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THE WHITE HOUSE
WASHINGTON

August 21, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: MAX FRIEDERSDORF
FROM: JAMES E. CONNOR *JEC*
SUBJECT: Delay in Confirmation Hearing
for Stanley Shirk

The President reviewed Secretary Simon's request that he issue a statement concerning the failure of the Senate Banking and Currency Committee to hold hearings on the nomination of Stanley Shirk for Comptroller of the Currency.

The following decision was made:

"If a statement is to be issued at this time, it should be issued by Secretary Simon."

Please follow-up with appropriate action.

cc: Dick Cheney
Doug Bennett

*Tracy notified
8/23/76
mfg.*

THE WHITE HOUSE
WASHINGTON

August 21, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

MAX FRIEDERSDORF

FROM:

JAMES E. CONNOR *JEC*

SUBJECT:

Delay in Confirmation Hearing
for Stanley Shirk

The President reviewed Secretary Simon's request that he issue a statement concerning the failure of the Senate Banking and Currency Committee to hold hearings on the nomination of Stanley Shirk for Comptroller of the Currency.

The following decision was made:

"If a statement is to be issued at this time, it should be issued by Secretary Simon."

Please follow-up with appropriate action.

cc: Dick Cheney
Doug Bennett

THE WHITE HOUSE
WASHINGTON

August 17, 1976

MR PRESIDENT:

Delay in Confirmation Hearing
for Stanley Shirk

Secretary Simon requested that you issue the attached statement criticizing the failure of the Senate Banking and Currency Committee to hold hearings on the nomination of Stanley Shirk for Comptroller of the Currency.

The statement contains a strong attack on Senator Proxmire.

Staffing of Secretary Simon's request resulted in the following comments and recommendations:

Doug Bennett: It seems to me that it would be unwise for the President to be critical at this time of the delay in action in the Senate on the nomination of Stanley Shirk. There are approximately a dozen term appointments pending before the Senate which may or may not be dealt with before the October sine die recess. My suggestion is that the President, when he returns from Vail, issue a statement to the effect that he has nominations pending before the Senate and that he strongly urges favorable and prompt consideration. It might be appropriate for Simon to make such a statement on his own behalf at this time.

Phil Buchen: Recommend against the issuance of Secretary Simon's draft relating only to Shirk. As an alternative, suggest the issuance of a statement relating to the problem in general after the Convention. This might have some political utility while the draft statement would appear to be completely futile gesture. Simon could issue statement now.

Bob Hartmann: I certainly don't think the President should issue any statement like the one attached. Possibly a more carefully drawn one could be issued.

Max Friedersdorf: Criticism is warranted and the President may wish to issue statement. However, we have other nominees being held up by other Committees and my recommendation would be that Simon issue the statement at this time.

Alan Greenspan: Agree with Max Friedersdorf's suggestion that Secretary Simon should issue statement.

Bill Seidman: Agree with Max Friedersdorf's recommendation.

Jack Marsh: The question here is not just Shirk but the other two nominations before the Committee. Can a statement be limited to just one? I think the President must refer to each.

RECOMMENDATION:

If a statement is to be issued at this time, it should be issued by Secretary Simon.

Approve: _____

GR 7

Disapprove _____

Issue no statement at this time.

Approve: _____

Disapprove _____

Jim Connor



THE DEPUTY SECRETARY OF THE TREASURY

WASHINGTON, D.C. 20220

August 11, 1976

NOTE FOR MAX FRIEDERSDORF
THE WHITE HOUSE

Here is a draft of a Presidential press release which is critical of Senator Proxmire's delay in holding a confirmation hearing for Stanley Shirk, the President's nominee to be Comptroller of the Currency.

We believe the statement should be released to the press as soon as possible, if the President approves.

Please let me have the President's reaction.

There are enclosed copies of three letters which Mr. Shirk recently received from various members of the Senate Banking Committee. Also enclosed for your information is a copy of a letter from John Tower to Senator Proxmire.

Thanks for your help.

George H. Nixon

Attachment

PROPOSED STATEMENT BY PRESIDENT FORD

On July 20, 1976, I submitted to the United States Senate for its consideration the name of Stanley E. Shirk for the position of Comptroller of the Currency for a five-year term. Almost a month has now gone by, not only with no action being taken by the Senate Banking Committee, but with, I fear, an increasing reluctance on the part of the Chairman to move on this nomination during this session in Congress. Indeed, the feeling seems to be proliferating that in an election year the filling of the Office of Comptroller of the Currency should rightly be left to the victor in the November Presidential election. I wish to state in the strongest terms that this attitude is in direct confrontation with the long history of our financial regulatory bodies being maintained as independently as is humanly possible from all forms of political influence. The Office of the Comptroller was established by the National Currency Act of 1863. Both that Act and its immediate successor, the National Banking Act of 1864 provided for the Comptroller to serve a five-year term. A Comptroller can only be sooner removed by a President upon his communicating to the United States Senate the reasons for such removal. This limitation was historically meant -- as the legislative

history shows -- to act as a restraint on any President removing a Comptroller for other than good cause. The Office was never meant to be in that category of appointments where the holder of the Office serves merely at the whim of the President. To now acknowledge to the country through inaction on this nomination that this is an Office which any incoming President has the right to have filled by a person close to him or his particular political persuasion is to do grave damage to the necessary independence of the Office and the bank regulatory structure of which it is a part.

The man whose name I have submitted, Mr. Shirk, is uncommonly well-suited for the Office. No viable opposition to or questions concerning his basic qualifications or of conflict of interest which cannot be answered in hearings, have appeared. On the contrary, praise has come from a wide variety of individuals on the worth of this appointment. In addition, Mr. Shirk is a political independent without previous association with political activity in either party. Also, having completed his career in his chosen field, he has a unique opportunity to bring an independence of action to the Office without thought of a further career upon the completion of his five-year term.

In view of Chairman Proxmire's criticism of the operations of the Office of the Comptroller over the past year, it seems to me particularly inappropriate at this juncture to let the Comptroller's Office drift without a permanent head until the late spring of 1977, which realistically is the earliest it will be until another nominee can be selected, investigated, and approved after the Administration takes office in January 1977.

The importance of maintaining the independence of the Office of the Comptroller of the Currency as part of our bank regulatory system transcends and should negate any perceived partisan political advantage gained by allowing the office to remain vacant after the adjournment of the present Congress and well into the new year. Most sincerely, in the best interests of the country, I call on Senator Proxmire to act in the most responsible way possible by scheduling immediate confirmation hearings on the nomination of Mr. Shirk thus allowing the Banking Committee and the full Senate to work its will.

WILLIAM PROXMIRE, WIS., CHAIRMAN
JOHN SPARKMAN, ALA.
HARRISON A. WILLIAMS, JR., N.J.
THOMAS J. MCINTYRE, N.H.
ALAN CRANSTON, CALIF.
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JAKE GARN, UTAH

KENNETH A. MCLEAN, STAFF DIRECTOR
ANTHONY T. CLUFF, MINORITY STAFF DIRECTOR
MARY FRANCES DE LA PAVA, CHIEF CLERK

United States Senate

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

WASHINGTON, D.C. 20510

August 5, 1976

Mr. Stanley Shirk
The Madison Hotel
1177 15th Street, N. W.
Washington, D. C. 20005

Dear Mr. Shirk:

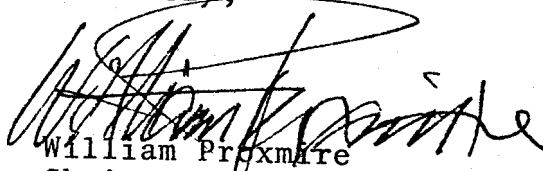
Thank you for your letter of August 3.

As you know, the concerns raised in Representative Rosenthal's letter do not reflect in any way on your personal integrity. Rather, Chairman Rosenthal questions whether any person who had served the clients you have served would be an appropriate choice for the position of Comptroller of the Currency for the reasons stated.

I have asked the Committee staff to conduct an investigation of this matter, and their investigation is proceeding. You may wish to make a written response to the Rosenthal letter, a copy of which is enclosed.

I appreciate your interest in a prompt resolution of your nomination. Please be assured that I will keep you informed of our progress.

Sincerely,


William Proxmire
Chairman

WP:bkq

BENJAMIN S. ROSENTHAL, N.Y., CHAIRMAN

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ANTHONY MOFFETT, CONN.
ANDREW MASUIRE, N.J.
EDWARD MEZVINSKY, IOWA

NINETY-FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMERCE, CONSUMER, AND
MONETARY AFFAIRS SUBCOMMITTEE

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

RAYBURN HOUSE OFFICE BUILDING, ROOM B-350-A-B

WASHINGTON, D.C. 20515

GARRY BROWN, MICH.
WILLIS D. GRADISON, JR., OHIO
JOHN N. ERLBORN, ILL.

(202) 225-4407

July 22, 1976

Senator William Proxmire, Chairman
Committee on Banking, Housing & Urban Affairs
Room 5300 - Dirksen Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

I am taking this opportunity to urge you to give utmost scrutiny in connection with your committee's review of the nomination of Stanley Shirk as Comptroller of the Currency to conflict of interest problems.

While Mr. Shirk is considered a bank accounting specialist, there are several aspects of his relationship with his accounting firm of Peat, Marwick, Mitchell & Company and their client national banks which disturb me.

First, as of January 1976, Mr. Shirk's firm served as accountants for 13 of the 61 largest national banking organizations, all of which had assets in excess of \$1 billion as of December 31, 1975, and also acted as accountants for numerous other smaller national banking organizations. The 13 largest banks in order of size were:

First National City Bank, New York
Chase Manhattan Bank, N.A.
Security Pacific National Bank, Los Angeles
Wells Fargo Bank, N.A., Los Angeles & San Francisco
Mellon Bank, N.A., Pittsburgh
First Pennsylvania Bank, N.A., Philadelphia
First Wisconsin National Bank, Milwaukee
First Union National Bank of North Carolina
Industrial National Bank of Rhode Island, Providence
American National Bank & Trust Company, Chicago
Republic National Bank, New York
New England Merchants National Bank, Boston
First American National Bank, Nashville

July 22, 1976

Rule 301 of the American Institute of Certified Public Accountants provides that a member shall not disclose any confidential information obtained in the course of a professional engagement. The AICPA has deemed the requirement to apply even though failure to disclose confidential information which an accountant gains in the performance of his professional duties may make that accountant liable for a breach of his non-accounting duties (in particular, the AICPA was referring to conflicting responsibilities as a bank director and accountant). A fortiori, these ethical requirements would place Mr. Shirk in a conflict of interest dilemma because as Comptroller he will not be able to divorce himself from information obtained as an accountant when he is required to take action against a former client bank. In fact, he and Peat, Marwick, Mitchell & Company may be liable to a bank or its shareholders as a result of any action taken against the bank which was based on information obtained through Mr. Shirk's former confidential relationship with that bank. Thus, Mr. Shirk would be placed in the untenable position of following the AICPA's ethical strictures and responsibilities or discharging in full his duties as Comptroller.

Second, several of the banks listed above have had serious problems cited by regulators. When Mr. Shirk has to deal firmly with a bank which is or was a client of his accounting firm, it may be difficult for him to act without at least unconscious consideration for his firm's potential liability to shareholders and investors in the bank. In this regard, I would like to point out the increasing tendency to hold accounting firms liable for failure to disclose material facts about their client's business. Peat, Marwick, Mitchell & Company is no exception to this trend. Indeed, the Securities and Exchange Commission recently brought a Rule 2E disciplinary proceeding against Peat, Marwick, Mitchell & Company for not performing in accordance with generally accepted accounting standards or auditing procedures in connection with their involvement in five of the more notorious securities law cases: Penn Central Company, National Student Marketing Corp., Talley Industries, Republic National Life Insurance Co. and Sterling Homex Corp. The proceedings resulted in a consent order dated July 2, 1975 (SEC Accounting Series Release No. 173).

Finally, Mr. Shirk will not be divesting himself of all interest in Peat, Marwick, Mitchell & Company. While he will be resigning from the firm as of July 30, 1976, they will continue to make fixed periodic monthly payments to him.

I trust and know you will give careful consideration to these concerns. Best personal regards.

Sincerely,


Benjamin S. Rosenthal
Chairman

BSR:kv

JOHN SPARKMAN, ALA., CHAIRMAN

MIKE MANSFIELD, MONT.
FRANK CHURCH, IDAHO
STUART SYMINGTON, MO.
CLAIBORNE PELL, R.I.
GALE W. MC GEE, WYO.
GEORGE MC GOVERN, S. DAK.
HUBERT H. HUMPHREY, MINN.
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CHARLES H. PERCY, ILL.
ROBERT P. GRIFFIN, MICH.

PAT M. HOLT, CHIEF OF STAFF
ARTHUR M. KUHL, CHIEF CLERK

United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, D.C. 20510

August 7th, 1976

Mr. Stanley E. Shirk
The Madison Hotel
1177 Fifteenth Street, NW
Washington, D. C. 20005

Dear Mr. Shirk:

I was pleased to have your letter dated August 3rd. After receiving it, I spoke to Bill Proxmire. He told me that due to the fact that Rosenthal had made the charges against you, he felt he wanted to go into the matter more thoroughly. Frankly, I do not know what his intention may be now, but it seems to me that you are entitled to a hearing, these charges having been made.

Sincerely,


John Sparkman

WILLIAM PROXMIRE, WIS., CHAIRMAN
JOHN SPARKMAN, ALA.
HARRISON A. WILLIAMS, JR., N.J.
THOMAS J. MC INTYRE, N.H.
ALAN CRANSTON, CALIF.
ADLAI E. STEVENSON, ILL.
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JESSE HELMS, N.C.
JAKE GARN, UTAH

KENNETH A. MC LEAN, STAFF DIRECTOR
ANTHONY T. CLUFF, MINORITY STAFF DIRECTOR
OTHELLA C. POMPIER, CHIEF CLERK

United States Senate

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

WASHINGTON, D.C. 20510

August 4, 1976

Stanley E. Shirk
The Madison Hotel
Washington, D.C. 20005

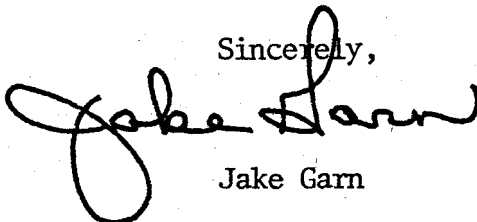
Dear Mr. Shirk:

Thank you for sending me a copy of your letter to Senator Proxmire concerning the Senate Banking Committee's confirmation hearings on your nomination to the office of Comptroller of the Currency.

I support absolutely your position on the urgency of holding committee confirmation hearings on your nomination as early as possible. There is no question that it is only fair and just that the Committee expedite its consideration of your nomination without further undue delay.

I assure you that I will continue to push for prompt and fair consideration and action by the Senate Banking Committee, and I appreciate your efforts in this regard. If I may be of assistance in any way, please feel free to let me know.

Sincerely,



Jake Garn

JG/pvm

WILLIAM PROXMIRE, WIS., CHAIRMAN
JOHN SPARKMAN, ALA.
HARRISON A. WILLIAMS, JR., N.J.
THOMAS J. MCINTYRE, N.H.
ALAN CRANSTON, CALIF.
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MARY FRANCES DE LA PAVA, CHIEF CLERK

United States Senate

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
WASHINGTON, D.C. 20510

August 5, 1976

Honorable William Proxmire
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, D. C. 20510

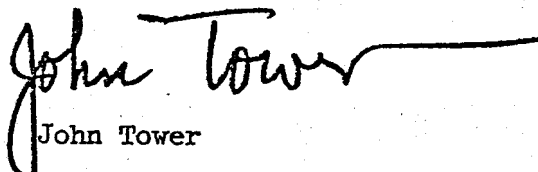
Dear Mr. Chairman:

During the Committee's markup last Friday, I raised the issue of holding hearings on the nominations of Mr. Stanley Shirk to be Comptroller of the Currency and Mr. Patrick Delaney to be a member of the Securities and Exchange Commission. I understood you to say that you have no intention of not holding hearings on these nominations, but feel that additional time is needed to investigate certain allegations which have been made against both nominees.

I am extremely interested in the nature of this investigative effort. In view of this, I would appreciate knowing the purpose, anticipated timetable, and present status of these investigations. I would also appreciate being kept informed of the progress and findings of such investigations as they unfold.

I am hopeful that the investigations can be completed soon so that hearings could be scheduled later this month. I have instructed the minority staff to work with the staff you have assigned to this effort so that the investigations can be completed as soon as possible.

Sincerely,


John Tower

THE WHITE HOUSE
WASHINGTON

August 12, 1976

MEMORANDUM FOR:

JIM CONNOR

FROM:

MAX FRIEDERSDORF

M.F.

SUBJECT:

Secretary Simon

Secretary Simon requests the President issue the attached statement criticizing the failure of the Senate Banking and Currency Committee to hold hearings on the nomination of Stanley Shirk for Comptroller of the Currency.

The statement contains a strong attack on Senator Proxmire.

Criticism is warranted and the President may want to issue the statement. However, we have other nominees being held up by other Committees and my recommendation would be that Simon issue the statement at this time.

I would appreciate your circulating the statement to Marsh, Bennett and Buchen for comments before we consult with the President.

Many thanks.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 12, 1976

Time:

FOR ACTION:

cc (for information):

☒ Doug Bennett ☒ Alan Greenspan
☒ Phil Buchen ☒ Bill Seidman
☒ ~~John Gannon~~ ☒ Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Friday, August 12 Time: 10 A.M.

SUBJECT:

Max Friedersdorf memo 8/12/76
 re: Secretary Simon's request for a Presidential
 Statement concerning Stanley Shirk

ACTION REQUESTED:

☐ For Necessary Action ☒ For Your Recommendations
☐ Prepare Agenda and Brief ☐ Draft Reply
☒ For Your Comments ☐ Draft Remarks

REMARKS:

Buchen (Schmults) see comments
 Sudman (agrees with Friedersdorf)
 Bennett - see comments
 Greenspan - agree with MF re: Simon
 issue statement
 Marsh - see comments

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
 delay in submitting the required material, please
 telephone the Staff Secretary immediately.

Jim Connor
 For the President

THE WHITE HOUSE

WASHINGTON

August 12, 1976

MEMORANDUM FOR: JAMES CONNOR

FROM: DOUGLAS P. BENNETT *DPB*

SUBJECT: Secretary Simon's Request
Re the Appointment of Stanley Shirk

It seems to me that it would be unwise for the President to be critical at this time of the delay in action in the Senate on the nomination of Stanley Shirk. There are approximately a dozen term appointments pending before the Senate which may or may not be dealt with before the October sine die recess. My suggestion is that the President, when he returns from Vail, issue a statement to the effect that he has nominations pending before the Senate and that he strongly urges favorable and prompt consideration. It might be appropriate for Simon to make such a statement on his own behalf at this time.

Date: August 12, 1976

Time:

FOR ACTION:

cc (for information):

Doug Bennett

Alan Greenspan

Phil Buchen

Bill Seidman

Bob Hartmann

Jack Marsh

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DUE: Date: Friday, August 12

Time: 10 A.M.

SUBJECT:

Max Friedersdorf memo 8/12/76
re: Secretary Simon's request for a Presidential
Statement concerning Stanley Shirk

ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

Recommend against the issuance of Secretary Simon's draft relating only to Shirk. As an alternative, suggest the issuance of a statement relating to the problem in general after the Convention. This might have some political utility while the draft statement would appear to be completely futile gesture. Simon could issue statement now.

EC Schmults
Edward C. Schmults 8/12/76

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Jim Connor
For the President

ACTION MEMORANDUM

Date: August 12, 1976

Time:

FOR ACTION:

cc (for information):

Doug Bennett

Alan Greenspan

Phil Buchen

Bill Seidman

Bob Hartmann

Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Friday, August 13 Time: 10 A.M.

SUBJECT:

Max Friedersdorf memo 8/12/76
re: Secretary Simon's request for a Presidential
Statement concerning Stanley Shirk

ACTION REQUESTED:

___ For Necessary Action

X For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

X For Your Comments

___ Draft Remarks

REMARKS:

8/13/76
ROD
I certainly don't think the
President should issue any statement like
the one attached. Possibly a more carefully
drawn one could be issued
JP

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If you have any questions or if you anticipate a
delay in submitting the required material, please
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Jim Connor
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 12, 1976

Time:

FOR ACTION:

cc (for information):

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Alan Greenspan

Phil Buchen

Bill Seidman

Bob Hartmann

Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Friday, August 12

Time: 10 A.M.

SUBJECT:

Max Friedersdorf memo 8/12/76
re: Secretary Simon's request for a Presidential
Statement concerning Stanley Shirk

ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

No comments except per page 3.

Recommend

*Agree with Friedersdorf's suggestion that
Simon should ~~not~~ issue statement.*

*John Davis CBA
for Alan Greenspan*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please
telephone the Staff Secretary immediately.

Jim Connor
For the President

ACTION MEMORANDUM

THE WHITE HOUSE
WASHINGTONLOG NO.: *LWS copy*

Date: August 12, 1976

Time:

FOR ACTION:

cc (for information):

Doug Bennett

Alan Greenspan

Phil Buchen

Bill Seidman

Bob Hartmann

Jack Marsh

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DUE: Date: Friday, August 12

Time: 10 A.M.

SUBJECT:

Max Friedersdorf memo 8/12/76
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Statement concerning Stanley Shirk

ACTION REQUESTED:

☐ For Necessary Action☒ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

REMARKS:

Agree with Friedersdorf recommendation.
XWS

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If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

Date: August 12, 1976

Time:

Due: 8/13

FOR ACTION:

cc (for information):

10:00

Doug Bennett

Alan Greenspan

Phil Buchen

Bill Seidman

Bob Hartmann

Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Friday, August 13

Time: 10 A.M.

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re: Secretary Simon's request for a Presidential
Statement concerning Stanley Shirk

ACTION REQUESTED:

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