. How did this happen? How could a political opponent of the President be hired to investigate the President? It's a conflict of interest. I was very surprised, very puzzled.

....

Q. . . . Would you say that you were upset about it?

A. You only blow off steam if you're upset. I suppose so, yeah.

....

Q. Do you remember asking him, either expressly or implicitly, whether anything could be changed with respect to that hiring decision?

A. I don't remember that. I remember asking, "How did it happen? What was the process? How could something like this happen?"

Q. Do you remember asking Josh Steiner whether there was any way to get rid of Jay Stephens?

A. No.¹⁴⁹⁶

....

Q. . . . Do you remember ever, in any conversation with Josh Steiner, saying anything to the effect of "What can be done about this hiring of Jay Stephens?"

A. Again, not these words. I mean, I did want to know how it had happened. And I suppose somebody could construe that that's implied in the question about what happened. But I wanted the facts on, you know, "How did he

¹⁴⁹⁶ Stephanopoulos 9/8/95 GJ at 43-45, 47.

get hired."

.....

Q. You don't remember ever saying to him, "Can this be undone?" words to that effect?

A. No.¹⁴⁹⁷

Steiner said shortly after he told Podesta about the recusal decision, Stephanopoulos called him.¹⁴⁹⁸ He remembered the discussion as follows:

A. There were two subjects. The first was recusal, and I asked Stephanopoulos what he thought of Altman's decision. He said he thought it was unfortunate or a poor one. . . . The second issue related to Jay Stephens, and Stephanopoulos asked me how Stephens had come to be appointed. He expressed a view that it was inappropriate for him to have been appointed. He thought there was a conflict of interest that existed, and he asked whether anything could be done about it.

.....

On the issue of Jay Stephens, I explained how he came to be appointed, a similar description to the one that I provided to Podesta and Stern the week previously or sometime previously. I suspect I shared my view that it seemed inappropriate or outrageous and I also explained to him that there was nothing that could be done about it.¹⁴⁹⁹

Steiner told Altman about of his conversation with Stephanopoulos.¹⁵⁰⁰ Altman thought Steiner "had done the right thing in saying that nothing could be done about Jay Stephens."¹⁵⁰¹ When asked about whether Stephanopoulos suggested the Treasury Department needed to find a way to "get rid" of Stephens (as indicated in Steiner's diary entry), Steiner testified "I think Stephanopoulos asked if anything could be done about it. That's how I recall the

¹⁴⁹⁷ Id. at 64-65.

¹⁴⁹⁸ Steiner 8/25/95 GJ at 96-97.

¹⁴⁹⁹ Steiner 8/25/95 GJ at 97-98.

¹⁵⁰⁰ Id. at 98.

¹⁵⁰¹ Id. at 99.

conversation."¹⁵⁰²

At his March 21, 1994 interview, Steiner described Stephanopoulos's views about Stephens in these terms:

[Stephanopoulos] expressed outrage about the appointment and said that the RTC should get rid of him because [Stephens] had a huge conflict and, in view of his posture vis-à-vis [President Clinton], his having that position was outrageous. [Steiner] responded that it would be stupid and impolitic to try to do such a thing.¹⁵⁰³

Altman testified Steiner told him about his conversation with Stephanopoulos, and Steiner reported the conversation began with Stephanopoulos "saying something like, Josh, this is a conversation which never happened."¹⁵⁰⁴ Altman remembered saying to Steiner, "[T]hat's really silly, because there's no such thing as a conversation that never happened and these are people, obviously, who have never been deposed."¹⁵⁰⁵ Neither Steiner nor Stephanopoulos remembered the latter saying, "This conversation never happened."¹⁵⁰⁶ Steiner did remember that Altman made a comment like, "These people have never been deposed" or "These people have never been questioned under oath."¹⁵⁰⁷ Steiner said:

A. . . . I don't recall Stephanopoulos saying that to me. What you just said, it presents a credible scenario, or a plausible scenario as to why he might have said that. It's also plausible that he said that because at the time, we

¹⁵⁰² Id. at 138.

¹⁵⁰³ Steiner 3/21/94 Fiske Int. at 8. Also in contrast to his later grand jury testimony, Steiner told the grand jury on March 31, 1994 that Stephanopoulos "asked whether anything could be done to have [Mr. Stephens] no longer working on this case" Steiner 3/31/94 Fiske GJ at 62.

¹⁵⁰⁴ Altman 9/12/95 GJ at 167-68.

¹⁵⁰⁵ Altman 9/12/95 GJ at 168.

¹⁵⁰⁶ Steiner 3/15/94 Fiske Int. at 11; Steiner 3/31/94 GJ at 75; Stephanopoulos 9/8/95 GJ at 57; Stephanopoulos 3/22/94 GJ at 48.

¹⁵⁰⁷ Steiner 3/31/94 Fiske GJ at 75.

were concerned about congressional hearings or further congressional hearings. There was a Senate hearing -- a House hearing that we were anticipating a month later, and we were concerned about whether things under that circumstance would come up when you're effectively under oath. When you testify before Congress -- you are under oath when you testify before Congress, as far as I'm concerned. The scenario you've put forward is plausible. I just don't remember him saying that, because I don't. But it is possible that he did say it, and it's possible that that's why Altman said what he said.¹⁵⁰⁸

11. Other Witnesses' Testimony about Altman's Recusal, Stephens's Retention, and White House-Treasury Contacts about Those Subjects.

a. Michael Levy.

Michael Levy, who was then Assistant Secretary of the Treasury for Legislative Affairs, testified Steiner told him that he (Steiner) talked with Stephanopoulos about the Stephens retention, and that "he had to cool him down."¹⁵⁰⁹ Levy also said: "I don't remember at the time being told anything about the White House wanted him [i.e., Stephens] fired and, you know, anything like that. I don't remember any conversation at that time where I was told that. Now, I know I've heard conversations about this on television and in hearings. But I had no memory of a conversation at that time."¹⁵¹⁰

b. Mack McLarty.

Mack McLarty testified about a conversation he had with Stephanopoulos about Stephanopoulos's conversation with Steiner.¹⁵¹¹ McLarty said: "[H]e characterized the call as one that he was upset about, blowing off steam, and perhaps said things that he should not have

¹⁵⁰⁸ Id. at 75-76.

¹⁵⁰⁹ Levy 6/9/95 GJ at 73-74.

¹⁵¹⁰ Id. at 74.

¹⁵¹¹ McLarty 4/25/95 GJ at 147.

said, is how I remember it."¹⁵¹²

c. John Podesta.

Podesta testified he had a discussion with Stephanopoulos on February 25 or later about how Stephens was chosen.¹⁵¹³ Podesta testified Stephanopoulos expressed a "curiosity" about the procedure, so Podesta contacted Steiner the next week, and then reported back to Stephanopoulos.¹⁵¹⁴ Podesta did not remember Stephanopoulos at any point mentioning a desire to have Stephens removed from the Madison Guaranty matter.¹⁵¹⁵

d. President Clinton.

In sworn testimony given to the Office of Independent Counsel Robert Fiske, President Clinton recounted his conversation with Stephanopoulos about Altman's decision to recuse. When the President was asked if he expressed anger to Stephanopoulos about the recusal, he responded:

A. Yes, but not so much about that. I was angry about the whole situation. I thought it was -- had been -- that it had been -- I felt that the New York Times had distorted the facts and had blown it all out of proportions, and had characterized it in ways that were unfair.

Q. Did you express anger at the fact that Altman had recused himself?

A. I expressed anger at the fact that he was apparently making the decision based on the New York Times, a conversation with Hal [sic] Raines, rather than some objective decision that was the right thing to do. I later learned, I don't remember when, that Secretary Bentsen and others over there thought he should recuse. And as soon as I did, that was fine with me.

¹⁵¹² Id. at 147-48.

¹⁵¹³ Podesta 4/7/94 Fiske GJ at 26.

¹⁵¹⁴ Id. at 27.

¹⁵¹⁵ Id. at 25-28.

President Clinton did not remember telling Stephanopoulos to call Altman or anyone else about the recusal and his displeasure over it.¹⁵¹⁶ About the Stephens retention, the President testified:

Q. What was your reaction to the appointment of Jay Stephens?

A. I was angry and concerned.

.....

Q. Did you express that view to Mr. Stephanopoulos?

A. I did.

.....

Q. Did you ask Mr. Stephanopoulos to do what he could to get this changed?

A. No. What I remember asking Mr. Stephanopoulos is whether this had already -- was done. And my recollection is he said it was done. And so I just was left to fume about it.¹⁵¹⁷

President Clinton also testified he did not remember giving Stephanopoulos any instructions to call Altman or Steiner or anyone at the Treasury Department.¹⁵¹⁸ About whether he ever discussed with Stephanopoulos whether the latter made any such call, he testified:

A. . . . I've heard so much since then and read so much since then. I can't say for sure, but I do not believe that I am aware of exactly what contacts Mr. Stephanopoulos did or did not have with Treasury about which events.

Q. About Mr. Stephens?

A. That's correct. But I was very clear and I was very angry about it. I thought it was a bad decision then. I still think it's a bad decision.¹⁵¹⁹

¹⁵¹⁶ W. Clinton 6/12/94 Fiske Depo. at 58-59, 61.

¹⁵¹⁷ W. Clinton 6/12/94 Fiske Depo. at 63-64.

¹⁵¹⁸ Id. at 65.

¹⁵¹⁹ Id. at 66. Podesta testified he had "first-hand knowledge" of the President's views on the subject, because at a meeting sometime in March, the President said he thought the appointment was unfair in light of Stephens's prior conduct. Podesta 6/7/95 GJ at 89-90. Ickes

G. Hanson Talked with Steiner about the Stephens Retention.

Hanson testified she had a number of discussions with Steiner about the Stephens retention, although she could not remember the sequence or circumstances of the discussions.¹⁵²⁰ These discussions took place after the call from Eggleston on the afternoon of February 24,¹⁵²¹ Hanson remembered Steiner asking her if it was true that the RTC had hired Jay Stephens.¹⁵²²

At another point, Hanson said Steiner remarked to her, "Do you believe those guys, they want to see if they can get rid of Jay Stephens."¹⁵²³ Hanson's understanding of that remark was that Steiner had been talking with people at the White House (whom Steiner did not identify) about the Stephens retention, and that Steiner felt the White House was being foolish in trying to remove Stephens.¹⁵²⁴

Hanson testified that, Steiner also asked whether Independent Counsel Fiske could take

testified that in the February 25, 1994 time period the President expressed "grave concern" about the Stephens retention; he also said he probably told Stephanopoulos about his conversation with the President. Ickes 7/24/94 Senate Banking Comm. Depo. at 244-46. McLarty testified he never spoke with the President about Stephens, but he did walk into the Oval Office when "the President was discussing the Stephens appointment with Mr. Lindsey, expressing very much the same sentiment that I expressed to you [of concern]. And, as they concluded that visit, the President somewhat explained to me why he was concerned, knowing that I probably would not have the background of the Stephens appointment." McLarty 4/25/95 GJ at 145. McLarty described the President's reaction as one of surprise and concern. He also said that "[f]rustrated might be a proper adjective." Id. at 146 (McLarty "now believes that [Mr. Lindsey] remained in the Oval Office while [Mr. McLarty] discussed the hiring of [Mr. Stephens] with the President."). Lindsey testified, on the other hand, that he never had a talk with the President about the hiring of Stephens, and was never in his presence when the subject came up. Lindsey 3/24/94 Fiske GJ at 73.

¹⁵²⁰ Hanson 4/21/94 Fiske GJ at 120.

¹⁵²¹ Id. at 119.

¹⁵²² Id.

¹⁵²³ Id. at 120.

over the Madison Guaranty civil investigation.¹⁵²⁵ In response to a question from Hanson, Steiner confirmed the purpose of the step would be to remove Stephens.¹⁵²⁶ Hanson replied the idea had come up before; Fiske's charter probably included the civil matter, but the RTC did not have the power to cede the investigation to Fiske.¹⁵²⁷ Hanson also mentioned that if Congress pushed the issue, Fiske might have to take over the civil investigation.¹⁵²⁸

Hanson remembered another conversation involving Steiner and Levy in which Steiner said he was upset about the Stephens retention, and Hanson asked him who Stephens was.¹⁵²⁹ Steiner said Stephens was a former U.S. Attorney who had resigned his post at the request of the Clinton Administration.¹⁵³⁰ According to Hanson, Steiner said Kulka should be fired for retaining Stephens.¹⁵³¹

Steiner did remember asking either Hanson or Gross to check into how Stephens was retained.¹⁵³² He thought that Levy was in the room when he made that request.¹⁵³³ Steiner expressed the view during that meeting that Stephens was a "poor choice," and he pointed out

¹⁵²⁴ Id.

¹⁵²⁵ Id. at 121.

¹⁵²⁶ Id.

¹⁵²⁷ Id.

¹⁵²⁸ Id. at 121-22.

¹⁵²⁹ Hanson 9/29/95 GJ at 170; Hanson 4/21/94 Fiske GJ at 122. Levy did not remember Steiner saying that Kulka should be fired for retaining Stephens. Levy 6/9/95 GJ at 71-72. Both Levy and Steiner thought the Stephens hiring was outrageous. Id. Kulka testified she did not remember ever receiving any inquiry from anyone at the Treasury Department about Stephens's hiring. Kulka 5/5/95 GJ at 58-59. She said no one ever suggested to her that Stephens should not have been hired or that he should be removed. Id.

¹⁵³⁰ Hanson 4/21/94 Fiske GJ at 122.

¹⁵³¹ Hanson 9/29/95 GJ at 169-71; Hanson 4/21/94 Fiske GJ at 122.

¹⁵³² Steiner 8/24/95 Int. at 11-12; Steiner 7/19/94 Senate Banking Comm. Depo. at 226.

that Stephens had criticized the Clinton Administration, had a rough departure from his post as U.S. Attorney in the District of Columbia, and had considered seeking elective office.¹⁵³⁴ Steiner expressed his opinion that it was "incredible" that Stephens had been retained.¹⁵³⁵ He also had a vague memory that he asked Hanson whether the Madison Guaranty civil investigation could be delegated to Fiske, whom he thought would handle the matter in a nonpartisan fashion.¹⁵³⁶

1. Eggleston Wrote a Memorandum for Ickes That May Have Been Transmitted to the First Lady about Madison Guaranty, the RTC, the FDIC, and the Rose Law Firm.

On February 28, 1994, Eggleston sent Ickes a memorandum on the subject of "Whitewater -- FDIC and RTC Rose Law Firm Issues."¹⁵³⁷ The memo discussed the findings made by the FDIC and the RTC in their reports dealing with possible conflicts of interest by the Rose Law Firm in its representation of Madison Guaranty. It reported that at the February 24 Senate Banking Committee hearing, the FDIC Chairman and Altman both said they would have their agencies' respective Inspectors General review the conflicts issue.¹⁵³⁸ It also discussed the possible sanctions that could be imposed on the firm in the event of a determination that it had a

¹⁵³³ Steiner 7/19/94 Senate Banking Comm. Depo. at 226.

¹⁵³⁴ Id.

¹⁵³⁵ Id. at 366.

¹⁵³⁶ Id. at 228.

¹⁵³⁷ See Memo from W. Neil Eggleston, Associate Counsel to the President to Harold Ickes, Deputy Chief of Staff regarding Whitewater--FDIC and RTC Rose Law Firm Issues (Feb. 28, 1994) (Doc. No. 006-DC-00000014). Eggleston testified Ickes asked him to write his February 28 memo. Eggleston 5/4/96 Senate Banking Comm. Depo. at 47-48. Eggleston learned later (from information disclosed in the public hearings) that Ickes had apparently transmitted his memo to the First Lady. Eggleston 5/4/96 Senate Banking Comm. Depo. at 51-52.

¹⁵³⁸ See Memo from W. Neil Eggleston, Associate Counsel to the President to Harold Ickes, Deputy Chief of Staff regarding Whitewater--FDIC and RTC Rose Law Firm Issues (Feb. 28, 1994) (Doc. No. 006-DC-00000014).

conflict.¹⁵³⁹ Eggleston also set forth the status of the Madison Guaranty civil investigation, and furnished information about Ryan and Kulka, the two who would be making Madison-related decisions in the wake of Altman's recusal.¹⁵⁴⁰ The FDIC and RTC reports were attached to the memo.¹⁵⁴¹

A memo dated March 1, 1994 from Ickes to Mrs. Clinton that transmitted copies of the Eggleston memo and its attachments was produced to the OIC.¹⁵⁴² In addition to describing the attachments, the memo said:

It is my understanding that shortly after Roger Altman met with Bernie Nussbaum, me and others concerning the RTC statute of limitations, he received an opinion from an ethics officer of the Treasury Department that he, as the acting head of the RTC, did not have to recuse himself from matters involving Rose/Madison Guaranty. I will confirm this situation.

Please let me know if you want to discuss the attached.¹⁵⁴³

Ickes was not sure if he sent the memo to Mrs. Clinton.¹⁵⁴⁴ He testified that his March 1 cover memo was not on letterhead, nor was it initialed, which indicated it may not have been sent.¹⁵⁴⁵

¹⁵³⁹ See id.

¹⁵⁴⁰ See id.

¹⁵⁴¹ See id.

¹⁵⁴² See Memo from Harold Ickes, Deputy Chief of Staff, to the First Lady, regarding the Resolution Trust Corporation (Mar. 1, 1994) (Doc. No. 006-DC-00000013).

¹⁵⁴³ See id.

¹⁵⁴⁴ Ickes 9/5/95 GJ at 80-83. Mrs. Clinton vaguely remembered Ickes asking her if she wanted to know more about the RTC and the Rose Law Firm. H. Clinton 7/22/95 Depo. at 50. She said no. Id. Ickes may have had his memo in hand at the time or he may have tried to hand it to her, and she was not interested in it. Id. Ickes did not remember handing Mrs. Clinton the memo, asking her if she wanted to know more about Rose Law Firm and RTC issues, or her responding that she did not want to do so. Ickes 9/5/95 GJ at 84. She did not believe she looked through the memo until she was later prepared for questioning before the OIC. H. Clinton 7/22/95 Depo. at 50.

¹⁵⁴⁵ Ickes 9/5/95 GJ at 80-83.

He did not remember asking Eggleston for the February 28 memo, but he was sure he did so given the contemporaneous interest about the Rose Law Firm's possible conflicts in its representation of Madison Guaranty.¹⁵⁴⁶ Ickes remembered asking Eggleston to write about the issues that were involved with the conflicts question, and the February 28 memo may have been the culmination of that effort.¹⁵⁴⁷

The White House produced notes taken by Sherburne and Cheston about a summer 1994 discussion they had with Ickes's private counsel.¹⁵⁴⁸ Sherburne's notes read:

Late Feb (2/26 or 27), H[arold]I[ckes] has conversation w/ WJC in which WJC asks lots of Q's re RTC procedures, whether [(in margins) whether Rose cld be held liable] & HRC & WJC exposed. HI asked N[eil]E[ggleston] to draft memo, which NE did in 12 hours. HI minor revisions. Sends to HRC 3/1. DR discussing.

HRC asked HI a few questions. Think > received memo.¹⁵⁴⁹

Cheston's notes read:

2/27-3/1 Memos.

Late Feb, 2/26 or 27 prob'ly, HI -- conv w/ Pres -- had read WSJ article, -- asks sever qs re procedure RTC; can Rose, HRC, BC be held liable => HI asked NE to write memo.

Did w/in 12 hrs.

HI asked NE couple q's, follow up pts.

3/1 -> HRC only. No recall disc'g w/ her [(in margins) other than her asking cple

¹⁵⁴⁶ Id.

¹⁵⁴⁷ Id.

¹⁵⁴⁸ See Sherburne handwritten notes (undated) (Doc. No. 442-DC-00006540-41) (the reproduction of the notes in the text contains expansions of abbreviations); see also, Cheston handwritten notes (undated) (Doc. No. 442-DC-00006543) (the reproduction of the notes in the text similarly contains some expansions of abbreviations).

¹⁵⁴⁹ Sherburne handwritten notes (undated) (Doc. No. 442-DC-00006540-41) (the reproduction of the notes in the text contains expansions of abbreviations).

qs. Bef? Aft? Assume aft.] or sending to Pres.¹⁵⁵⁰

When shown these notes, Ickes testified that although he remembered speaking with the President and Mrs. Clinton about the Madison Guaranty statute of limitations issue, he did not remember having the conversation with the President described in both Sherburne's and Cheston's notes about the potential liabilities of the President, the First Lady, or the Rose Law Firm.¹⁵⁵¹ The notes did prompt Ickes to testify about the Eggleston memo that he knew that the FDIC and the RTC had reported about possible Rose Law Firm conflicts¹⁵⁵² and that he had read an article or editorial in the Wall Street Journal thereafter in February.¹⁵⁵³ He acknowledged the President may have read the same piece, and then may have asked Ickes some questions about it, but Ickes testified he did not remember.¹⁵⁵⁴ He also acknowledged that "based on those reports and [the Wall Street Journal piece], I had asked Eggleston to write a memo."¹⁵⁵⁵

Ickes also testified he did not remember if Eggleston prepared his February 28 memo in twelve hours, as the Sherburne/Cheston notes indicate.¹⁵⁵⁶ Nor did he remember making any revisions to the memo, but he may have.¹⁵⁵⁷ He testified again that he may have sent his March 1

¹⁵⁵⁰ Cheston handwritten notes (undated) (Doc. No. 442-DC-00006543) (the reproduction of the notes in the text similarly contains some expansions of abbreviations).

¹⁵⁵¹ Senate Whitewater Comm. Hearing, supra note 1043, at 180-82 (Feb. 22, 1996) (testimony of H. Ickes).

¹⁵⁵² Id. at 166, 180-82.

¹⁵⁵³ Id. at 180-82.

¹⁵⁵⁴ Id.

¹⁵⁵⁵ Id. at 180.

¹⁵⁵⁶ Id. at 166.

¹⁵⁵⁷ Id. at 167.

memo to the First Lady, but he did not remember.¹⁵⁵⁸ Contrary to the indication contained in the Sherburne/Cheston notes, Ickes claimed not to remember the First Lady asking questions about the memo.¹⁵⁵⁹

Ickes explained the differences between his testimony and the Sherburne/Cheston notes by stating that he was not present for their discussion with his counsel; therefore, he did not know what was said, whether what his attorney said was accurate, and whether Sherburne and Cheston accurately took down what was said.¹⁵⁶⁰ Similarly, Sherburne testified she thought Ickes's counsel was providing information she had collected from a variety of sources, and that she (Sherburne) did not know the source of counsel's information on these items.¹⁵⁶¹

2. White House Officials Discussed the Accuracy of Altman's Testimony.

As early as Friday, February 25, 1994 -- the same day the New York Times published its front-page article critical of the February 2 White House meeting -- but in any event by Monday, February 28, a series of meetings was held at the White House about the accuracy of Altman's February 24 Senate Banking Committee testimony.¹⁵⁶² During that period, each of the following individuals participated in one or more of those meetings: Neil Eggleston, Harold Ickes, Joel Klein, Bruce Lindsey, Bernard Nussbaum, John Podesta, Clifford Sloan, and Todd Stern.¹⁵⁶³

¹⁵⁵⁸ Id.

¹⁵⁵⁹ Id. at 168.

¹⁵⁶⁰ Id. at 185.

¹⁵⁶¹ Id. at 187.

¹⁵⁶² Klein 5/31/95 GJ at 71-73; Lindsey 3/24/94 Fiske GJ at 89-91; Eggleston 3/31/94 Fiske GJ at 103-105; Podesta 7/22/94 Senate Banking Comm. Depo. at 98; Stern 5/2/94 Fiske Int. at 3; Nussbaum 3/17/94 Fiske GJ at 131-32.

¹⁵⁶³ Sloan 7/21/94 Senate Banking Comm. Depo. at 105-06; Klein 5/31/95 GJ at 71-73; Lindsey 3/24/94 Fiske GJ at 89-90; Eggleston 3/31/94 Fiske GJ at 105-06; Podesta 7/22/94

On the afternoon of March 1, 1994, a lengthy meeting about Altman's testimony was held in Podesta's office. In attendance were Podesta, Nussbaum, Eggleston, Sloan, and Klein.¹⁵⁶⁴ Lindsey was asked to join.¹⁵⁶⁵ The White House's concerns over Altman's testimony boiled down to three issues. First, Altman had testified before the Senate that he had requested the February 2 White House meeting with Nussbaum.¹⁵⁶⁶ Nussbaum noted he had merely been asked to come to the February 2 meeting -- in other words, it was not "his" meeting.¹⁵⁶⁷

Second, there was concern that Altman's answers to Senator Bond's questions were inaccurate given the fall contacts. Sloan explained to the group what had happened at the September 29 and October 14 White House meetings.¹⁵⁶⁸ He also mentioned his fall 1993 telephone contacts with Hanson, but the discussion centered on the in-person meetings at the White House.¹⁵⁶⁹ After discussion, the group came to the conclusion that it did not know whether Altman knew about the fall meetings, but Hanson clearly did.¹⁵⁷⁰ The group concluded Altman's answers to Senator Bond's questions would have to be corrected by disclosing the fall

Senate Banking Comm. Depo. at 98; Stern 5/2/94 Fiske Int. at 3; Nussbaum 3/17/94 Fiske GJ at 131-32.

¹⁵⁶⁴ Stern 5/2/95 Int. at 1; Klein 5/31/95 GJ at 85-86 (Klein also testified that Dee Dee Myers was present at attorney meetings); Podesta 7/22/94 Senate Banking Comm. Depo. at 103-06; Sloan 7/21/94 Senate Banking Comm. Depo. at 105-07.

¹⁵⁶⁵ Podesta 7/22/94 Senate Banking Comm. Depo. at 104 ("joined by Lindsey").

¹⁵⁶⁶ Altman 2/24/94 Senate Banking Comm. Depo at 149.

¹⁵⁶⁷ Nussbaum 7/8/94 RTC-OIG Int. at 28.

¹⁵⁶⁸ Sloan 4/7/94 Fiske GJ at 83.

¹⁵⁶⁹ Id. at 83-84; see Memo from Bruce Lindsey, White House Advisor, to File regarding Whitewater Development Corporation (Oct. 20, 1993) (Doc. No.008-DC-00000083).

¹⁵⁷⁰ Podesta 4/7/94 Fiske GJ at 33; Sloan 4/7/94 Fiske GJ at 83-84; Nussbaum 3/17/94 Fiske GJ at 133; Eggleston 3/31/94 Fiske GJ at 104-05; Klein 7/23/94 Senate Banking Comm. Depo. at 149.

meetings.¹⁵⁷¹

The third item of concern was Altman's failure at the Senate hearings to disclose that he had discussed his possible recusal at the February 2 meeting. Altman had described that meeting to the Senate Committee as a "procedural briefing" and the group discussed whether Altman's description adequately covered recusal.¹⁵⁷² It was determined that from a political perspective alone, Altman's failure to mention his recusal discussion could look as if he were trying to conceal it.¹⁵⁷³ The group decided to mention this point to Altman so he could decide whether to amend his testimony.¹⁵⁷⁴ The group determined Podesta would call Altman and raise the White House's concerns with his February 24 Senate testimony.¹⁵⁷⁵ During the March 1 meeting, Gearan spoke to Podesta outside of the meeting and told him that Ann Devroy, a reporter with the Washington Post, found out about the October 14 White House meeting and was asking about it.¹⁵⁷⁶

a. Podesta and Altman Spoke about Altman's Testimony.

Late on March 1, 1994, Podesta spoke by telephone with Altman.¹⁵⁷⁷ Podesta told Altman

¹⁵⁷¹ Podesta 4/7/94 Fiske GJ at 33.

¹⁵⁷² Id. at 31, 33-34.

¹⁵⁷³ Id. at 34.

¹⁵⁷⁴ Id.

¹⁵⁷⁵ Id. Although it was not clear that Podesta was the first to raise the point about how the February 2 meeting was set up, he certainly was the first to point out the issues of the fall contacts and recusal. Id. at 31.

¹⁵⁷⁶ Klein 5/31/95 GJ at 93, 95.

¹⁵⁷⁷ Podesta 4/7/94 Fiske GJ at 36. Altman remembered Podesta called the same afternoon the press started inquiring about the White House contacts. Altman 9/12/95 GJ at 174-75. Podesta reported that the White House was "concerned about the other two meetings." Altman 3/22/94 Fiske GJ at 21, 23. When Altman asked, "What other two meetings," Podesta answered, "Well, you know, the other two meetings." Altman 3/22/94 Fiske GJ at 23. Altman

that the White House was reviewing his testimony, was concerned about a few items, and wanted Altman to think about supplementing his testimony.¹⁵⁷⁸ On the recusal issue, Altman said he wanted to have discussions with staff at the Treasury Department about his failure to mention the recusal portion of his February 2 meeting at the White House.¹⁵⁷⁹ He said he had intended to mention recusal at the hearings, but simply forgot and then did not get back to that point during the hearings.¹⁵⁸⁰ The two then discussed whether recusal was included within Altman's description of the February 2 briefing as "procedural"; Altman said he was comfortable with his prior testimony, but that he would think about it and talk with his staff.¹⁵⁸¹

When it came to the fall contacts issue, Podesta read Senator Bond's questions and Altman's answers from the transcript.¹⁵⁸² Altman said his answer was accurate.¹⁵⁸³ Podesta responded he assumed it was and that Altman had no knowledge of any other contacts -- but that other people in Treasury may have further information that ought to be in the record.¹⁵⁸⁴ Altman seemed to understand there might have been meetings of which he was unaware and, therefore,

then said he had no knowledge of any other meetings. Id. Altman testified there was a long pause in the discussion, which ended when Podesta asked, "You don't know about the other meetings?" Id. at 23. Altman testified it was during this conversation with Podesta that he first learned about additional meetings. Id. at 22. On the recusal issue, Altman did not remember Podesta raising it, but he had no reason to doubt him on that score. Altman 9/12/95 at 172-73.

¹⁵⁷⁸ Podesta 4/7/94 Fiske GJ at 36.

¹⁵⁷⁹ Id. at 37.

¹⁵⁸⁰ Id.

¹⁵⁸¹ Id.

¹⁵⁸² Id.

¹⁵⁸³ Id.

¹⁵⁸⁴ Id.

had not disclosed.¹⁵⁸⁵ Altman said his testimony was accurate, and that he was not sure that he wanted to know more about other meetings.¹⁵⁸⁶ Podesta asked if Hanson had been at the hearings with Altman, and Altman confirmed she had.¹⁵⁸⁷ Podesta then said Altman should go over his testimony with Hanson, and consider supplementing the record.¹⁵⁸⁸ Podesta did not think he mentioned the September 29 and October 14 meetings in this discussion.¹⁵⁸⁹

b. Podesta Reported to Other White House Officials on His Phone Call with Altman.

Podesta reported to a number of people in the White House about his telephone call with Altman.¹⁵⁹⁰ Nussbaum testified Podesta told him that Altman said he had no knowledge at the time of his testimony about other contacts.¹⁵⁹¹ Nevertheless, Altman would advise the Senate.¹⁵⁹² On recusal, Podesta reported Altman thought his testimony was accurate, but he would clarify any ambiguity when he testified in the future about this meeting.¹⁵⁹³

¹⁵⁸⁵ Id.

¹⁵⁸⁶ Id. at 38.

¹⁵⁸⁷ Id.

¹⁵⁸⁸ Id.

¹⁵⁸⁹ Id. at 39. Podesta also mentioned the first issue the White House group had discussed at its meeting earlier on March 1 – that is, whether the February 2 meeting was set up by Nussbaum. Id. at 31. Podesta told the grand jury if Altman had not corrected his testimony about the fall contacts, the White House would have. Id. at 59. Nussbaum confirmed that point. Nussbaum 3/17/94 Fiske GJ at 138.

¹⁵⁹⁰ Podesta 4/7/94 Fiske GJ at 40-41.

¹⁵⁹¹ Nussbaum 3/17/94 Fiske GJ at 134-35.

¹⁵⁹² Id. at 135.

¹⁵⁹³ Nussbaum 3/17/94 Fiske GJ at 135; Eggleston's and Klein's memories of the briefing about Podesta's telephone call with Altman were consistent with Nussbaum's. Eggleston 3/31/94 Fiske GJ at 111; Klein 5/31/95 GJ at 99. Sloan testified Klein told him that when Podesta started to tell Altman the White House knew of prior meetings, Altman stopped him in mid-stride and said he did not know anything about that. Sloan 4/7/94 Fiske GJ at 86. Sloan did not know

c. Altman Discussed Podesta's Call with Treasury Department Staff.

After his call with Podesta, Altman asked Steiner and Hanson if there were White House-Treasury meetings other than what he had disclosed.¹⁵⁹⁴ Both confirmed there were.¹⁵⁹⁵ Altman did not then ask them further about the meetings.¹⁵⁹⁶ Altman felt that his surprised reaction to Podesta, Steiner, and Hanson should have made it clear to them that he had not previously been aware of the fall contacts.¹⁵⁹⁷

Hanson testified that on the afternoon of March 1,¹⁵⁹⁸ she was called to Altman's office and joined a number of people there.¹⁵⁹⁹ Altman raised the White House's concern about his answer to Senator Bond's question about meetings with the White House.¹⁶⁰⁰ Hanson remembered that when he found out about the two fall meetings, Altman asked, "I didn't know anything about these, did I?"¹⁶⁰¹ Everyone at the meeting agreed he did not, including Hanson.¹⁶⁰²

During this meeting in Altman's office (Hanson did not remember when), Altman was on

whether anyone at the White House ever reminded anyone at Treasury about Sloan's telephone calls with Hanson in the fall of 1993. Id. at 84-85.

¹⁵⁹⁴ Altman 3/22/94 Fiske GJ at 23; Altman 9/12/95 GJ at 174.

¹⁵⁹⁵ Altman 3/22/94 Fiske GJ at 23; Altman 9/12/95 GJ at 174.

¹⁵⁹⁶ Altman 3/22/94 Fiske GJ at 23-24. Altman claimed press accounts were his source of any further information about the September 29 and October 14 meetings. Id. at 26.

¹⁵⁹⁷ Id. at 24. Altman did not believe, though, that there was a specific conversation with Steiner and Hanson about whether Altman had previously been told about the fall meetings. Id.

¹⁵⁹⁸ Hanson 9/29/95 GJ at 144-45; Hanson's testimony about this date varied over time; earlier, she had testified this meeting took place on March 2 or 3, 1994. Hanson 4/21/94 Fiske GJ at 116.

¹⁵⁹⁹ Hanson 9/29/95 GJ at 143-45.

¹⁶⁰⁰ Hanson 4/21/94 Fiske GJ at 116.

¹⁶⁰¹ Hanson 9/29/95 GJ at 160.

¹⁶⁰² Id.

the telephone with Podesta, and Altman turned to Hanson.¹⁶⁰³ Altman said he understood from Podesta that Nussbaum remembered Hanson had spoken with him in the fall.¹⁶⁰⁴ Hanson responded, "Oh, yes, I spoke with him by telephone."¹⁶⁰⁵ Altman said Podesta told him Nussbaum remembered it was an in-person meeting after a meeting on Waco.¹⁶⁰⁶ Hanson testified that at that point, she got on the phone with Podesta.¹⁶⁰⁷ During their discussion, Hanson agreed it was an in-person meeting after the Waco meeting.¹⁶⁰⁸ Hanson also thought Podesta raised the October 14 meeting with Altman during this conversation.¹⁶⁰⁹ Hanson claimed not to remember what details were discussed on March 1 about the substance or circumstances of the October 14 meetings.¹⁶¹⁰

Hanson also remembered that during the meeting an opinion was offered that Altman's answers were alright because Senator Bond had asked about the RTC meeting with the White House -- not the Treasury Department.¹⁶¹¹ Hanson said although Altman's answers might technically be accurate, they would have to be supplemented because they did not address the

¹⁶⁰³ Id. at 144.

¹⁶⁰⁴ Id. at 146.

¹⁶⁰⁵ Id.

¹⁶⁰⁶ Id.; Hanson 7/17/94 Senate Banking Comm. Depo. at 687.

¹⁶⁰⁷ Hanson 9/29/95 GJ at 146-47; Podesta did not remember speaking with Hanson. Podesta 6/7/95 GJ at 74. Nor did he recall that he discussed either of the fall meetings with Altman. Podesta 4/7/94 Fiske GJ at 39; Podesta 6/7/95 GJ at 71. He also did not remember any disagreement with Treasury about Nussbaum's version of the September 29 meeting. Id. at 93.

¹⁶⁰⁸ Hanson 9/29/95 GJ at 146-47; Hanson 7/17/94 Senate Banking Comm. Depo. at 687.

¹⁶⁰⁹ Hanson 9/29/95 GJ at 147.

¹⁶¹⁰ Id.

¹⁶¹¹ Hanson 9/29/95 GJ at 150. She remembered Levy thought the answer did not need to be supplemented. Id.

spirit of the questions.¹⁶¹²

d. Hanson Prepared Questions and Answers for Herself about the Fall Contacts.

On the night of March 1, 1994, Hanson tried to reconstruct the fall contacts to help respond to Senator Bond's questions.¹⁶¹³ She drafted some questions and answers for herself, part of which dealt with her September 29, 1993 White House meeting with Nussbaum and Sloan:

Q: Who in Treasury or the RTC knew that you had this conversation?

A: I don't recall that I told anyone of the conversation.

Q: Did you tell Altman?

A: No.

Q: Did anyone ask you to have this conversation?

A: No.¹⁶¹⁴

Hanson thought those responses were accurate when she prepared them.¹⁶¹⁵

e. A Story about the Fall Meetings Was Published in the Washington Post.

On March 2, 1994, both the White House and Treasury learned the Washington Post intended to publish a story the next day about additional meetings with White House and Treasury participants. Podesta testified that on March 2, the Post asked the White House about the October 14 meeting.¹⁶¹⁶ He called Steiner, hoping that Altman's Senate testimony would be

¹⁶¹² Id. at 149-50.

¹⁶¹³ Id. at 151.

¹⁶¹⁴ See Questions and Answers drafted by Hanson at 2 (Mar. 1, 1994) (Doc. No. 005-DC-00000038); see also Hanson 9/29/95 GJ at 151-52.

¹⁶¹⁵ Hanson 9/29/95 GJ at 152.

¹⁶¹⁶ Podesta 5/7/94 Fiske GJ at 40.

corrected before the story ran the next day.¹⁶¹⁷ He thought that he did not actually reach Steiner, and asked either Eggleston or Stern to ensure that his concern was relayed to the Treasury Department.¹⁶¹⁸ Later that night, Podesta learned Altman had spoken with Senator Riegle, Chairman of the Senate Banking Committee, and had sent a letter to the Committee.¹⁶¹⁹

Altman testified that on the same afternoon he received the call from Podesta, he found out that the press knew about the fall meetings and a story would be printed the next day.¹⁶²⁰ Post reporters called Treasury that day, described what they knew about the two meetings, and asked for comments.¹⁶²¹ The press inquiry spurred a meeting at Treasury to discuss the agency's response; at all or parts of the meeting were Altman, Hanson, Gross, and Levy, Schloss and Nye.¹⁶²²

According to Schloss, Altman said he had not known about those meetings, which Hanson did not contradict.¹⁶²³ Hanson said the fall meetings were in the context of press inquiries

¹⁶¹⁷ Id. Schloss remembered he learned on March 2 -- possibly from Steiner -- that the next day the Washington Post was going to publish a story about two additional meetings. Schloss 6/14/95 Int. at 10-11.

¹⁶¹⁸ Podesta 4/7/94 Fiske GJ at 41.

¹⁶¹⁹ Id.

¹⁶²⁰ Altman 9/12/95 GJ at 174-75.

¹⁶²¹ Schloss 6/14/95 Int. at 10-11.

¹⁶²² Id. at 11-12; Schloss 6/27/95 GJ at 50-52.

¹⁶²³ Schloss 6/14/95 Int. at 11-12; Schloss 6/27/95 GJ at 54-55. Hanson testified that on March 2, 1994, she was called into Altman's office and told that a story would appear in the press the next day about the two fall meetings. Hanson 9/29/95 GJ at 153-54. Hanson also testified that Steiner asked her to tell Secretary Bentsen that an article was going to be printed in the next day's Washington Post. Id. at 156. Hanson did meet with the Secretary, and told him that an article was coming out about two fall meetings. Id. Bentsen asked if he had known about the fall meetings, and Hanson responded she did not believe he had. Id.

or anticipated inquiries.¹⁶²⁴ She said that after a White House meeting about the Waco incident,¹⁶²⁵ she had taken Nussbaum and/or Sloan aside and told them there were RTC criminal referrals mentioning the Clintons as witnesses; she told them that everything leaked from the RTC.¹⁶²⁶ She said she told the White House about the referrals because she wanted them to know there might be a problem.¹⁶²⁷ Schloss learned that the second fall meeting was prompted by an inquiry from Jeff Gerth of the New York Times.¹⁶²⁸ Schloss did not remember any discussion about Hanson's telephone calls with the White House during the fall of 1993.¹⁶²⁹

f. Hanson Had Two Telephone Conversations with DeVore on March 2, 1994.

On March 2, Hanson had two telephone conversations with DeVore to ascertain what he remembered about the October 14 meeting.¹⁶³⁰ Steiner, Levy, Nye, and Schloss participated in the calls.¹⁶³¹ Hanson took notes, which reflect DeVore saying, "Told about referral as a 'leak' & told him -- told the White House of inquiry."¹⁶³² Steiner remembered DeVore said he had received a call on a Monday from a reporter about the October 14 meeting.¹⁶³³ He did not

¹⁶²⁴ Schloss 6/14/95 Int. at 11; Schloss 6/27/95 at 50, 53.

¹⁶²⁵ Schloss 6/27/95 GJ at 50.

¹⁶²⁶ Id.

¹⁶²⁷ Id.

¹⁶²⁸ Id.

¹⁶²⁹ Id. at 62.

¹⁶³⁰ Hanson 9/29/95 GJ at 154. The second call was necessary because the first was interrupted. Id. at 154-55.

¹⁶³¹ Hanson 7/17/94 Senate Banking Comm. Depo. at 690; Hanson 9/29/95 GJ at 154.

¹⁶³² See Hanson handwritten notes (Mar. 2, 1994) (Doc. No. 007-DC-00000153) (about her conversation with DeVore).

¹⁶³³ Steiner 7/18/94 Senate Banking Comm. Depo. at 42-43.

remember who set up the meeting, but he recalled Lindsey participated.¹⁶³⁴ DeVore said he learned at the meeting that the RTC's criminal referrals on Madison Guaranty were sent out the previous Friday.¹⁶³⁵ DeVore said he told the reporter the referrals had gone out and that he had discussed the matter with the White House.¹⁶³⁶ Steiner took notes of the conversation, which read, in part, "Jack DeVore also told reporter that he had also informed the White House."¹⁶³⁷

DeVore recalled the March 2 conversation. He was told the lead story in the next day's Washington Post was going to be about the two fall meetings.¹⁶³⁸ They discussed their memories of the October 14 meeting.¹⁶³⁹ Hanson and Steiner had difficulty remembering details of the meeting, as did DeVore.¹⁶⁴⁰ DeVore remembered he had learned that the criminal referral had been sent.¹⁶⁴¹ DeVore, Steiner, and Hanson tried to figure out whether Hanson had provided that information; Hanson did not believe she had done so.¹⁶⁴²

g. Altman Wrote a Letter to Senator Riegle on March 2.

Altman testified that once he found out about the fall meetings, he became concerned about the accuracy of his Senate testimony, and wrote a letter to Senator Riegle stating that he

¹⁶³⁴ Id. at 57.

¹⁶³⁵ Final Report of Robert B. Fiske Jr., Independent Counsel: In re: Madison Guaranty Savings & Loan Association at 18-19 (D.C. Cir. [Spec. Div.] Oct. 6, 1994)(under seal).

¹⁶³⁶ Steiner 8/25/95 GJ at 23.

¹⁶³⁷ See Steiner's handwritten notes (undated) (Doc. No. 007-DC-00003321).

¹⁶³⁸ DeVore 4/14/94 Fiske GJ at 49-50.

¹⁶³⁹ Id.

¹⁶⁴⁰ Id. at 50-51.

¹⁶⁴¹ Id. at 51.

¹⁶⁴² Id. DeVore also testified that on March 3, 1994, he told Secretary Bentsen (in response to a question from the Secretary, who was drafting a release about the contacts

had just learned about the fall meetings with the White House.¹⁶⁴³ The letter disclosed the two fall White House meetings.¹⁶⁴⁴ Altman called Senator Riegle before sending the letter.¹⁶⁴⁵ Altman told the Senator that he had just learned about the fall meetings.¹⁶⁴⁶ Altman said the two agreed the hearings should be reopened.¹⁶⁴⁷ Altman also called Senator Bond and told him about the fall meetings.¹⁶⁴⁸

Altman's March 2 letter read:

I testified before your Committee last Thursday in connection with the semi-annual Oversight hearings on the RTC. There was a discussion, as you remember, of a meeting, which I had with representatives of the White House. As I indicated, no non-public information was provided at that meeting on any aspect of the Madison Guaranty matter.

When Senator Bond asked me at that hearing whether any other communications had taken place between the RTC and the White House, my response was "not to my knowledge". I still have no knowledge that any such discussions occurred.

But, I have learned today of two conversations which did take place between Treasury staff and White House personnel on this matter. My information is that both related to the handling of press inquiries.

I would appreciate the opportunity to amend the record accordingly.¹⁶⁴⁹

revelations) that he (DeVore) had not briefed Secretary Bentsen about the October 14 meeting. DeVore 7/20/94 Senate Banking Comm. Depo. at 108-09.

¹⁶⁴³ Altman 3/22/94 Fiske GJ at 109; Altman 9/12/95 GJ at 178.

¹⁶⁴⁴ Altman 3/22/94 Fiske GJ at 109-10.

¹⁶⁴⁵ Altman 9/12/94 GJ at 174.

¹⁶⁴⁶ Id.

¹⁶⁴⁷ Id. at 174-75. That step was not taken, though, because the Independent Counsel became involved in the matter. Id. at 175; Altman 9/7/95 Int. at 26.

¹⁶⁴⁸ Altman 9/12/94 GJ at 175; Altman 3/22/94 Fiske GJ at 110-11.

¹⁶⁴⁹ See Letter from Roger C. Altman, then Interim CEO of the RTC, to the Honorable Donald W. Riegle Jr. (Mar. 2, 1994) (Doc. No. 001-DC-00000322). Hanson testified that a decision was made to notify Senator Riegle about the fall contacts before the public learned about them through the press. Hanson 9/29/95 GJ at 157-58. Hanson said during conversations at Treasury about the March 2 letter to Senator Riegle, there was no discussion about Altman's

Among other things, the March 2 letter expressed Altman's view that his February 2 discussion of his possible recusal did not implicate non-public information about substantive aspects of the Madison Guaranty matter, because he did not view recusal as a substantive issue.¹⁶⁵⁰

About the discussion of the statute of limitations governing Madison-related civil claims, Altman felt they were public as of February 2 because, according to him, both Congress and news organizations already had received the same information.¹⁶⁵¹ Altman felt that the fall meetings were not "substantive" because they were about press inquiries.¹⁶⁵² Altman testified he understood the fall contacts both were about press inquiries regarding the referrals, and that he thought his March 2 letter accurately conveyed the information as he knew it, even though he did not mention in the letter that the White House was notified about the referrals.¹⁶⁵³

failure to mention that he had discussed his possible recusal at his February 2 White House meeting. Id. at 158. Nor did that topic arise in the preparation of any of Altman's later correction letters. Id. at 159. Hanson testified she never discussed with Altman his failure to mention the recusal point in his testimony or later letters of correction. Id. at 158-59. The reason offered was that the purpose of the March 2 correction letter was to notify Senator Riegle about the fall meetings before he learned about them from the press. Id. at 159. She thought that once he received and reviewed a transcript of his testimony, Altman would make a complete correction to his testimony, including an addition of the recusal point. Id. Further, there was no discussion on March 2 about whether the February 3, 1994 meeting or other contacts needed to be disclosed to the Committee. Id. at 159-60.

Steiner testified he reviewed the March 2 letter, and was concerned because the letter did not disclose his February 16 conversation with Stephanopoulos. Steiner 7/19/94 Senate Banking Comm. Depo. at 216-21. Steiner thought he communicated this concern to a Treasury attorney and was told that the purpose of this letter was not to provide all the contacts that had taken place but to amend what Altman remembered at this time. Id. at 219. Steiner also generally expressed his view that it would be better to wait until all the facts were gathered before sending a letter that might be incomplete and have to be supplemented. Id. at 218.

¹⁶⁵⁰ Altman 3/22/94 Fiske GJ at 110-11.

¹⁶⁵¹ Id. at 111. Altman testified that The Washington Times had by February 2 already published a story about statute of limitations procedures. Id.

¹⁶⁵² Altman 9/12/95 GJ at 180.

¹⁶⁵³ Id.

h. Altman Wrote a Second Letter to Senator Riegle on March 3 Correcting His Testimony.

The Washington Post did publish a story on March 3, 1994 that revealed the fall White House-Treasury meetings.¹⁶⁵⁴ Later that day, Altman sent a second letter to Senator Riegle, which read as follows:

As you know, I testified before your Committee last week in connection with the semi-annual Oversight hearings on the RTC. I was asked about any contacts, which I had with representatives of the White House on RTC matters and described a meeting, which I had.

I would like to expand the records as follows. First, to the best of my recollection, no non-public information was provided on this case to representatives of the White House during that discussion. Second, it is my understanding that RTC staff had already had discussions with Senator D'Amato's staff on statute of limitations issues. Third, the Treasury General Counsel, who also attended the meeting, has advised me that before that meeting she sat down with this Department's designated Ethics Officer. She informed him of the purposes of the meeting and asked his view. He advised her that he saw no problem.

In short, there was no discussion whatsoever on the substance of this case. That's because I never have had, nor have, any knowledge of the substance. I have received no documents in that regard, nor otherwise received any information on the substance of this matter.¹⁶⁵⁵

Altman testified this letter was designed primarily to deal with the additional controversy that developed after publication of the March 3 Washington Post story.¹⁶⁵⁶ Altman wanted to rebut publicly certain points, conveying the following: (1) No non-public information was transmitted to the White House on February 2; (2) Senator D'Amato's staff had already received the same information given to the White House on February 2, and; (3) Dennis Foreman, the

¹⁶⁵⁴ Ann Devroy & Susan Schmidt, Treasury Officials Told White House Status of S&L Probe, Wash. Post, Mar. 3, 1994, at A1.

¹⁶⁵⁵ See Letter from Roger Altman, then Interim CEO of the RTC, to the Honorable Donald W. Riegle, Jr. (Mar. 3, 1994) (Doc. No. 001-DC-00000323).

¹⁶⁵⁶ Altman 9/12/95 GJ at 186.

Treasury Department's designated ethics officer, cleared the February 2 meeting in advance.¹⁶⁵⁷

Hanson testified that on March 2, during a conversation with her private counsel, she first remembered Altman's request that she meet with Nussbaum about the criminal referrals.¹⁶⁵⁸

Hanson said she did not share this new recollection with Altman, nor did she attempt to add this information to the March 3 letter because that "wasn't the context of this letter."¹⁶⁵⁹

i. Altman Wrote a Third Letter to Chairman Riegle.

On March 11 Altman sent Riegle the following letter:

When I testified before your Committee twelve days ago, I was asked about contacts with White House personnel on any aspect of the Madison Guaranty matter. I cited one meeting, which addressed only generic RTC procedures, which would have applied to any case involving a statue [sic] of limitations. There was no substantive discussion of the case itself. Indeed, that would have been impossible because I know nothing of the substance of the case. I've never received a single document or a word of briefing on it.

For obvious reasons, I have been reviewing all my files and other information, which could possibly pertain to this matter. I would like to amend the record to reflect one additional contact. One or two days after my meeting, there was a very brief discussion on the issue of recusal. There was no discussion whatsoever of the case itself. The conversation lasted five minutes or less and included me and

¹⁶⁵⁷ Id. at 186-87. Altman had only recently learned the last point from Hanson. Id. at 187. Hanson testified she filled Altman in on the Foreman clearance the same afternoon as this letter was written, i.e., on March 3. Hanson testified this letter was drafted late on March 3, after a telephone conversation Altman had with Chairman Riegle, the substance of which Hanson could not remember. Hanson 9/29/95 GJ at 161. As the letter was being prepared, Hanson recalled she had spoken with Foreman before the February 2 White House meeting, and she gave that information to Altman for use in the letter. Id. Foreman testified he realized after reading the press and Altman's testimony that the talking points Hanson had asked him to review were for use during the February 2 meeting at the White House. Foreman 8/24/94 Senate Banking Comm. Depo. at 13-15. Thereafter, he related he had reviewed the talking points before the meeting. Foreman 6/27/94 Fiske GJ at 81. He took no part in drafting the March 3 letter, though, and he testified he would not have worded the letter as it was, because it implied there was a more involved discussion of the talking points than actually took place. Id. at 81-83.

¹⁶⁵⁸ Hanson 9/29/95 GJ at 164.

¹⁶⁵⁹ Id. at 164-65.

Harold Ickes of the White House staff. There may have been one or two others in the room, but I cannot recall.

The purpose of both meetings was to provide notification.
At neither meeting did I seek advice, nor was it given.

I am sending this letter immediately to be sure that the record is as complete as possible.¹⁶⁶⁰

Altman had originally prepared a draft of this letter on March 8, but that version was not sent.¹⁶⁶¹ The final March 11 letter was essentially the same as the March 8 letter, except for the addition of the two underlined sentences.¹⁶⁶² Altman testified he wrote this letter because the atmosphere had become so superheated he felt he should disclose even incidental meetings because even they could be treated as huge events.¹⁶⁶³ In his words, the threshold of what constituted a contact had become considerably lower than he originally thought.¹⁶⁶⁴ Altman testified he did not include his conversation with McLarty on February 2 because it was "trivial," a word he says was used by the White House to describe other contacts and possibly this contact, and a description that he agreed with.¹⁶⁶⁵ Altman testified he did not think about whether to

¹⁶⁶⁰ Letter from Roger C. Altman, then Interim CEO of the RTC, to the Honorable Donald Riegle (Mar. 11, 1994) (Doc. No. 001-DC-00000489) (emphasis added). Altman and the Treasury Department produced only an unsigned version of this March 11 letter. A signed copy of the final letter appears in the published report of the Senate Banking Committee. The Semiannual Report of the Resolution Trust Corporation Thrift Depositor Protection Oversight Board – 1994: Hearing before the Committee on Banking, Housing, and Urban Affairs, 103d Cong., 2d Sess. 338 (1994).

¹⁶⁶¹ Altman 3/22/94 Fiske GJ at 114; Altman 9/12/95 GJ at 188.

¹⁶⁶² See Letter from Roger C. Altman, then Interim CEO of the RTC to the Honorable Donald Riegle (Mar. 8, 1994) (Doc. Nos. 001-DC-00000339); Letter from Roger C. Altman, then Interim CEO of the RTC to the Honorable Donald Riegle (Mar. 11, 1994) (Doc. No. 001-DC-00000489).

¹⁶⁶³ Altman 3/22/94 Fiske GJ at 112.

¹⁶⁶⁴ Altman 9/12/95 GJ at 190.

disclose in this letter that recusal had also been a subject of the February 2 meeting.¹⁶⁶⁶ He said his purpose was simply to identify additional contacts.¹⁶⁶⁷

Altman testified that at the February 2 meeting, he did not receive any "instructions" from Nussbaum.¹⁶⁶⁸ He also testified that he did not receive advice on recusal because he did not consider the discussion with the White House to be "advice."¹⁶⁶⁹ That is so because in his language "advice" is "something you seek and you receive and you weigh," and according to Altman, he did not seek advice at the February 2 meeting.¹⁶⁷⁰ Altman said because he did not go to the February 2 or 3 meetings seeking advice, he did not receive advice.¹⁶⁷¹

According to Altman, a few days before this letter was sent, he had a conversation with Gwen Ifill, then of the New York Times, in which he mentioned there was a conversation about recusal with the White House (referring to the February 3 meeting with Ickes), and he believes she printed this information.¹⁶⁷² The only such story appeared on March 23, 1994, after Altman had sent this last letter to Senator Riegle and Altman had testified before the grand jury.¹⁶⁷³

¹⁶⁶⁵ Altman 3/22/94 Fiske GJ at 98-99.

¹⁶⁶⁶ Altman 9/12/95 GJ at 190-91.

¹⁶⁶⁷ Id.

¹⁶⁶⁸ Id. at 97-98.

¹⁶⁶⁹ Id. at 98.

¹⁶⁷⁰ Id. at 98.

¹⁶⁷¹ Id.

¹⁶⁷² Altman 3/22/94 Fiske GJ at 112.

¹⁶⁷³ See Gwen Ifill, Inquiry to Cover Loan Association Against Clinton, N.Y. Times, Mar. 23, 1994, at A18.

j. Altman Sent a Fourth and Final Letter of Correction on March 21.

On March 21 (the day before his grand jury appearance), Altman sent Senator Riegle his fourth and final letter correcting his testimony:

I have been continuing an exhaustive review of all my files, phone logs and other information, with the assistance of Counsel. Every contact, regardless of significance, is being reviewed. As you may know, I generally attend meetings in the White House three or more times a day, and am on the telephone with White House staff even more often. It is difficult to recall every brief encounter. But, I would like to add to the record.

In my testimony, I referred to one substantive communication, and, upon further review, that is still my view. The meeting at the White House on February 2 related to procedural issues, which pertain to any RTC claim or case. There was not, and could not have been, any discussion on the substance of the case. I never had any information on it, or any other RTC case.

Before that meeting ended, I also informed those in attendance that I was weighing the issue of recusal. A few days after that meeting, I spoke with McLarty briefly on the telephone with the same message. As you know, on February 25, I decided to recuse myself and did so.

The night before my February 24 testimony, I informed Ickes by phone that I would announce that I was stepping down from the RTC the next morning. That was, indeed, announced on schedule. Also, around the same time, I literally bumped into Nussbaum in a White House corridor. He told me that the Administration would soon be submitting its nominee for permanent RTC head.

I have done my best to recall every communication with White House staff on anything, which could be connected to this matter. I hope that this is helpful.¹⁶⁷⁴

Altman said he originally drafted this letter on March 15,¹⁶⁷⁵ but did not send that draft

¹⁶⁷⁴ See Letter from Roger C. Altman, then Interim CEO of the RTC, to the Honorable Donald Riegle (Mar. 21, 1994) (Doc. Nos. 001-DC-00000496 through 97).

¹⁶⁷⁵ See *id.* Altman's original March 15 draft of this letter reflects two important differences. First, in the March 15 letter after the disclosure that recusal was discussed at both the February 2 and 3 meetings, Altman said, "No advice was sought." This language is deleted from the final March 21 letter. Second, the March 15 draft does not include information about the conversation with Nussbaum.

because he was still gathering information with his lawyer.¹⁶⁷⁶ Altman testified this letter reflected his best effort to "put every last conceivable encounter or contact on the record," and "every last trivial contact that I've had."¹⁶⁷⁷ Altman testified that a day or two before this letter was sent, he was for the first time told (by private counsel) there were concerns about his failure to identify recusal as a subject of discussion at the February 2 meeting.¹⁶⁷⁸

IV. ANALYSIS

The contacts between Treasury Department officials and White House officials about the RTC's criminal referrals raised the serious question of whether anyone took any action with the intent to influence unlawfully the RTC's investigation of Madison Guaranty in violation of 18 U.S.C. § 1505. The relevant provisions of 18 U.S.C. § 1505 provide:

Whoever corruptly, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States . . . shall be fined under this title or imprisoned not more than five years, or both.

The evidence was insufficient to prove beyond a reasonable doubt that anyone violated 18 U.S.C. § 1505 in connection with the contacts relating to 1) possible press inquiries about the RTC referrals; 2) statute of limitations issues or Altman's recusal; or 3) the retention of Jay Stephens.

The evidence showed the initial contacts were about press inquiries. The September 29 contact was initiated by the Treasury Department and the testimony is consistent that the purpose was to warn the White House of possible disclosure of the referrals and the Clintons' alleged

¹⁶⁷⁶ Altman 3/22/94 Fiske GJ at 115.

¹⁶⁷⁷ Id. at 116.

¹⁶⁷⁸ Altman 9/12/95 GJ at 193.

involvement. There was no evidence that anyone took any further action to influence the referrals.

Similarly, the evidence about the meeting on October 14 shows that the meeting was called at the request of the Treasury Department and the discussion was about the handling of press inquiries. There was no evidence that anyone at this meeting made any communication or took any subsequent action that evidenced a corrupt intent to influence the RTC investigation.

With respect to all contacts about the statute of limitations issue or Altman's recusal, the evidence was insufficient to prove that anyone took any action with a corrupt intent to influence the RTC's investigation. The February 2 meeting simply did not show that anyone's conduct constituted an attempt to knowingly obstruct the investigation. There was no evidence that Altman's disclosure that the investigation would not be complete before the expiration of the statute of limitations to Ickes was part of a deliberate plan to obstruct the investigation; there was no evidence that anyone took any action using that information to obstruct the investigation. Otherwise, information about the RTC procedures was generally public and were provided to Congress.

With respect to Altman's recusal, White House officials, especially Bernard Nussbaum, told Altman of their desire that he not recuse himself. After those communications, Altman decided not to recuse himself. The Independent Counsel concluded these actions clearly had an impact on Altman's decision, and thereby influenced the investigation.

That evidence, however, was insufficient to prove that anyone possessed the requisite corrupt intent to impede the investigation. The evidence did not show that any of the communications were threatening or coercive. The testimony about the communications reflected Altman was repeatedly told that the decision was his. The evidence reflected some

thought that recusal would reflect political weakness in the face of public criticism.

In addition, the evidence about the decision itself not to recuse does not reflect any intention to obstruct justice. There is no evidence that Altman involved himself in the Madison Guaranty matter at all. He announced he was "de facto" recused, anyway, and that he would follow the recommendations of RTC senior officials. When asked about whether private counsel would receive a briefing on the statute of limitations issue, he followed the advice of Kulka, without hesitation. There is simply no evidence that Altman had any matter relating to Madison Guaranty pending before him at the time of these communications or that he took any action on the Madison Guaranty matter.

With respect to the retention of Jay Stephens, the evidence of George Stephanopoulos's contacts with Treasury Department officials was insufficient to prove an attempt to obstruct justice. The evidence about Stephanopoulos's telephone conversations with Altman and Steiner failed to reflect a corrupt intent to influence the RTC's investigation. Both Altman and Steiner testified that Stephanopoulos's communications were motivated by his concern that Jay Stephens might harbor a political bias and be overly zealous in pursuing civil claims against the Clintons. Regardless of the merits of that concern, it is certainly a plausible, noncriminal motivation. For that reason alone, the evidence was insufficient to prove that Stephanopoulos's contacts about the retention of Jay Stephens constituted an attempt to obstruct justice.

While this Office was considering the evidence of Altman's statements to Congress, the Supreme Court issued its decision in Hubbard v. United States, 514 U.S. 695 (1995), effectively barring prosecutions for unsworn false statements to Congress under the provisions of 18 U.S.C.

§ 1001 in effect at the time.¹⁶⁷⁹ Because such a prosecution was barred as a matter of law, this Final Report expresses no conclusions about whether Altman's statements to Congress were, in fact, false. Having concluded Altman could not be prosecuted under 18 U.S.C. § 1001 for any unsworn statements to Congress that may have been false, the Independent Counsel declined to prosecute Altman.

V. SUMMARY CONCLUSION

The relationship between Altman and the President raised suspicions with the press, the public, and the Congress about the potential for interference with the routine handling of the RTC's criminal referrals alleging involvement by the Clintons. The contacts between the White House and the Treasury Department -- especially Nussbaum's discussions with Altman about recusal and his expressions of concern about the effect of recusal -- were unusual and only heightened those suspicions. Altman's failure to tell the Congress about the recusal discussions and the other contacts with the White House reinforced these concerns. Similarly, the evidence about Stephanopoulos's concerns over the RTC's retention of Jay Stephens suggested the potential for undue interference in the referrals' handling.

The conduct of these officials necessitated a full investigation of these matters not only by this Office but also by regulatory Independent Counsel Fiske. Only after a complete review of the evidence could the concerns finally be put to rest. In the end, the evidence simply was

¹⁶⁷⁹ The relevant provisions of 18 U.S.C. § 1001 provided at that time: "Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations . . . shall be fined not more than \$10,000 or imprisoned not more than five years, or both." 18 U.S.C § 1001 (1993); see Oakar v. United States, 111 F.3d 146, 153 (D.C. Cir. 1997) (specifically holding the decision in Hubbard

insufficient to prove that any of the contacts or any related conduct constituted a crime. The Independent Counsel declined prosecution of anyone in connection with contacts between White House and Treasury officials about the RTC referrals. This matter is now closed.

barred prosecution for false statements to Congress under 18 U.S.C. § 1001 because Congress is not a department or agency of the United States under the statute).