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*Conflict of
Interest*

POWELL, JOHN

Material concerning John Powell, former Chairman of
the EEOC, is filed in the safe under

PERSONNEL -- Powell, John



THE WHITE HOUSE
WASHINGTON

December 10, 1974

EYES ONLY

MEMORANDUM FOR:

PHIL AREEDA ✓
PHIL BUCHEN
DICK CHENEY
PAUL O'NEILL

FROM:

STAN SCOTT *SS*

SUBJECT:

Equal Employment Opportunity
Commission

It is the opinion of Clarence Mitchell that the EEOC Chairman is performing in a constructive manner and should remain on the job, despite heavy criticism from his detractors. Mitchell has viewed the GAO report on EEOC prepared for the Hill, and feels that Powell has made an adequate response that should remove doubt about his actions. Mitchell takes the position that EEOC's problems are primarily internal, and while "a normal amount of friction is to be expected at an independent agency," it would be to the advantage of EEOC if a couple of the Commissioners and the legal counsel could be provided lateral transfers to other government jobs. Mitchell would support his NAACP legal counsel as a Commissioner on the EEOC, but would not lobby at the expense of the present Chairman. Mitchell also takes a broad view of the EEOC legislative mandate, insisting that the Chairman has the authority to initiate meetings and actions without prior consultation with his Commissioners.

EYES ONLY



THE WHITE HOUSE
WASHINGTON

EEOC
file

January 14, 1975

EYES ONLY

MEMORANDUM FOR:

DOMESTIC COUNCIL

FROM:

PRESIDENTIAL PERSONNEL OFFICE
Jell

SUBJECT:

Commissioner, Equal Employment
Opportunity Commission

Attached is a copy of our proposed memorandum for the President. Please notify Jack Shaw of my office, 2821, to give him your opinion (concur, no opinion, no objection, etc.) of the proposed action so that we can accurately represent your views in the final decision memo.

Since we are trying to fill these vacancies as quickly as possible, please be sure to reply within three days. If we have not heard from you within that time, we will assume you have no comment on the appointment.

Enclosure

I suggest the memo be re-written to provide the President with the option of naming one of these men (I hope, Wendrick) Chairman of EEOC. Although this is a Democrat slot, it is his only opportunity to bring any semblance of order to the EEOC. As you are aware, the current Commissioners are not even on speaking terms with the current Chairman. Past ineptitude is not Ford's responsibility, but the present EEOC problems will get much worse under the current Chairmanship and when they next burst into the public arena the President will inevitably be blamed. Quick action now will avoid an increased problem in the future.



THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR THE PRESIDENT

THROUGH: DONALD RUMSFELD
FROM: WILLIAM N. WALKER
SUBJECT: Commissioner, Equal Employment
Opportunity Commission
(PAS - Level IV)

The EEOC is a five member Commission, of which no more than three members may be of the same political affiliation. (Legislation at Tab A.) The composition of the Commission is currently three Republicans, one Democrat, and one vacancy.

Our candidates for the Democratic vacancy are:

William J. Kendrick, 42, Senior Vice President, National Association of Manufacturers. (Resume at Tab B.) Kendrick, a lawyer, was the first Director of Congressional Relations of the EEOC, 1966-1967. Previously he served Presidents Kennedy and Johnson on the President's Committee on Equal Opportunity, 1962-1966. During these periods and subsequently at NAM his emphasis has been on encouraging voluntary compliance with Federal EEO rules and regulations. He has the backing of the NAM and was recommended to you by John Harper of Alcoa. The AFL-CIO has approved his candidacy in the event Francis Pohlhaus is not chosen. As an indication of the extent of the black support he can muster, he has the backing of Sam Jackson, the former EEOC Commissioner. Kendrick knows John Powell



and believes he would be able to work with him. He has the broadest spectrum of support of the various candidates and has by far the most experience with the EEOC.

Francis J. Pohlhaus, 56, Counsel, Washington Bureau, NAACP, since 1954. (Resume at Tab C.) Pohlhaus (who is white) has acted as consultant to the Leadership Conference on Civil Rights and in this capacity has been directly involved in all their programs dealing with the passage, administration and enforcement of national civil rights matters since 1954. Pohlhaus would have the support of a majority of the Senate Committee on Labor and Public Welfare, and we have received letters on his behalf from Senators Philip Hart, Harrison Williams, and Robert Stafford, as well as from a large cross-section of labor and civil rights groups. Pohlhaus is the candidate of the AFL-CIO. He is a mild-mannered man whose ties to Clarence Mitchell and the NAACP could have a steadying effect on John Powell, but he is not known in the business community and might cause some initial alarm there for that reason.

Martha Griffiths, former Congresswoman from Michigan. (Resume at Tab D.) We have not determined Mrs. Griffiths' availability for this position, but as a female attorney with civil rights credentials, she would bring a second female voice to a Commission deeply involved in questions of women's rights. Her appointment, however, would produce an adverse response from the business community, who regard her as incurably pro-labor. Mrs. Griffiths' appointment would broaden the geographical base of the Commission (it is currently drawn almost exclusively from the D. C. area) but it is unclear whether she would be able to work well with John Powell.

DECISION:

Approve Kendrick _____

Approve Pohlhaus _____

Approve Griffiths _____

Enclosures



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THE WHITE HOUSE
WASHINGTON

January 22, 1975

TO: PHILLIP AREEDA ✓

FROM: STAN SCOTT *SS*

For Your Information

Powell is now involved in the
internal affairs of Britain.

Attachment



EEOC file

6

C

MINORITIES GLUM AT BRITISH TALKS

Meeting of Nation's Blacks
and Asians Marked by
Divisions and Doubts

By ALVIN SHUSTER

Special to The New York Times

LONDON, Jan. 19—A meeting of Britain's minority groups ended today on a note of gloom about their own divisions and their ability to improve race relations.

American Is Heckled

The reception received by John Powell, the chairman of the United States Equal Employment Opportunity Commission, reflected the mood of some of the delegates. He was heckled because, as one black put it, "We thought his speech was patronizing and irrelevant."

In his speech, Mr. Powell explained some of the history of race relations in the United States and suggested that black Americans faced greater hurdles

THE WHITE HOUSE
WASHINGTON



January 22, 1975

MEMORANDUM FOR: PHILLIP AREEDA
FROM: JAY T. FRENCH *JTF*
SUBJECT: ALLEGATIONS OF MISCONDUCT
AGAINST THE CHAIRMAN OF THE
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

Additional materials, which amplify the allegations set forth in my first memorandum of December 6, 1974, concerning the above referenced subject, are divided among the attached Tabs A through G.

In almost every instance, these materials provide greater information about the allegations noted in my first memorandum; however, there is no new information which causes me to alter my earlier conclusions.

Most of the allegations, if true, demonstrate poor judgment and a lack of management ability. The variety of sources which repeat these allegations lend credence to their validity. Since the President can designate a new chairman of the Commission at anytime, it is my recommendation that he do so as soon as practical upon the grounds that Powell is not an administrator. Powell, of course, would remain on the Commission.

OMB is looking into the allegation that the Commission violated the Anti-Deficiency Act. It would be possible to request the FBI to investigate alleged irregularities in the Chairman's travel account and his involvement in the Purex case; however, we have no firm information on either matter to support a belief of criminal misconduct. Until such information comes to light (possibly through an in-house investigation conducted by a newly appointed Chairman) I recommend that no other action be taken.

CIVILIAN DIVISION

JAN 24 1975

Received Fraud Section *File*
24



INTERFERENCE IN PUREX LITIGATION



A

Goodell Slated to Be Attorney General

By Jack Anderson

Charles Goodell, the former Republican senator who was kicked out of office by the Nixon administration because of his

came away from a meeting with Mr. Ford a few weeks ago with the understanding that he could keep it.

At the White House, Saxbe is

up 38%; Parkay margarine and Welch's grape jelly to go on the muffins, up 106% and 41% respectively; Pillsbury Hungry Jack pancakes, up 32%; Log Cabin

authorized interference" in a delicate discrimination case against the Purex Corp. Instead of fighting for employees' rights through normal legal

General William B. Saxbe if a graceful way can be found to get Saxbe to step down.

Saxbe dearly loves the job, however, and has told us he

Lake City constituents far more than 14 percent for their three meals. Here are his findings:

- Breakfast—Instant Tang, up 33%; Wonder English Muffins,

JOB RUCKUS—The chief lawyer for the Equal Employment Opportunity Commission has accused his chairman, John Powell, of "unwarranted and unau-

thorized interference" in a delicate discrimination case against the Purex Corp. Instead of fighting for employees' rights through normal legal

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TAB B



UNILATERAL ISSUANCE OF CONTRACTS



ISSUE OF CONTRACTS

B

CONTRACTS ISSUED AMOUNTING TO SEVERAL MILLION DOLLARS, NOT PRESENTED TO OR AUTHORIZED BY THE COMMISSION AS A BODY. SEVERAL CONTRACTS ISSUED ON A SOLE SOURCE BASIS. FOR EXAMPLE:

1. THREE CONTRACTS ISSUED TO OPPORTUNITY SYSTEMS, INC. (OIS) TOTALING \$530,000 ON A SOLE SOURCE BASIS AS 8-A CONTRACTS. (\$320,000 - \$60,000 - \$150,000) CONTRACT AWARDED ON 3/11/74.
2. INTERIM REPORT ISSUED BY THE AUDIT STAFF LISTED EXCESSIVE CHARGES BY THE CONTRACTOR, INEQUITABLE ALLOCATIONS OF COSTS, UNLAWFUL SUB-CONTRACTING WHICH INCLUDED DOUBLE MARGIN OF PROFIT TO THE CONTRACTOR, AND FAILURE TO PERFORM IN ACCORDANCE WITH THE TERMS OF THE CONTRACT.

MEMORANDUM DATED AUGUST 13, 1974, ISSUED BY COMMISSIONERS TO THE CHAIRMAN ADVISING HIM OF SERIOUSNESS OF THIS MATTER.

ALSO, RESOLUTION WAS PASSED ON NOVEMBER 12, 1974 BY APPROVAL OF ALL COMMISSIONERS (WITH THE ABSTENTION OF THE CHAIRMAN), THAT NO CONSIDERATION BE GIVEN TO THE AWARD OF ADDITIONAL CONTRACTS TO OPPORTUNITY SYSTEMS, INC. THIS ACTION WAS NECESSARY DUE TO OSI'S BAD PERFORMANCE ON PREVIOUS CONTRACTS AND ALSO THERE WAS AN INDICATION THAT CONSIDERATION WAS BEING GIVEN TO THE AWARD OF AN ADDITIONAL \$360,000 CONTRACT TO THIS SAME FIRM. SINCE THEN ONE OF THE THREE ORIGINAL CONTRACTS (\$150,000) HAS BEEN CANCELLED.

3. AT AN EXECUTIVE SESSION OF THE COMMISSIONERS WITH THE CHAIRMAN ON JUNE 18, 1974, IT WAS AGREED BY ALL, INCLUDING THE CHAIRMAN, TO BRING A NUMBER OF CLINICAL TRAINING PROGRAM CONTRACTS BEFORE THE COMMISSION AS A BODY FOR CONSIDERATION AND APPROVAL. INSTEAD, ON JUNE 26, 1974, EIGHT DAYS LATER, THE CHAIRMAN AUTHORIZED AND SIGNED SIX SUCH CONTRACTS TOTTALLING \$575,548.

A CONTRACT WAS ALSO AUTHORIZED BY THE CHAIRMAN WITH IAOHRA (INTERNATIONAL ASSOCIATION OF OFFICIAL HUMAN RIGHTS AGENCIES) FOR THE SUM OF \$181,000.



4. THE CHAIRMAN AND HIS STAFF RECOMMENDED THE APPROVAL OF A CONTRACT TO NU-WAY, INC. ON A SOLE SOURCE BASIS FOR THE SUM OF \$280,000 AS CONSULTANTS ON THE ESTABLISHMENT OF THE TRAINING CENTER. THE COMMISSIONERS REJECTED THE CONTRACT AND DIRECTED THAT PROPOSALS BE REQUESTED FROM SEVERAL QUALIFIED CONSULTANTS. AS A RESULT A CONTRACT WAS ISSUED TO A BETTER QUALIFIED FIRM (DEVELOPMENT ASSOCIATES, INC.) FOR THE SUM OF \$207,000 OR A SAVING TO THE GOVERNMENT OF \$73,000.

5. LAWYERS COMMITTEE CONTRACT \$338,873.29.

THE CHAIRMAN ON HIS OWN APPROVED AND PAID \$52,000 ON A PROPOSED AND NOT YET APPROVED CONTRACT WITH THE ~~THE~~ LAWYERS COMMITTEE WITHOUT THE APPROVAL OF THE COMMISSION AS A ~~THE~~ BODY.

AT A MEETING OF THE COMMISSION ON 11/26/74 THE CHAIRMAN REQUESTED THE COMMISSIONERS IN EFFECT TO RATIFY HIS PAYMENT OF \$52,000 AND ALSO APPROVAL OF THE TOTAL CONTRACT FOR \$338,873.29.

IN VIEW OF THE EVIDENT ERRONEOUS FINANCIAL REPORTING BY THE FINANCIAL MANAGEMENT DIVISION, THE COMMISSIONERS REQUESTED A BRIEFING BY THE CHAIRMAN'S TOP FINANCIAL STAFF ON AVAILABILITY OF FUNDS TO APPROVE THE LAWYERS COMMITTEE CONTRACT. THE BRIEFING WAS TOTALLY UNSATISFACTORY AND UPON QUESTIONING, ONE OF THE CHAIRMAN'S TOP FINANCIAL STAFF MEMBERS ADMITTED THAT THE FINANCIAL STATUS PRESENTED WAS ONLY AN "EDUCATED GUESS" AND THAT HE COULD NOT GUARANTEE THE CORRECTNESS OF THE INFORMATION, AND FURTHER THAT HE COULD NOT HONESTLY RECOMMEND APPROVAL OF SUBSTANTIAL FINANCIAL OBLIGATIONS BY THE COMMISSIONERS UNDER THE CIRCUMSTANCES.

IN FACT, HE STATED THAT THE COMMISSION WAS IN A FINANCIAL CRISIS.

IN VIEW OF THIS DEVELOPMENT DURING THE COMMISSIONERS' MEETING, A RESOLUTION WAS APPROVED BY THE COMMISSION AS A BODY, (WITH THE NEGATIVE VOTE OF THE CHAIRMAN), TO DIRECT MEMBERS OF THE AUDIT STAFF TO COME TO THE MEETING TO REPORT ON THE STATUS OF THE AUDIT ORDERED OF THE FINANCIAL MANAGEMENT DIVISION AND ALSO TO REPORT IF POSSIBLE ON THE AVAILABILITY OF FUNDS IN ORDER TO CONSIDER THE APPROVAL OF THE LAWYERS COMMITTEE CONTRACT. THE CHAIRMAN ABSOLUTELY REFUSED TO HONOR THE ORDER OF THE COMMISSION AND REFUSED TO DIRECT THE MEMBERS OF THE AUDIT STAFF TO APPEAR. A RESOLUTION APPROVED BY THE COMMISSION AS A BODY ON NOVEMBER 11, 1974 ON THE



TOP ORGANIZATIONAL STRUCTURE INCLUDED THE AUDIT STAFF WHICH WAS ESTABLISHED AS AN INDEPENDENT FUNCTION REPORTING DIRECTLY TO THE CHAIRMAN AND THE COMMISSIONERS IN ACCORDANCE WITH GAO REGULATIONS.)

THE LAWYERS CONTRACT WAS TO COVER FIVE EEOC DISTRICT OFFICE AREAS (WASHINGTON, D.C., BIRMINGHAM, NEW ORLEANS, PHILADELPHIA AND SAN FRANCISCO). THREE OF THESE DISTRICT OFFICES OUT OF THE FIVE STATED THEY WOULD NOT RECOMMEND OR SUPPORT THE CONTRACT WITH THE LAWYERS COMMITTEE.

NOTE: IN ORDER TO ATTEMPT TO CONTROL THIS SERIOUS CONTRACT SITUATION, A RESOLUTION WAS APPROVED ON NOVEMBER 12, 1974, BY THE COMMISSION AS A BODY, (THE CHAIRMAN VOTING NO), TO HAVE ALL CONTRACTS OVER \$2,500 SUBMITTED TO THE COMMISSION FOR APPROVAL, WITH THE EXCEPTION OF THOSE INVOLVING DAILY ROUTINE OPERATING EXPENSES. ONLY TWO PROPOSALS HAVE BEEN SUBMITTED TO DATE TO THE COMMISSIONERS FOR APPROVAL

1. LAWYERS COMMITTEE FOR CIVIL RIGHTS
2. STATE AND COMMUNITY AFFAIRS.



JAB C



WASTE OF FUNDS



WASTE OF FUNDS

1. CONTRACT FOR \$125,000 WAS ISSUED TO FORWARD MANAGEMENT, INC. TO PRODUCE A CONTRACT MANAGEMENT MANUAL ON A SOLE SOURCE BASIS. IT HAS BEEN ESTIMATED BY EEOC PERSONNEL IN THIS FIELD THAT SUCH A MANUAL CAN BE PRODUCED IN HOUSE FOR BETWEEN \$5,000 AND TO \$10,000.

ON 10/22/74 THIS MATTER WAS POINTED OUT BY THE COMMISSIONERS TO THE CHAIRMAN. OTHER THAN A MEMORANDUM ISSUED ON THIS REPORT, WITH A WEAK EXPLANATION, NO ACTION WAS TAKEN OTHERWISE.

2. MOVE OF EEOC HEADQUARTERS TO THE COLUMBIA-PLAZA BUILDING. (THE MOVE INCLUDES BOTH THE GENERAL COUNSEL'S OFFICE AND THE OFFICE OF RESEARCH.)

THE COMMISSIONERS WERE NOT CONSULTED OR ADVISED. A REQUEST FOR NECESSARY FUNDS WAS NOT PRESENTED TO OR APPROVED BY THE COMMISSIONERS.

THE MOVE WAS TO HAVE BEEN MADE IN JULY 1974.

NO REPORT HAS EVER BEEN MADE TO THE COMMISSIONERS ON THE ESTIMATED COST OR THE COST TO DATE. THE BEST INFORMATION THAT CAN BE OBTAINED INDIRECTLY READS AS FOLLOWS:

ORIGINAL ESTIMATE OF COST TO MOVE ~~125,000~~ ^{\$ 300,000}.

COSTS TO DATE PLUS ESTIMATED COSTS TO COMPLETE MOVING JOB:

ALTERATIONS COSTS TO DATE (FLOORS 1,3,4&5)	\$ 396,500
PRIVATE BATHROOM IN CHAIRMAN'S OFFICE	18,000
PRIVATE KITCHEN IN CHAIRMAN'S OFFICE (FULL SIZE REFRIGERATOR, AUTOMATIC DISHWASHER, THREE PLATE ELECTRIC STOVE, AND METAL CABINETS)	13,300
GENERAL COUNSEL (2ND FLOOR) ALTERATIONS (ESTIMATE ONLY)	150,000
CARPETING, DRAPERIES, WALL COVERING AND FURNITURE FOR THE OFFICES OF THE CHAIRMAN AND THE FOUR COMMISSIONERS. CHAIRMAN'S OFFICE \$25,810 EACH COMMISSIONER'S OFFICE COST AVERAGES	61,473 \$ 5,374



OFFICE DIRECTORS - CARPETING, DRAPERIES AND RE-UP HOLSTERING OF OLD FURNITURE (FLOORS 1,3, AND 4)	\$152,400
PHYSICAL MOVE	23,500
*SPACE STUDY	<u>187,900</u>
/ TOTAL TO DATE	\$1,003,673

PLUS COST YET TO BE DETERMINED ON DECORATION FOR GENERAL COUNSEL'S
offices.

PLUS - DOUBLE RENT PAID FOR BOTH LOCATIONS.

*THIS CONTRACT HAS NOW EXCEEDED THE ORIGINAL AMOUNT.

stolen amount
NOTE: IT IS BELIEVED THAT NUMEROUS DEFICIENCIES IN CONTRACTS INVOLVED
ON THE MOVE MAY BE FOUND TO BE AGAINST THE BEST INTERESTS OF THE
GOVERNMENT ONCE AN AUDIT IS MADE OF THE ENTIRE COST.

AS MENTIONED BEFORE - THE COMMISSIONERS WERE NOT CONSULTED OR ADVISED
ON THE MOVE, AND REQUEST FOR NECESSARY FUNDS WAS NOT PRESENTED TO OR
ACTED UPON BY THE COMMISSIONERS. IN VIEW OF THE INFORMATION, AS
MENTIONED HERE, OBTAINED INDIRECTLY BY THE COMMISSIONERS, A RESOLUTION
WAS APPROVED BY THE COMMISSION AS A BODY ON NOVEMBER 12, 1974, TO HAVE
AN AUDIT MADE OF THE COSTS TO DATE AND FINAL TOTAL ESTIMATED COSTS OF
THE MOVE. A REPORT TO BE ISSUED TO THE CHAIRMAN AND THE COMMISSIONERS
SIMULTANEOUSLY. FURTHER, IT WAS ORDERED THAT NECESSARY QUALIFIED
PERSONNEL BE PROVIDED TO THE AUDIT STAFF. TO DATE NO ACTION HAS BEEN
TAKEN TO COMPLY WITH THE DIRECTIVE OF THE COMMISSION.



TAB D



IRREGULARITIES IN CHAIRMAN'S ACCOUNTS



NO ADDITIONAL INFORMATION WAS SUBMITTED.



TAB E

LACK OF COOPERATION WITH OTHER COMMISSIONERS





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

December 20, 1974

Subject: Reorganization of the Equal Employment Opportunity Commission

November 11, 1974 motion passed unanimously by the Commission approving new organizational structure.

November 25, 1974 memorandum from the Chairman to the Members of the Commission authorizing senior staff to implement a table of organization different from that approved by the Commission.

November 27, 1974 memorandum from Commissioner Walsh to the Chairman insisting that instructions to staff on reorganization be rescinded.

November 27, 1974 memorandum from Commissioner Lewis to the Chairman pointing out the seriousness of disregarding the resolution of the Commission.

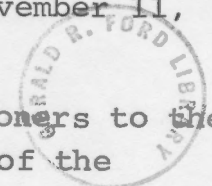
November 29, 1974 memorandum from the Chairman to all employees outlining Headquarters organizational changes.

November 29, 1974 memorandum from Commissioner Lewis to all office heads advising that the organizational changes are not consistent with the plan adopted by the Commission.

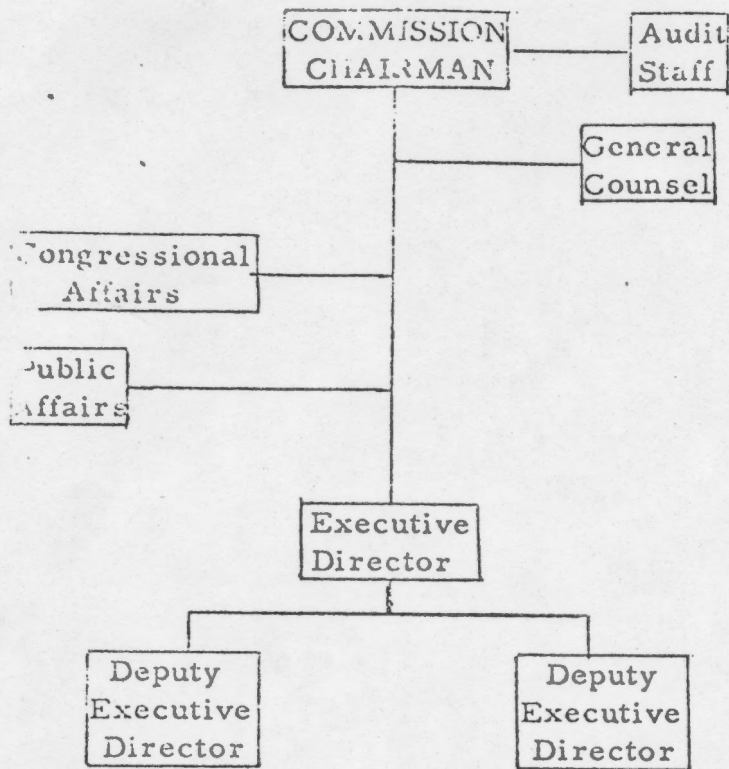
December 11, 1974 memorandum from the Chairman to Commissioner Lewis asserting his administrative authority as Chairman.

December 13, 1974 memorandum from the Chairman to the Members of the Commission concerning the legality of the reorganization plan approved by the Commission at the November 11, 1974 meeting.

December 17, 1974 memoranda from individual Commissioners to the Chairman disputing his position on the legality of the reorganization plan.



Note: Commission means all Commissioners



November 11, 1974

Commissioner Telles made the following motion:

I move that we approve the organizational structure, from the Chairman and the four Commissioners down to and including the two Deputy Executive Directors, which includes the Office of Congressional Affairs, the Office of Public Affairs, the General Counsel, the Internal Audit Office and the Executive Director, as indicated in the chart presented by Commissioner Telles. (See above)

Commissioner Walsh seconded the motion which was approved unanimously by all current Members of the Commission: Chairman Powell, Commissioner Lewis, Commissioner Telles, and Commissioner Walsh.

(Draft Report of Commission Action by Marie D. Wilson, Exec. Sec.)



DRAFT

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D. C. 20506

RECEIVED IN

NOV 23 1974

November 25, 1974

OFFICE OF
COMMISSIONER WALSH

MEMORANDUM TO: Commissioner Colston Lewis
Commissioner Raymond Telles
Commissioner Ethel Bent Walsh ✓

FROM: John H. Powell, Jr.
Chairman

SUBJECT: Attached Memorandum

Attached for your information is a memorandum from the Executive Director summarizing senior staff recommendations regarding implementation of the first stage of this agency's reorganization.

The views therein reflect the very best judgments of senior staff regarding, among other things, how many senior positions should report to the Executive Director. Please note that these views are the same as those expressed in the staff memorandum forwarded to you with my memorandum of October 11, 1974.

In my hearings last December, I pledged that under my Chairmanship this agency--both in terms of reorganization and procedures--would be recast for maximum effectiveness. Since January of this year, I have had the benefit of your views on a number of questions. On numerous occasions, views expressed by each of you have enhanced decisions made in this office. In this regard, I am persuaded that the staff recommendation on questions relating to sub-tier slots would eventually be approved. However, given the urgency expressed, not only in my hearings, but also in my other contexts, it is my judgment that implementation should proceed as hereinafter indicated.

On the basis of research undertaken on Commissioner Lewis' question regarding the reorganization of the Office of Compliance raised at the Commission Meeting held on October 21, 1974, it is clear that under the 1964 Civil Rights Act, as amended and the practice and precedent of this agency, implementation of the recommendations of the



Executive Director falls clearly within the administrative responsibility of the Chairman. I am therefore this day authorizing senior staff to promptly effectuate these recommendations.

Needless to say, any suggestions and/or comments you may have would be appreciated.

Thank you.

Attachment

cc: Messrs William A. Carey
Harold Fleming





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

November 27, 1974

MEMORANDUM FOR:

John H. Powell, Jr.
Chairman

Subject: Commission Reorganization

I am appalled by the action you have taken as outlined by your memorandum of November 25 regarding implementation of the first stage of this Agency's reorganization.

You indicate that you are authorizing senior staff to effectuate recommendations which had been forwarded to the Members of the Commission on October 11, 1974 and been rejected by the Members of the Commission on November 11, 1974.

At that meeting (11/11/74), a reorganization plan was unanimously approved by all Members of the Commission including the Chairman.

Furthermore, it was the sense of that meeting that those functions not specifically included in the organization chart approved on that date would be considered at a subsequent meeting by the Members of the Commission and further action would be taken on the reorganization.

For you to deliberately flaunt the will of the Commission and refuse to implement the November 11, 1974 plan is inexcusable.

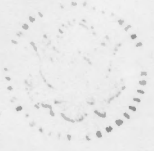
I insist that you immediately rescind your instructions of November 25 to the staff.

Ethel Bent Walsh

Ethel Bent Walsh
Commissioner

cc: Commissioner Colston A. Lewis
Commissioner Raymond L. Telles
General Counsel William A. Carey
Acting Executive Director Harold Fleming





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

November 27, 1974

MEMORANDUM FOR:

John H. Powell, Jr.
Chairman

RE: Commissioner Walsh's Memorandum
of Today

I wholeheartedly agree with Commissioner Walsh's memorandum, hereto attached, and therefore, advising all members of the staff responsible for the implementation of the Chairman's orders that disregarding the resolution or the will of the Commission is a very serious matter. (emphasis added)

Colston A. Lewis
Commissioner

cc: ✓ Commissioner Ethel Bent Walsh
Commissioner Raymond Telles
Harold Fleming
Horace Bussell
Yvette Duggar

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NOV 27 1974
OFFICE OF
COMMISSIONER WALSH





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

MEMORANDUM

TO : All EEOC Employees

FROM : John H. Powell, Jr. *John H. Powell, Jr.*
Chairman

SUBJECT : Headquarters Organizational Changes

As you may be aware, over the past several months we have been giving considerable thought to the need to realign the organizational structure of headquarters in order to more effectively support EEOC's mission and operating programs. With the assistance of an outside contractor, Booz, Allen & Hamilton, Inc., office directors, and an experienced staff committee, we have reviewed a variety of alternatives to our present organization.

On November 11, the Commission approved an organizational structure which would place all operating programs except litigation and all support services under the Executive Director. Subsequently, on November 25 I approved the Executive Director's recommendation that four offices be established, headed by Associate Executive Directors, to carry out the functions which the Commission has assigned to the Executive Director. The four offices are as follows:

Office of Program Operations
Office of Program Development
Office of Systems Development and
Analysis
Office of Administration



NOV 29 1974

OFFICE OF
COMMISSIONER LEWIS

The Executive Director has been charged with the implementation of the new organization, which will take several months to accomplish. As a first step, effective December 1, 1974, the Offices of Management and Program Planning and Evaluation will be transferred from the Office of the Chairman to the Office of the Executive Director.

For the most part, the reorganization will be accomplished by transferring entire functions from one organizational unit to another. The rights of all incumbent employees will be fully protected. Changes will be made in an orderly, planned fashion in order to minimize disruptions of headquarters operations. Until such time as changes are formally announced, all employees should continue to perform their present functions.

I know that Harold Fleming and his staff can count on your full cooperation in the months ahead.



113
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506



November 29, 1974

MEMORANDUM FOR:

All Office Heads

RE: Reorganization Plan

In the event that you have not been provided a copy of the Comptroller General's Opinion concerning Commission policy, I would suggest that you read a copy immediately before taking further action on the reorganization plan.

The memorandum attached hereto is not the plan adopted by the Commission. The Commission has not yet delegated any specific power to the Executive Director that he does not already have.

Colston A. Lewis

Colston A. Lewis
Commissioner

Attachment

cc: Chairman John H. Powell, Jr.
Commissioner Ethel Bent Walsh
Commissioner Raymond Telles

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NOV 29 1974

OFFICE OF
COMMISSIONER WALSH





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

DEC 11 1974

MEMORANDUM

IN REPLY REFER TO:

TO: Colston A. Lewis
Commissioner

FROM: John H. Powell, Jr.
Chairman

SUBJECT: Administrative Authority of the Chairman

As the designated Chairman of EEOC, accountable to the President for the agency's overall performance, I have directed, and will continue to direct, the agency's administrative operations in a manner designed to achieve maximum efficiency and effectiveness for the Commission's programs." Accordingly I have sent the attached memorandum to all employees telling them to continue to carry out the directions which come to them through proper administrative channels."

This action is taken in accordance with precedents established by my predecessors. An example of one such precedent is attached for your information.

I would appreciate your directing any further questions or complaints about staff actions to me rather than directly to staff. I will then assure that a proper response is made to your inquiry.

Attachment

cc: Commissioner Telles ✓
Commissioner Walsh ✓

RECEIVED IN

DEC 11 1974

OFFICE OF
COMMISSIONER WALSH



RB



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D. C. 20506

December 13, 1974

RECEIVED IN

DEC 25 1974

OFFICE OF
COMMISSIONER WALSH

MEMORANDUM

TO : Colston A. Lewis
Commissioner

Raymond L. Telles
Commissioner

✓ Ethel Bent Walsh
Commissioner

FROM : John H. Powell, Jr.
Chairman

A handwritten signature in cursive script, appearing to read "John H. Powell, Jr.", written over the typed name.

SUBJECT: Reorganization Plan Submitted at November 11, 1974
Commission Meeting

I have attached for your information copies of correspondence between my office and the General Counsel concerning the proposed reorganization of the Commission.

Attachment





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D. C. 20506

OFFICE OF
THE CHAIRMAN

MEMORANDUM

✓ TO : William A. Carey
General Counsel

FROM : John H. Powell, Jr.
Chairman

SUBJECT { Legality of Reorganization Plan Submitted at November 11,
1974 Commission Meeting } 7

I have received and read carefully your December 6th memorandum regarding the legality of the reorganization plan submitted at the November 11, 1974 Commission meeting. " I agree with you that any reorganization plan voted by the Commission which required various offices to report to the Commission on the day-to-day activities of those offices would be not only administratively unsound but also contrary to Section 705(a) of Title VII. "

Whether "any reorganization proposed by the Commission would violate Section 705(a) is a matter which must ultimately be determined by the Chairman since the Chairman is, by statute, responsible for the administrative operation of the Commission. "



12/10/74

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506
December 6, 1974



MEMORANDUM

TO : John H. Powell, Jr.
Chairman

FROM : William A. Carey *WAC*
General Counsel *ML*

SUBJECT : Request for Legal Opinion on Reorganization
Plan Submitted at the Commission Meeting of
November 11, 1974

It is my understanding that at the Commission meeting of November 11, 1974, you asked for an opinion on the legality of the reorganization of the Commission submitted by Commissioner Telles. The reorganization requires the General Counsel, Audit Staff, Office of Congressional Affairs, Office of Public Affairs and the Executive Director to report to the Chairman and the Commission, not merely to the Chairman.

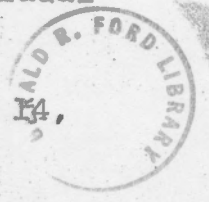
OPINION

"The Commissioners have the authority to reorganize the Commission in such a way that various office heads may be required to make periodic reports to the Commissioners as a body as well as to the Chairman."

DISCUSSION

The issue you have raised is basically one of interpretation of §705 of the Civil Rights Act of 1964, as amended on which this office has provided the Chairman and other Commissioners with several memoranda. 1/ Section 705 provides for a five member Commission which is granted all of the authority enumerated or implied in the act with the exception of the administrative operations of the Commission. Such administrative operations are placed in the hands of an individual

1/ See, e.g., memorandum of General Counsel dated March 14, 1974.



Commissioner, the Chairman, who is to act on behalf of the Commission. The Commission determines the policy and direction of the agency. The Commission, being a collegial body, decides questions and acts based upon a majority vote of the Commissioners present at a duly called meeting, assuming the existence of a quorum. See §705(c) and F.T.C. v. Flotill Products, Inc., 389 U.S. 179 (1967). After policy has been determined, the Chairman administers the day to day implementation of that policy for the Commission.

That the Commissioners of a collegial public body and not the administrative head determine policy is a universally accepted statement of the federal establishment. See §1 of Reorganization Plans Nos. 8, 9, and 10 of 1950 and §1 of Reorganization Plan No. 1 of 1969. See also the decision of the Comptroller General of the United States, B-167015, entitled "Administrative Authority of the Chairman of EEOC".

The determination of which matters are policy and which are administrative is, in the final analysis, a function of the collegial body, not the administrative head, as the following colloquies demonstrate. The first colloquy is from the testimony of Mr. Harold Leventhal of the Citizens' Committee for the Hoover Report before the Senate Committee on Expenditures in the Executive Departments, regarding Reorganization Plans Nos. 7(ICC), 8(FTC), 9(FPC), and 11(FCC) and the effect therein of the transfer of administrative responsibility to the Chairmen of the respective regulatory agencies (Hearings on Sen. Res. Nos. 253, 254, 255, 256, 81st Cong., 2d Sess., p. 126 (1950)):

Mr. Leventhal: It gives administrative authority to the Chairman.

Chairman: Who is going to decide what are administrative responsibilities? Will he decide it?

Mr. Leventhal: No. Since it also gives a charter to the Commission to decide questions of basic policy, I think it involves a call-back or it makes possible a call-back by the Commission on the ground that a policy matter is involved.



The second colloquy occurred on the Senate floor, in a debate concerning the same reorganization plans:

Mr. Douglas: Suppose the Chairman of a Commission states that a given matter is procedural and that, therefore, he has jurisdiction over it; but, suppose other members of the Commission believe that the matter is substantive and policymaking in nature or character. Would the commission then have any authority to overrule the Chairman and make the determinations themselves?

Mr. Humphrey: . . . It is my understanding that matters which deal with the substance of regulations, the substance of policy, and the substance of the law are left to the Commission as a whole; and where there is a conflict as between what is procedural and what is substantive, it my interpretation that the role of the Commission as a whole will overrule the administrative decision of the chairman. . . . (Emphasis added.) (96 Cong. Rec. 7163-64, 1970)

There thus appears ample authority for the proposition that Commissioner Telles may submit and the Commission may vote on any reorganization plan. Such a decision is valid and binding upon the Commission unless a reconsideration vote overturns said reorganization. "

One area of concern is raised by Commissioner Telles's reorganization submission. The word "report" is unclear. Should this word be defined as the discussion of the daily operation of an office between office heads and the collegial body, it would appear to violate §705(a) insofar as it impinges upon the statutory duty of the Chairman to tend to the administrative housekeeping. 2/ It might also be administratively unsound. Should the word, however, mean that

2/ The Hoover Commission stressed that removal of petty administrative matters from commissioners would provide them more time for policy matters:



the Commissioners, as a body, should receive periodic reports from office heads, there would be no violation of §705(a). Furthermore, should the word mean that the office heads are ultimately responsible to the Commissioners as a body for their operational conduct or that the Commissioners, as a body, are entitled to call the office heads before them for a review of office procedures, practice, policy implementation or appropriated fund disbursement, the reorganization is not in violation of §705(a). In sum, the word "report" is unclear, thus allowing for differing interpretations, one of which might not be in accordance with §705(a). Although the law commends the interpretation which is in accord with the statutory scheme where ambiguity exists; see Sunshine Anthracite Coal Co. v. Adkins, 310 U.S. 381 (1940), it would be appropriate for the Commission to substitute for the word "report" some less ambiguous term.

2/ cont.

* Actually this proposal does not derogate from the importance or equality of the other Commissioners. Each member will have undiminished authority on all substantive policies and decisions and on basic administrative matters. In fact their participation in substantive action will be facilitated by freedom from partial and shared responsibility for administrative details. The U.S. Commission on Organization of the Executive Branch of the Government, Committee on Independent Regulatory Commissions: A Report With Recommendations, Jan. 13, 1949, Washington, D.C. U.S. Government Printing Office, 1949; see also March 1949 report of the same Commission.





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

December 17, 1974

MEMORANDUM FOR:

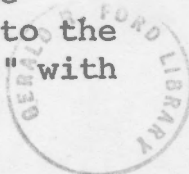
John H. Powell, Jr.
Chairman

Subject: Administrative Authority of the Chairman as it Relates to the Reorganization Plan Voted and Passed by the Commission on November 11, 1974 - Your Memorandum of December 11 and your Undated Memorandum sent under Covering Memorandum of December 13, 1974

Neither one of the subject memoranda make any sense at all.

Your memorandum of December 11 states, "Accordingly I have sent the attached memorandum to all employees telling them to continue to carry out the directions which come to them through proper administrative channels." No such memorandum is attached. The only attachments are a 1970 memorandum from Chairman Brown, a reorganizational chart reflecting the 1970 memorandum, a map of the United States and a form for relocation preference.

Your undated memorandum to the General Counsel subject, "Legality of Reorganization Plan Submitted at November 11, 1974 Commission Meeting," makes even less sense. You state, "I agree with you that any reorganization plan voted by the Commission which require various offices to report to the Commission on the day-to-day activities of those offices would be not only administratively unsound but also contrary to Section 705(a) of Title VII." The General Counsel's opinion to which you refer states, "The Commissioners have the authority to reorganize the Commission in such a way that various office heads may be required to make periodic reports to the Commissioners as a body as well as to the Chairman." I fail to comprehend how your statement "agrees" with the opinion of the General Counsel in any way.



You further state, "Whether any reorganization proposed by the Commission would violate Section 705(a) is a matter which must ultimately be determined by the Chairman since the Chairman is, by statute, responsible for the administrative operation of the Commission." The General Counsel states, "There thus appears ample authority for the proposition that Commissioner Telles may submit and the Commission may vote on any reorganization plan. Such a decision is valid and binding upon the Commission unless a reconsideration vote overturns said reorganization." Once again, your statement does not agree with the opinion of the General Counsel.

I remain appalled by your refusal to implement the November 11, 1974 reorganizational plan voted unanimously (including the Chairman) by the Commission.

Once more, I insist that you immediately rescind your instructions to the staff.

Ethel Bent Walsh

Ethel Bent Walsh
Commissioner

cc: Commissioner Colston A. Lewis
Commissioner Raymond L. Telles
General Counsel William A. Carey





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

WASHINGTON, D.C. 20506

RECEIVED IN

December 17, 1974

DEC 17 1974

MEMORANDUM

TO: Chairman John H. Powell, Jr.

FROM: Commissioner Raymond L. Telles

OFFICE OF
COMMISSIONERSUBJECT: Chairman Powell's Memorandum - December 13, 1974
"Reorganization Plan Submitted at November 11, 1974
Commission Meeting."Chairman Powell's Memorandum to General Counsel
William A. Carey. (Undated)"Legality of Reorganization Plan Submitted at
November 11, 1974 Commission Meeting."

Inasmuch as there appears to be some confusion on your part with respect to the section of the reorganization plan unanimously approved (including the Chairman) at the November 11, 1974 Commission Meeting, I am herewith attaching a Draft Report of Commission Action, as prepared by Marie D. Wilson, Executive Secretary. I believe that this report is self explanatory and should clear up any question you may have in reference to the action taken by a unanimous vote on this subject.

In reference to subjects listed above, your attention is invited to the Decision of the Comptroller General of the United States, B-167015, dated September 19, 1974, entitled "Administrative Authority of the Chairman of the Equal Employment Opportunity Commission," and particularly to the following excerpts from said decision:

Page 1 - Paragraph 1: "Since background of these reorganization plans, which seems applicable under section 705(a), indicates generally that such provisions are not intended to supersede or diminish substantive powers of full commissions, EEOC Chairman's exercise of administrative functions is subject to general policies and directives of full Commission and cannot derogate from substantive responsibilities of full Commission."

Page 4 - Paragraph 2: (Quotes EEOC General Counsel's memorandum of March 14, 1974) "In fact the 1950 Congressional debate on a reorganization plan for the Interstate Commerce Commission



transferring administrative responsibilities to the Chairman reveals the intent of Congress that where there is a conflict between the Chairman of a multi-body agency and the other members over what is procedural or administrative, and what is policy, the Commission as a whole may overrule the administrative decision of the Chairman, 96 Cong. Rec. 7163-7164, May 7, 1950."

Page 10 - Paragraph 2: "In addition, as the EEOC General Counsel's memorandum points out, the Senate debate on a 1950 reorganization plan for the Interstate Commerce Commission (subsequently disapproved) indicated that where disputes arise as to what matters are procedural or administrative and what are substantive, the full commission should have the final say. 96 Cong. Rec. 7163-7164, May 7, 1950."

Page 11 - Paragraph 2: "Rather, we believe that organizational issues, inasmuch as they relate to effectiveness and efficiency in carrying out the agency's statutory functions and implementing substantive Commission actions, would generally be characterized as involving policy issues. We believe the reference in section 705(a) to the appointment of such personnel as the Commission determines necessary indicates that the Commission as a whole has a legitimate role in organizational matters."

Page 14 - Paragraph 4: "On the basis of the statutory provisions and legislative history discussed herein, it is our opinion that the full Commission has authority to establish reasonable standards to govern contracts and other uses of funds, including requirements for Commission approval of transactions of a certain nature or amount. Thus, in our view, the Commission's substantive authority and responsibility as a body renders it the proper source for separating policy matters from administrative matters; and the Chairman's administrative authority must be considered subordinate to such Commission determinations so long as they are not patently unreasonable or excessive.."

Enclosure

cc: Commissioner Ethel B. Walsh ✓
Commissioner Colston A. Lewis
General Counsel William Carey
Acting Executive Director Harold Fleming





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

RECEIVED IN

December 17, 1974

DEC 17 1974

OFFICE OF
COMMISSIONER WALSH

MEMORANDUM FOR:

John H. Powell, Jr.
Chairman

SUBJECT: Administrative Authority of the Chairman --
Your Memorandum of December 11, 1974

Your memorandum on the above cited subject matter is, as are most of your arbitrary and capricious acts, an erroneous and illegal statement of your administrative authority as Chairman and clearly contrary to the expressed will, directions and policies of the Commission, both past and present.

Initially, I should point out that not only are you accountable to the President for your actions as Chairman, but you are equally accountable to the Congress and the Members of the Commission itself for your actions as Chairman of the Commission.

Correspondingly, in my view, you have the responsibility to carry out the expressed mandates of the Commission as a body, to the fullest extent, irrespective of whether you personally agree or disagree with the said policy expression. Your memorandum implies that you intend to disregard the policies and directives of the full Commission in direct contravention of the September 19, 1974, Decision of the Comptroller General which unequivocally states:

...Since the background of these reorganization plans, which seem applicable under Section 705(a),



indicates generally that such provisions are not intended to supersede or diminish substantive powers of the full Commission, EEOC Chairman's exercise of administrative functions is subject to general policies and directives of full Commission and cannot derogate from substantive responsibilities of full Commission.

(emphasis added)

As a matter of law, actions taken by you or your predecessors in the execution of Commission objectives are subject to analysis, scrutiny and reversal by the full Commission at any time deemed appropriate by the Commission itself. Moreover, it is the basic function of a multimember Commission to actively promulgate the regulations, policies and procedures which govern how it will do business and the inherent responsibilities of the Commission to police those charged with implementing said policies, regulations, and directives on behalf of the Commission, in a manner consistent with the will of the Commission and its statutory objectives. In addition, the recent decision by the Comptroller General, clearly delineating the authority of the Chairman, was rendered as a result of the arbitrary, unilateral, illegal, usurpation of the full Commission's decision making responsibilities and functions by you and your predecessor, in complete derogation of the intent of Congress. Since the Comptroller General's Decision was only recently rendered, unlike you, your predecessors did not have the benefit of an independent legal opinion on this subject to govern their actions and guide the Commission. It is highly probable that had this decision been available to your predecessors, their administrations would have been conducted in a lawful manner within the framework of this legal opinion.



It is you, who have the benefit of this opinion, and the responsibility to conduct your administration within the framework of such legal guidance. Unfortunately, it is you, who chose to ignore the Decision of the Comptroller General, and you, who have chosen to act illegally, arbitrarily, and capriciously to usurp the fundamental decision functions and responsibilities of full Commission in direct opposition to the Decision of the Comptroller General. These illegal actions cannot be contributed to your predecessors.

It is the inherent right of any Member of this Commission, appointed by the President and confirmed by the Senate, to request directly of any Commission employee, any information, questions, or concerns with respect to Commission activities at any time that such information or knowledge would further the ability of that Commissioner to better fulfill the responsibilities of that office.

I have no intention of abrogating any of the inherent rights and responsibilities of my appointed office to anyone, much less you.

For your information, I shall continue to direct any question, inquiry, concern or complaint, directly, if necessary, to any Commission employee responsible for the respective Commission activity, of my concern, and I shall expect an immediate factual, complete response from said Commission personnel.

Your consistent refusal to provide Members of the Commission with the reports furnished by the Internal Audit Division, despite a Commission policy on this matter; your stated refusal to abide by the \$2,500.00 contract mark established by full Commission, are just a few of your recent unilateral, arbitrary, and illegal actions in defiance of the full Commission under the false guise of "your administrative authority."



Colston A. Lewis
Commissioner

cc: Commissioner Raymond L. Telles
Commissioner Ethel Bent Walsh
William Carey, General Counsel
Harold S. Fleming, Executive Director
All Office Heads
All Regional Directors



e 8

REFUSAL BY THE CHAIRMAN TO ADHERE TO SOME OF THE COMMISSION'S POLICIES

1. HAS AUTHORIZED ON HIS OWN SEVERAL MILLION DOLLARS IN CONTRACTS WITHOUT VOTE OF THE COMMISSIONERS. |

DESPITE THE FACT THAT:

- (A) EEOC GENERAL COUNSEL HAS RENDERED A LEGAL DECISION THAT CONTRACTS INVOLVING POLICY MUST BE APPROVED BY THE MAJORITY OF COMMISSIONERS.
- (B) THE COMPTROLLER GENERAL ISSUED LEGAL DECISION ON SEPTEMBER 19, 1974 STATING THAT A MAJORITY OF VOTES OF THE COMMISSIONERS ESTABLISHES POLICY, AND ALSO DETERMINES WHAT IS POLICY AND WHAT ARE ADMINISTRATIVE FUNCTIONS. ALSO, THAT THE COMMISSION AS A BODY APPROVES CONTRACTS.

ON NOVEMBER 12, 1974, A RESOLUTION WAS APPROVED BY THE COMMISSION AS A BODY (CHAIRMAN VOTED NO) TO HAVE ALL CONTRACTS OVER \$2500 SUBMITTED TO THE COMMISSION FOR APPROVAL, WITH THE EXCEPTION OF THOSE INVOLVING DAILY ROUTINE EXPENSES SUCH AS PAYROLL AND PER DIEM. TO DATE SUCH CONTRACTS HAVE NOT BEEN SUBMITTED TO THE COMMISSION AS A BODY FOR APPROVAL OTHER THAN THE PROPOSED CONTRACTS WITH THE LAWYERS COMMITTEE FOR CIVIL RIGHTS AND THE STATE AND COMMUNITY PROGRAM.

2. ON NOVEMBER 11, 1974, A RESOLUTION WAS APPROVED UNANIMOUSLY BY THE COMMISSION AS A BODY (INCLUDING THE FAVORABLE VOTE OF THE CHAIRMAN), SETTING UP THE NEW ORGANIZATIONAL TOP STRUCTURE OF THE COMMISSION. ON NOVEMBER 25, 1974, THE CHAIRMAN ON HIS OWN ISSUED ORDERS TO THE STAFF IN EFFECT TO DISREGARD RESOLUTION APPROVED ON NOVEMBER 11, 1974, AND TO OPERATE UNDER AN ORGANIZATIONAL STRUCTURE PREVIOUSLY REJECTED BY THE COMMISSION AS A BODY AND CONTRARY TO RECOMMENDATION BY CONSULTANTS BOOZ-ALLEN AND HAMILTON. THE FIRM OF BOOZ-ALLEN AND HAMILTON CONSULTANTS IS BEING PAID OVER \$100,000 FOR A STUDY AND RECOMMENDATIONS ON ADMINISTRATIVE PROCEDURES.
3. SUBMITTED REQUEST FOR 1975 BUDGET SUPPLEMENT TO OMB WITHOUT CONSULTING OR APPROVAL OF THE COMMISSION AS A BODY.
4. COMMISSION AS A BODY HAS NEVER BEEN CONSULTED ON ALLOTMENT OF PERSONNEL POSITIONS OR ON THE APPOINTMENT OR DISCHARGE OF HEADS OF MAJOR ADMINISTRATIVE UNITS.



5. NEGOTIATED AND AGREED WITH AFL-CIO ON MAJOR POLICY PROCEDURE IN PROCESSING OF CHARGES WITHOUT CONSULTING THE COMMISSION AS A BODY. THEN RELUCTANTLY PRESENTED THE AGREEMENT TO THE COMMISSIONERS WHICH WAS VOTED DOWN 3 TO 1 (CHAIRMAN VOTED NO) BECAUSE OF MANY OBVIOUS DEFICIENCIES. ADVISED AFL-CIO HE WAS IN FAVOR BUT THREE OTHER COMMISSIONERS WERE IN OPPOSITION TO HIM.
6. AUTHORIZED AND ORDERED MOVE OF HEADQUARTERS AT 1800 G ST. TO THE COLUMBIA PLAZA BUILDING WITHOUT CONSULTING THE OTHER COMMISSIONERS, INVOLVING AN EXPENDITURE OF SEVERAL HUNDRED THOUSAND DOLLARS NOT IN THE BUDGET.



Employment Report/Internal problems hamper EEOC anti-bias efforts

by James W. Singer

1226

8/17/74
NATIONAL

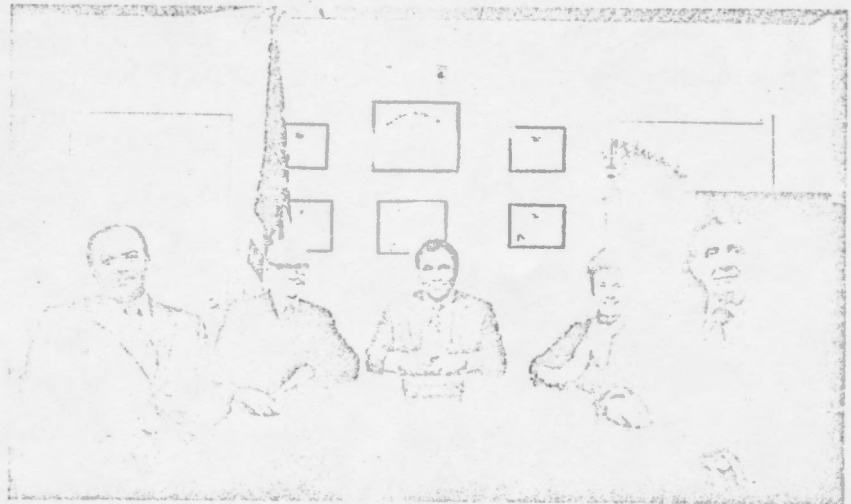
©1974

Enormous problems and serious internal conflicts are hampering the Equal Employment Opportunity Commission (EEOC) in its efforts to stamp out employment discrimination.

In its nine years, the EEOC has been transformed from a small, ineffectual commission into the government's foremost civil rights agency. Once ignored as a "paper tiger," it has achieved substantial successes and has caused many large companies to spend huge sums to change their employment practices.

Yet it is recognized widely that the EEOC's effectiveness has been limited severely by its internal difficulties. Civil rights leaders are concerned and anxious to help, while corporate attorneys deplore what they consider the agency's lack of professionalism.

"According to an EEOC official, the commission has never attempted to develop a total integrated management information system," a draft summary of a July 1974 General Accounting Office survey reports. As a



Equal Employment Opportunity Commission members (from left) Colston Lewis, Luther Holcomb, John Powell (chairman), Ethel Bent Walsh and Raymond Telles

able improvement," except in the Denver region. "The elimination of this problem," Carey said "requires that the Office of General Counsel and (the) Compliance (Office) immediately evaluate present systems and develop new approaches to eliminate

interview. "I just don't understand how everybody who gets to be chairman feels he can run this damn organization without consulting us. They act as if they have unlimited power to do almost anything they want, irrespective of our wishes."

Increases in responsibility have made the Equal Employment Opportunity Commission the nation's chief civil rights agency, but the increases in funds and staff that have been coupled with its growing role have had little effect in increasing the agency's effectiveness. Although some substantial successes recently have been recorded, the EEOC has the astounding total of 89,000 charges backed up awaiting action and a person filing a job discrimination charge must wait two years for his complaint to be processed.

On May 13, Lewis and two of the other commissioners—Luther Holcomb (who is leaving soon but whose replacement has not been selected) and Ethel Bent Walsh—requested a legal opinion defining the respective rights and responsibilities of the commission and of the chairman, John H. Powell Jr.

"In substance," they wrote Comptroller General Elmer B. Staats, who heads the General Accounting Office, "the controversy and concerns of the members of the commission stem from the different interpretations of . . . (the law) . . . by the chairman and the members of the commission regarding what commission activities must be presented to, deliberated on . . . and decided by the whole commission as a body."

result, the GAO survey makes clear, the commission has failed to keep track of charges and to process them in an orderly and efficient manner.

The commission's backlog has soared to 89,000 charges—and EEOC officials say a person who files a charge of job discrimination still must wait an average of two years for the agency to process his complaint. By that time, many no longer care to proceed.

William A. Carey, EEOC general counsel, June 19 wrote the commission's acting executive director that Carey's office had filed far fewer suits than it planned. One of the reasons, he said, is that between 80 and 90 per cent of the files his staff received had to be returned to EEOC field offices as unsuitable for litigation.

Carey wrote that this continued a trend set in 1973 "with little notice-

present program incongruencies in the processes used."

According to staff members, conflicts between the various parts of the commission—between the general counsel's office and the rest of the agency, between regional offices and headquarters, between the district branches and the regions—have contributed to the agency's problems.

Commissioners: The five EEOC commissioners themselves are locked in a power struggle exacerbated by personal animosities—that has been building for several years. Four of the commissioners believe they always have been bypassed by the chairman (who also is a commissioner) in establishing policy, and are attempting to assert what they consider their rightful authority.

"I just don't understand it," Commissioner Colston A. Lewis said in an

Pending an opinion, they requested that a freeze be placed on the expenditure of EEOC funds unless approved by the commission, that all pending EEOC contracts be held in abeyance unless authorized by the commission and that no future EEOC contracts be made without approval by the commission.

As of the middle of August, Staats had not responded to the letter.

Background

The commission, headquartered a block from the White House, was established by Title VII of the Civil

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COMMISSION

FAIR EMPLOYMENT report

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Bi-Weekly newsletter published from the Nation's Capital

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COMMISSIONER WALSH

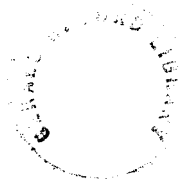
Vol. 12 No. 19

Page 181

INDUSTRY, BUSINESS GROUPS CHARGE EEOC WITH FAILURE TO ENSURE EEO

Backlog of more than 100,000 claims of job discrimination at a time when an average of 26 months is needed to resolve a complaint is evidence of Equal Employment Opportunity Commission's failure to ensure equal job opportunities, representatives of industry and business charged last week at hearings of a House labor subcommittee investigating the huge backlog of cases.

In a wide-ranging indictment before the House Education and Labor Subcommittee on Equal Opportunities Sept. 19, Chamber of Commerce of the U.S. blamed poor EEOC staff work, inefficient and ineffective practices, bias on the part of some investi-



MISTREATMENT OF COMMISSION PERSONNEL



f 2

PERSONNEL PROBLEMS

1. HAVE LOST A NUMBER OF TOP EXPERIENCED PERSONNEL. OTHERS WANT TO LEAVE AS SOON AS THEY FIND OTHER JOBS.

THE CHAIRMAN TRIES TO CONTROL MEMBERS OF STAFF THROUGH BADGERING AND A CONTINUOUS INTIMIDATION AND THREATS OF FIRING.
2. UNJUSTLY EMBARRASSING TOP STAFF PERSONNEL BY VOCIFEROUSLY REPRIMANDING AND LECTURING IN FRONT OF COMMISSIONERS AND THE OTHER STAFF PERSONNEL. USING UNDERHANDED METHODS TO TRY TO CONTROL PERSONNEL.
3. CHAIRMAN HAS LOST FIVE SPECIAL ASSISTANTS, HAS ONLY ONE LEFT. LOST HIS CONFIDENTIAL SECRETARY. HAS PROBLEM FINDING REPLACEMENTS.
4. REPORTS FROM FIELD PERSONNEL OF IMPROPER QUESTIONING BY A SPECIAL ASSISTANT ON ORDERS OF THE CHAIRMAN.
5. TELEPHONE CALLS BY THE CHAIRMAN TO EMPLOYEES' HOMES AT ALL HOURS OF THE NIGHT.
6. TELEPHONE CALLS TO MEMBERS OF PERSONNEL STAFF ON WEEKENDS DIRECTING THEM TO REPORT TO HIS OFFICE IMMEDIATELY.
7. CONFUSES STAFF PERSONNEL BY ISSUING ORDERS CONTRARY TO POLICY SET BY THE COMMISSION.
8. LABOR UNION IS FILING GRIEVANCES AND UNFAIR LABOR PRACTICE CHARGES.
9. ON NOVEMBER 12, 1974 THE COMMISSION AS A BODY (WITH A NEGATIVE VOTE BY THE CHAIRMAN), ORDERED THAT AN INVESTIGATION BE MADE OF ALLEGED SERIOUS INTERNAL PERSONNEL PROBLEMS REPORTED WITHIN THE FINANCIAL MANAGEMENT DIVISION. REQUIRING THE PREPARATION OF A REPORT OF FINDINGS AND CORRECTIVE ACTIONS TAKEN. THE REPORT TO BE ISSUED SIMULTANEOUSLY TO THE CHAIRMAN AND THE COMMISSIONERS. TO DATE, IT IS NOT KNOWN IF THE INVESTIGATION HAS BEEN MADE AND NO REPORT HAS BEEN MADE TO THE COMMISSIONERS.



TAB G

INEFFICIENT ACCOUNTING AND OVEREXPENDITURE
OF
APPROPRIATED FUNDS





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

December 20, 1974

Subject: Financial Matters of Concern to the Commission

I. Audit of the Financial Management Division

November 12, 1974 motion directing audit staff to audit the Financial Management Division and submit the report simultaneously to the Chairman and Commissioners.

November 15, 1974 memorandum from the Chairman to the Commissioners advising that a study group consider the matters raised in the resolution.

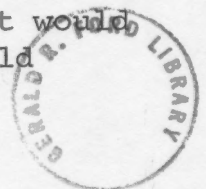
November 15, 1974 memorandum from Commissioner Walsh to the Chairman advising that his proposed method was not consistent with the proposed resolution.

November 15, 1974 memorandum from Commissioner Telles to the Chairman referring to inadequate statements of the Chairman and pointing out that the motion passed explicatedly ordered that an audit be made of the Financial Management Division.

November 19, 1974 memorandum from Commissioner Lewis to the Chairman requesting a meeting "In light of the continuing misunderstanding and misdirection of staff."

November 19, 1974 memorandum from Commissioner Walsh to the Chairman requesting such a meeting.

November 20, 1974 memorandum from the Chairman to the Commissioners indicating that an audit report would go to the Chairman and that the Chairman would report the results to the Commissioners.



November 21, 1974 memorandum from Commissioner Walsh to the Chairman pointing out that the motion clearly states that the report be submitted simultaneously to the Chairman and the Commissioners.

November 21, 1974 memorandum from Commissioner Lewis to the Chairman once more requesting a meeting with the Internal Audit Staff to clarify any misunderstanding.

November 22, 1974 memorandum from Commissioner Telles to the Chairman that all reports be distributed immediately by the Audit Staff to all Commissioners as indicated in the approved resolution.

November 22, 1974 memorandum from Commissioner Lewis to the Chief of the Internal Audit Division requesting copies of any interim report.

November 22, 1974 memorandum from Chief of the Internal Audit Staff to Commissioner Lewis indicating that he had been directed by the Chairman that the Chairman's Office was to disseminate all information.

November 22, 1974 memorandum from the Chairman to Commissioner Lewis indicating that the Chairman will be making any reports as may be required.

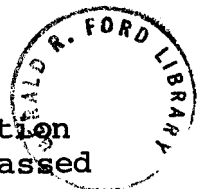
November 26, 1974 motion passed by the Commission clarifying any possible misunderstanding.

NOTE: At the November 26, 1974 Commission meeting, the Chairman declared the above motion out of order. It was appealed. The appeal was successful. The motion passed. The Chairman refused to provide interim reports as required by the resolution.

December 18, 1974 letter from Chairman Powell to the Assistant to the President, Office of Management and Budget, reporting violation of the Antideficiency Act.

II. Cost of Move

November 12, 1974 motion requiring itemized information concerning the cost of the move. Motion was passed 3-1. No information received to date.





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

Excerpt from Summary Report of Commission Meeting of November 12, 1974

Page 6

(D) Financial Management Division; Audit Requested

Commissioner Telles made the following motion:

That an audit be made of the Financial Management Division immediately by EEOC Audit staff, inasmuch as it has been brought to the attention of the Commissioners that there exist serious problems in the operation and accuracy in reporting and accounting functions in that office.

The Office of Management and Budget has expressed on various occasions a concern for the lateness and inaccurate financial data submitted to their office as required by OMB Circular A-34.

Necessary qualified personnel is to be made available to the Audit staff so that the audit may be expeditiously conducted and completed. Copies of the complete report will be submitted simultaneously to the Chairman and the Commissioners.

Chairman Powell, when reviewing the motion earlier, had stated that he had requested an audit on November 11. He asked A. Golub, Deputy Executive Director, to be sure that the memorandum on the matter had gone forward. Golub said that "something is already underway."

Commissioner Walsh seconded the motion, which was adopted by a vote of 3-0. Commissioners Lewis, Telles and Walsh voted in the affirmative, Chairman Powell abstained.





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

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NOV 15 1974

OFFICE OF
COMMISSIONER WALSH

MEMORANDUM

NOV 15 1974
OFFICE OF
COMMISSIONER WALSH

TO: Commissioner Lewis
Commissioner Telles
Commissioner Walsh

FROM: John H. Powell, Jr.
Chairman

John H. Powell, Jr.
Chairman

SUBJECT: Commission Resolution Concerning Audit of the
Financial Management Division

I am attaching for your information several memoranda concerning the establishment of a Financial Management Study Group. As you will note, this Study Group is addressing the problems described in the resolution passed by the Commission on November 12, 1974 and is to complete its work by the end of December.

In order to avoid duplication of effort, I am asking the Study Group to consider the matters raised in the Commission resolution and in Commissioner Telles' memorandum of November 11. Copies of the Study Group's report and recommendations, as well as those submitted by Mr. Fleming and Ms. Duggar, will be made available to you.

Attachments

cc: Mr. Fleming
Ms. Duggar
Mr. Huber





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

November 15, 1974

MEMORANDUM FOR:

John H. Powell, Jr.
Chairman

Subject: Commission Resolution Concerning Audit of
the Financial Management Division
Your Memorandum of November 15, 1974

I do not consider the content of the subject memorandum consistent with the Commission resolution passed at the meeting on Tuesday, November 12, 1974.

The resolution clearly states, "That an audit be made of the Financial Management Division immediately by EEOC Audit Staff".

Your requesting a study group to "consider the matters raised in the Commission resolution" in no way is in accord with the wording or intent of the Commission resolution.

Ethel Bent Walsh

Ethel Bent Walsh
Commissioner

cc: Commissioner Colston A. Lewis
Commissioner Raymond Telles
Mr. Harold S. Fleming
Ms. Yvette Duggar
Mr. Richard Huber



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

November 15, 1974

MEMORANDUM:

TO: Chairman John H. Powell, Jr.

FROM: Commissioner Raymond L. Telles *Raymond L. Telles*

SUBJECT: Memorandum dated 15 November 1974 from Chairman John H. Powell, Jr., "Commission Resolution Concerning Audit of the Financial Management Division"

Attachments:
Memorandum dated 7 November 1974 from Chairman John H. Powell, Jr. to Ms. Yvette W. Duggar, Director, Office of Management; "EEOC Accounting System"
Route Slip - dated November 14, 1974 from Chairman Powell to Commissioner Telles:
Reference statements attributed to Mr. Harold Fleming

Let me preface my reply to your Memorandum, dated 7 November 1974 and Route Slip, dated November 14, 1974, by stating unequivocally that your allegations in both your Memorandum and Route Slip are totally inaccurate. I was never made aware of by you or any one of your staff members, or did anyone discuss with me or did I at any time agree to what you call various actions and steps being taken to resolve the problems in the Financial Management Division.

I believe that you will agree with me that attributing actions or statements to a person which have not taken place constitute a most serious act.

Your attention is invited to my memorandum addressed to you, dated October 22, 1974, expressing my concern with the problems in reporting and accounting in the Financial Management Division. I strongly recommended to you that an audit should be made of that office and I outlined the reasons.

It was apparent to me that you did not agree with my recommendation for instead, I received a copy of your memorandum, dated 7 November 1974 to Ms. Yvette W. Duggar alledging a number of things which were totally inaccurate. Your attention is invited to my reply of November 11, 1974 refuting your allegations.

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OFFICE OF
COMMISSIONER WALSH



You and I have never discussed or have reached an understanding of the complexities of the situation as you stated. You and I have never discussed and I have never considered or agreed with you to the appointment of a Financial Management Study Group as you stated. Most vehemently, I state to you that your statement that I discussed with you or that I agreed to nominate on behalf of the other Commissioners an individual who will participate as coordinator of the study group you proposed is totally erroneous. This action on my part would have been most presumptuous, particularly since this matter has never been discussed with the other Commissioners.

Please refer to my Memorandum, dated November 11, 1974 addressed to you (Subject: EEOC Accounting System, November 7, 1974) in which I advised you in no uncertain terms that the assumption and statements in your memorandum dated November 7, 1974 were totally incorrect. Also, in this memorandum I reiterated my strong recommendation for an audit of the Financial Management Division.

In further reference to your memorandum, dated 15 November 1974, it is my personal view and in my opinion, the appointment of a Study Group is not the answer to the solution of the problems in that Division. It is not possible to resolve or eliminate a problem, as serious as this one, unless you first determine what the problem is and what is causing it. On the basis of the results of an audit, a course of action can be determined to solve the problem, if you wish, by a Study Group, who will consider the problems and recommendations listed by the Audit Staff.

In so far as the statement in your memorandum, dated 15 November 1974, "In order to avoid duplication of effort, I am asking the Study Group to consider the matters raised in the Commission resolution and in Commissioner Telles' memorandum of November 11, 1974," I would like to suggest to you that the Commissioners' order by majority of votes on November 12, 1974 is clear and very explicit in ordering that an audit be made of the Financial Management Division. Also, I do not consider the audit to be a duplication of effort. Certainly not in substance and since the Commissioners did not order the formation of a Study Group. I might add that there is substantial difference between a "review" and an "audit". Also, in your memorandum, dated November 7, 1974, you stated that the Study Group would be functioning on November 13, 1974, one day after the order by the Commissioners on November 12, 1974 to conduct the audit. The Commissioners' directive also stated that necessary qualified personnel be made available to the Audit Staff so that the audit may be expeditiously conducted and completed.



Another item of importance and concern was brought to your attention by my Memorandum, dated October 22, 1974, in reference to a contract for the sum of \$122,600 signed with Forward Management, Inc. The contract was issued for the purpose of producing a Contract Management Manual. In my memorandum, I expressed to you my concerns. I received your memorandum, dated October 29, 1974, in reply, and with all due respect do not consider it as a satisfactory response to my concerns in this connection. I might add that this contract was not presented to the Commissioners for consideration and approval, or disapproval.

cc: Commissioner Ethel B. Walsh
Commissioner Colston Lewis
Mr. Harold Fleming
Mr. Richard Huber





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

November 19, 1974

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MEMORANDUM FOR:

OFFICE OF
COMMISSIONER WALSH

John H. Powell, Jr.
Chairman

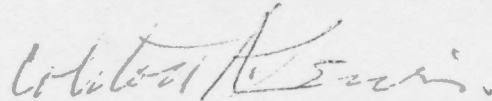
SUBJECT: Commission Resolution to Audit the
Financial Management Division

The Commission Resolution of November 11, 1974, requesting an audit of the Financial Management Division was clear and definitive in requesting and directing that a full and complete audit be conducted by the Internal Audit Division. This resolution contained no reference to a "study group," as you and the Executive Director seem to think. In fact, to the contrary, the resolution contains no latitude to do other than the resolution specifically directs. Nor is the said audit to be limited to five areas contained in the Executive Director's memorandum dated November 19, 1974, on this subject (copy attached), again contrary to the explicit directions of the Commission. I find both your memorandum on this subject and the Executive Director's memorandum on this subject to be totally unresponsive to the will of the Commission. I expect this misdirection to be rectified immediately in accordance with the Commission Resolution on this subject.

In light of the continuing misunderstanding and misdirection of staff concerning the implementation of the Commission resolution on this subject. I hereby request that a special meeting of the Commission



be immediately convened with the members of the Internal Audit Division in order to establish time-tables and procedures and to provide clear directions to staff on this matter. Surely this matter deserves your immediate attention.



Colston A. Lewis
Commissioner

cc:

✓ Commissioner Walsh
Commissioner Telles
Executive Director
General Counsel
Mr. Huber, Supervisory Auditor





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

November 19, 1974

MEMORANDUM FOR:

John H. Powell, Jr.
Chairman

Subject: Special Meeting of Commission
Per November 19, 1974 Request of
Commissioner Colston A. Lewis

I believe Commissioner Lewis' request for a special meeting to provide direction to the Internal Audit Division is both appropriate and imperative.

I will be available for such a meeting any time this week except between the hours of 12:45 p.m. thru 2:30 p.m. on Wednesday, November 20, when I will be delivering a speech.

I will look forward to prompt scheduling of this meeting.

Ethel Bent Walsh

Ethel Bent Walsh
Commissioner

cc: Commissioner Colston A. Lewis
Commissioner Raymond Telles
General Counsel William Carey
Acting Executive Director Harold Fleming
Supervisory Auditor Richard Huber





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

RB

NOV 20 1974 RECEIVED IN

NOV 21 1974

OFFICE OF
COMMISSIONER WALSH

MEMORANDUM

TO : Commissioner Telles
Commissioner Walsh ✓
Commissioner Lewis

FROM : John H. Powell, Jr.
Chairman

SUBJECT: Commission Resolution to Audit the Financial
Management Division

This memorandum supplements the memorandum from Mr. Fleming on this date, same subject.

Mr. Huber is to operate independently of staff in carrying out his audit responsibilities. He is to report and make recommendations growing out of his audit activities to the Chairman. The Chairman will report the results of the audit to the Commission.

cc:
Mr. Huber
Ms. Duggar
Mr. Golub
Mr. Fleming



DESK

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506



November 21, 1974

MEMORANDUM FOR:

John H. Powell, Jr.
Chairman

Subject: Commission Resolution to Audit the Financial
Management Division

Your memorandum of November 20 appears to be another attempt to circumvent the will of the Commission in regard to an audit of the Financial Management Division. The motion passed on November 12, 1974 clearly states that, "Copies of the completed report will be submitted simultaneously to the Chairman and the Commissioners." (emphasis supplied).

This is the third in a series of memoranda proposing action other than that required by three Members of the Commission. Your reluctance to have an audit made of the Financial Management Division and the results submitted to the Members of the Commission is difficult to understand.

Further delay in carrying out the intent of the Commission could raise serious doubts concerning the conduct of the Financial Management Division.

Ethel Bent Walsh

Ethel Bent Walsh
Commissioner

- cc: Commissioner Colston A. Lewis
- Commissioner Raymond L. Telles
- Mr. Harold S. Fleming
- Ms. Yvette Duggar
- Mr. Richard Huber





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

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November 21, 1974

OFFICE OF
COMMISSIONER WALSH

MEMORANDUM FOR:

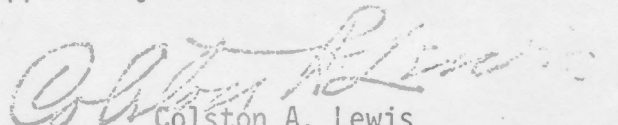
John H. Powell, Jr.
Chairman

SUBJECT: Audit of the Financial Management Division -
Memorandum of November 20, 1974

In regard to your memo of November 20, 1974, which states that Mr. Huber will report to the Chairman as to the findings of the Financial Management Division and which the Chairman will then report to the Commissioners, is not in accord with the resolution passed by the Commission.

Explicit in the resolution from the Commission for an audit of the Financial Management Division was that the report of the audit findings would be made to the Chairman and the Commissioners simultaneously. Then why not, in order that there will be no misunderstanding, we should meet to make sure that all parties understand what the Commission expects.

I have, by memorandum to you of November 19, 1974, requested that there be a Commission meeting with the Internal Audit Division to provide specific directions and to clarify any misunderstanding which still apparently exists.


Colston A. Lewis
Commissioner

cc: All Commissioners
Executive Director
Mr. Huber
General Counsel



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

November 22, 1974

MEMORANDUM

TO: Chairman John H. Powell, Jr.

FROM: Commissioner Raymond L. Telles *Raymond L. Telles*

SUBJECT: Commission Resolution of November 12, 1974 to
Audit the Financial Management Division
Memorandum from the Chairman, dated November 20,
1974, Commission Resolution to Audit the Financial
Management Division

The clear intent and purpose of the subject resolution was that all reports (including interim reports) of the EEOC Audit Staff be submitted simultaneously to the Chairman and the Commissioners.

Thus, your November 20, 1974 memorandum which indicates that Mr. Huber will report his findings to you and thereafter you would report to the Commissioners is absolutely inconsonant with Commission policy as established by the aforementioned resolution.

In line with this policy, if any reports have in fact been issued by the Audit Staff regarding the Financial Management Division, the same should be distributed immediately by the Audit Staff to all Commissioners as directed in the approved resolution. To proceed in any other manner will be in violation of the Commission's resolution and policy.

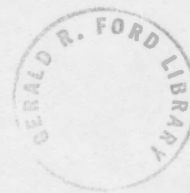
The Audit Staff should be apprised of this policy so that in the future there is no misunderstanding on the part of anyone concerned.

cc: Commissioner Colston Lewis
Commissioner Ethel Bent Walsh ✓
Mr. Huber
Ms. Duggar
Mr. Fleming
Mr. Golub

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NOV 25 1974

OFFICE OF
COMMISSIONER WALSH



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November 22, 1974

Richard Huber, Chief
Internal Audit Division

Colston A. Lewis
Commissioner

OFFICE OF
COMMISSIONER WALSH

Audit -- Financial Management Division

I have been advised that the Internal Audit Division has recently submitted to the Chairman an interim memorandum or draft report relative to the current audit of the Financial Management Division. Neither I nor my fellow commissioners have received copies of this memorandum. This action is in derogation of the Commission resolution on this subject which explicitly states that all reports and memoranda on this subject are to be submitted to the Chairman and Commissioners simultaneously. I fully expect you to comply with the Commission resolution in its entirety; and I expect to be furnished copies of said memorandum by the close-of-business today.

cc:

Chairman Powell

(Commissioner Walsh

Commissioner Telles

Executive Director

General Counsel



Memorandum

TO : Colston A. Lewis
Commissioner

DATE: November 22, 1974

FROM : Richard F. Huber, Chief *RFH*
Internal Audit Staff

In reply refer to:

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NOV 25 1974

OFFICE OF
COMMISSIONER WALSH

SUBJECT: Audit of the Financial Management Division

This is in reference to your memorandum dated November 22, 1974. I am aware of the Commission resolution on the Audit of the Financial Management Division, However, I have been directed by the Chairman that his office will disseminate all information. Therefore, your request has been forwarded to the Chairman office for action.

cc: Chairman Powell
Commissioner Walsh ✓
Commissioner Telles





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D. C. 20506

OFFICE OF
THE CHAIRMAN

November 22, 1974

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NOV 25 1974

OFFICE OF
COMMISSIONER WALSH

MEMORANDUM TO: Colston A. Lewis
Commissioner

FROM: John H. Powell, Jr.
Chairman

Mr. Huber has brought your memorandum to him of today's date regarding the audit of the Financial Management Division to my attention.

The attached memorandum of November 20, 1974, is self-explanatory and explains that in accordance with the purpose for which agency heads have been afforded the tool of an independent audit unit, the Chairman -- not Mr. Huber -- will be making such dissemination as the contents of the as yet unfinished report may require.

If you have further questions regarding this matter, feel free to contact me.

cc: Commissioner Telles
✓ Commissioner Walsh
Executive Director
General Counsel





EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20506

NOV 20 1974

MEMORANDUM

TO : Commissioner Telles
Commissioner Walsh
Commissioner Lewis

FROM : John H. Powell, Jr.
Chairman

SUBJECT: Commission Resolution to Audit the Financial
Management Division

This memorandum supplements the memorandum from
Mr. Fleming on this date, same subject.

Mr. Huber is to operate independently of staff
in carrying out his audit responsibilities. He
is to report and make recommendations growing
out of his audit activities to the Chairman.
The Chairman will report the results of the
audit to the Commission.

cc:
Mr. Huber
Ms. Duggar
Mr. Golub
Mr. Fleming



November 26, 1974

In order to clarify any possible misunderstanding regarding the resolution approved at the November 12, 1974 Commission Meeting ordering an audit of the Financial Management Division the following motion is proposed:

MOTION

The intent and purpose of the November 12, 1974 resolution was that copies of all reports, including interim reports, will be submitted to the Chairman and the Commissioners simultaneously. Any reports and/or memorandums that have been prepared or issued by the Audit Staff since the November 12, 1974 resolution shall be made available to the Chairman and the Commissioners forthwith.

Appeal 3-1
Inter 3-1



DEC 18 1974

C O P Y

Dear Mr. Ash:

The Equal Employment Opportunity Commission reports a violation of Section 3679 of the Revised Statutes, as amended. This violation constitutes a deficiency in account 4540100 Salaries and Expenses, totalling \$800,000.

The Officers of the Commission responsible for violations are:

Ms. Yvette Duggar, Director, Office of Management
Ms. Clarice Bryce, Financial Manager
Ms. Marlene Lee, Chief Accountant

The violations occurred as follows:

- A. \$200,000 - Chief of Administrative Services Branch issued an obligating document although he was aware that he did not have the authority. In addition, there was no evidence that this obligating document was processed through Financial Management.
- B. \$208,000 - Financial Manager arbitrarily transferred a legal obligation from FY 1974 to FY 1975. In reversing the illegal transfer, the obligation compounded the violation of the Anti-Deficiency Act.
- C. \$188,000 - Represents valid obligations posted to accounting records but, due to four key-punching errors totalling \$10 million, the overobligation was not reflected. It is apparent these accounting records were not properly reconciled to the source documents.



C O P Y

-2-

- D. \$180,000 - Headquarters and field offices delayed extensively the processing of obligating documents to the Financial Management Division. Also, Headquarters and field offices did not process several obligating documents through the Financial Manager for the certification of funds.
- E. \$24,000 - The Accounting Branch did not reserve sufficient funds for recurring expenses (e.g., telephone bills, motor pool bills, etc.).
- \$800,000 - TOTAL

Disciplinary action will be imposed in the following manner:

Ms. Yvette Duggar: Suspension for 20 work days without pay and letter of warning to be included in official personnel record upon her return to duty;

Ms. Clarice Bryce: Suspension for 20 work days without pay and reassignment to other duties within the Commission.

Ms. Marlene Lee: Suspension for 20 work days without pay. *

The following corrective action has already been implemented or will be implemented within fifteen days:

1. An internal audit of FY 1975 transactions has been ordered;
2. A Fund Control Unit will be established within the Accounting Section;

* Since release of this letter, on advice from Ms. Gary in Personnel, additional disciplinary action is recommended in the form of re-assignment to other duties not involved in the commitment or obligation of Federal funds.



C O P Y

-3-

3. A reorganization of the Division of Financial Management is in progress, specifically, merging the budget execution function with the budget formulation function within the Office of Program Planning and Evaluation;
4. A request for assistance will be made to GAO or other federal agencies for the reimbursable detail of properly trained accountants for a period of sixty days;
5. An effort will be made to retrain Commission accountants and voucher examiners to assure conformity to existing federal regulations;
6. An edit routine will be established in the new computerized accounting system to identify errors in input as well as key-punching errors to assure accurate output;
7. A status of allotment report will be available to Program Managers and Regional Directors 15 calendar days after the close of each month;
8. Unqualified employees within the Division of Financial Management will be reassigned. Properly qualified federal accountants with supervisory experience will be identified as replacements.

The administrative control currently being implemented by the Commission to assure compliance with federal regulations will require every obligation of funds to be supported by a properly executed obligating document, signed by (1) the Program Manager, (2) a designated budget officer and (3) a funds control officer. The latter signature will be affixed following the official stamp of the Commission with a statement to the effect that funds are available to cover the obligation.



C O P Y

-4-

Statements of the three Commission officers held responsible for the violations as required by federal regulations contained in OMB circular A-34 will follow.

Sincerely,

John H. Powell, Jr.
Chairman

Mr. Roy L. Ash
Assistant to the President
Office of Management and Budget
The White House
Washington, D. C. 20500



MOTION

Inasmuch as the Commissioners were not initially consulted nor requested to authorize the necessary funds to cover the cost of the move, an audit is appropriate in order that the Commissioners may be informed as to the current status of the move, the cost to date, and the estimated total cost of the project. Therefore, an audit shall be conducted immediately by the EEOC Audit Staff into the cost of the move of EEOC Headquarters from the presently occupied buildings to the Columbia-Plaza Building on Virginia Avenue, Washington, D. C. A detailed audit, by offices, of all costs to include the following itemized information:

1. The original estimated cost of the move.
2. The amounts disbursed to date.
3. The amounts committed to date.
4. The additional amounts estimated to be spent to complete the move.
5. The current estimated total and final cost of the move.
6. List of major items, and cost by offices, included in the total estimated cost.
7. Information as to the status of the move and estimated date on which the move will be completed.
8. Any other pertinent cost data or information on the move considered of importance and interest to the Chairman and the Commissioners in the performance of their duties and discharge of responsibility.
9. Are the necessary funds included and available in the 1975 Budget?



Necessary qualified personnel will be provided to the Audit Staff.

Copies of the complete report to be submitted simultaneously to the Chairman and the Commissioners no later than December 16, 1974.



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FINANCIAL MANAGEMENT DIVISION

THIS OFFICE IS IN COMPLETE DISARRAY. UNABLE TO PERFORM PROPERLY AND FAILURE TO ISSUE FINANCIAL REPORTS ON TIME AND REPORTS ISSUED TO OMB ARE INCORRECT.

ALSO, MONTHLY FINANCIAL STATUS REPORTS ISSUED FOR THE USE OF THE COMMISSION ARE DEFICIENT AND CONTAIN MANY GROSS ERRORS.

1. IMPOSSIBLE TO APPROVE SUBSTANTIAL FINANCIAL OBLIGATIONS SINCE THE TRUE AND CORRECT STATUS OF FINANCES IS NOT KNOWN. ALSO, DUE TO SUBSTANTIAL OVER-OBLIGATION OF FUNDS IN FY-1974.
2. FOR EXAMPLE: AT END OF SEPTEMBER, 1974, THE FINANCIAL REPORT COMPILED INDICATED TOTAL OBLIGATIONS OF \$435 MILLION DOLLARS AS AGAINST A BUDGET OF \$53 MILLION DOLLARS. THIS REPORT WAS REVISED DOWN TO A SUM OF \$13 MILLION DOLLAR OBLIGATIONS, BUT STILL IS INACCURATE AND SHOWED AS ONE EXAMPLE, A HEALTH BENEFITS ITEM OF \$1,350,000 WHICH IS COMPLETELY OUT OF LINE.

ALSO, THE REPORT FOR SEPTEMBER SHOWED TOTAL OBLIGATIONS ON PER DIEM TO BE \$252,671.00; HOWEVER, A MONTH LATER THE OCTOBER REPORT SHOWED TOTAL OBLIGATIONS ON PER DIEM OF \$5,343,000. AN INCREASE OF OVER \$5 MILLION DOLLARS IN ONE MONTH, WHICH IS GROSSLY INCORRECT AND IMPOSSIBLE.



6

AUDIT OF FINANCIAL MANAGEMENT DIVISION

ON NOVEMBER 12, 1974, IN VIEW OF THE CONCERN AND DEFICIENCIES CONTAINED IN THE MONTHLY FINANCIAL REPORTS, THE COMMISSION AS A BODY VOTED (THE CHAIRMAN ABSTAINED) TO ORDER THE AUDIT STAFF TO CONDUCT AN AUDIT OF THE ACCOUNTING AND REPORTING FUNCTIONS OF THE FINANCE MANAGEMENT DIVISION. THIS AUDIT WAS NECESSARY TO DETERMINE THE CORRECT FINANCIAL STATUS OF THE COMMISSION IN ORDER THAT ACTION COULD BE SAFELY TAKEN IN THE APPROVAL OF SUBSTANTIAL FINANCIAL OBLIGATIONS. THE RESOLUTION REQUIRED THE ISSUANCE OF A REPORT TO THE CHAIRMAN AND THE COMMISSIONERS SIMULTANEOUSLY.

THE CHAIRMAN REPEATEDLY REFUSED TO HAVE THE AUDIT MADE, HOWEVER, IT WAS FINALLY INITIATED. AT LEAST TWO INTERIM REPORTS WERE ISSUED TO THE CHAIRMAN ON THE AUDIT. THE CHAIRMAN REFUSED TO HAVE COPIES OF REPORTS ISSUED TO THE COMMISSIONERS. HE THREATENED TO FIRE THE CHIEF OF THE AUDIT STAFF IF HE PROVIDED COPIES OR INFORMATION TO THE COMMISSIONERS. IT WAS ASSUMED THAT THE REASON FOR HIS ACTION IN WITHHOLDING INFORMATION FROM THE COMMISSIONERS IS THE FACT THAT THE REPORTS INDICATED OVER-OBLIGATION OF FUNDS FOR FY-1974.



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OVER-OBLIGATION OF FUNDS

1. AN AUDIT REPORT JUST ISSUED ON THE FINANCIAL MANAGEMENT DIVISION ON DECEMBER 16, 1974, SHOWS AN OVER-OBLIGATION OF \$800,000 FOR FY1974. THERE MAY BE OTHER OVER-OBLIGATED SUMS FOUND ONCE THE AUDIT IS COMPLETED.
2. THERE IS CONCERN THAT THE COMMISSION MAY AGAIN OVER-OBLIGATE FUNDS FOR FY1975. ACCORDINGLY, THE EXECUTIVE DIRECTOR HAS INITIATED THE NECESSARY ACTION TO CANCEL OR REDUCE A NUMBER OF THE CONTRACTS NOW IN EXISTENCE.
3. AN ATTEMPT WAS MADE TO TRANSFER THE OVER OBLIGATION OF \$200,000 ON THE TRAINING ACADEMY TO FY-1975 ALTHOUGH CONTRACTED IN FY-1974. HOWEVER, SINCE IT IS NOT LEGAL, THE AUDITORS INSISTED THAT THIS SUM REMAIN AS AN OVER-OBLIGATION AGAINST FY-1974.

OVER OBLIGATION OF FUNDS IS A VIOLATION OF THE ANTI-DEFICIENCY ACT AND THEREFORE:

1. VIOLATIONS MUST BE REPORTED IMMEDIATELY TO THE PRESIDENT THROUGH THE DIRECTOR OF OMB AND THEN A REPORT MADE TO THE CONGRESS.
2. THOSE RESPONSIBLE MUST BE IDENTIFIED AND APPROPRIATE DISCIPLINARY ACTION TAKEN.
3. A SYSTEM MUST BE PUT INTO EFFECT TO PREVENT SIMILAR RECURRENCE.



ACTIONS THAT REQUIRE SOME EXPLANATION

1. THE CHAIRMAN HAS INSTRUCTED THE EXECUTIVE DIRECTOR TO EMPLOY SO CALLED "OUTSIDE EXPERTS" TO VERIFY THE ACCURACY OF THE AUDIT FINDINGS RE: FY 1974 OVER OBLIGATIONS. SUPPOSEDLY SO THAT NO DOUBTS CAN BE CAST ON THE VALIDITY OR ACCURACY OF THE AUDIT BECAUSE OF MR. HUBER'S (CHIEF OF AUDIT STAFF) PREVIOUS ASSIGNMENT. MR. HUBER WAS THE CHIEF OF THE FINANCIAL MANAGEMENT DIVISION AND LEFT THAT DIVISION APPROXIMATELY ONE YEAR AGO.

THE CHAIRMAN MUST BELIEVE THAT THE AUDITORS' REPORT ON VIOLATIONS IS CORRECT SINCE HE HAS ALREADY REPORTED TO OMB THAT HE HAS ORDERED DISCIPLINARY ACTION AGAINST SOME OF THE VIOLATORS. ALSO, IT IS POSSIBLE THAT THE EMPLOYMENT OF OUTSIDE AUDITORS OR EXPERTS IS A VIOLATION OF GOVERNMENT REGULATIONS. IF EEOC AUDITORS ARE NOT CAPABLE OF DOING THE JOB THEN GAO SHOULD BE CALLED IN. EMPLOYMENT OF OUTSIDE EXPERTS TO TAKE OVER THE JOB OF AUDITING WOULD REPRESENT A FURTHER WASTE OF GOVERNMENT MONEY.

SECONDLY, THE EEOC AUDIT STAFF HAS BEEN QUITE EFFECTIVE IN:

- A. DETERMINING OVER-OBLIGATIONS IN FY-1974.
 - B. FINDING INEQUITABLE ALLOCATION OF COSTS, UNLAWFUL SUBCONTRACTING, DOUBLE MARGIN OF PROFIT, ETC. IN CONNECTION WITH THE ISSUANCE OF CONTRACTS TO OPPORTUNITY SYSTEMS, UNDER THE ASSUMED AUTHORITY OF THE CHAIRMAN, INVOLVING SEVERAL THOUSAND DOLLARS.
 - C. DISCOVERING ATTEMPT TO TRANSFER FY-1974 OVER-OBLIGATION OF \$200,000 TO FY-1975.
2. THE REPORT ISSUED BY EEOC AUDIT STAFF ON DECEMBER 16, 1974 LISTS FIVE (5) VIOLATIONS IN OVER-OBLIGATING OF FUNDS INVOLVING FOUR (4) EMPLOYEES. THE REPORT FROM THE CHAIRMAN (DECEMBER 18, 1974) TO MR. ASH (OMB) LISTS DISCIPLINARY ACTION TAKEN ONLY AGAINST THREE EMPLOYEES.

THE ONE MISSING INVOLVES THE OVER-OBLIGATION OF \$200,000 OR 25% OF THE TOTAL OVER-OBLIGATIONS FOR FY-1974 SO FAR REPORTED.

3. ATTEMPT MADE TO TRANSFER THE OVER-OBLIGATION IN FY 74 OF \$200,00 ON THE TRAINING ACADEMY TO FY 75 ALTHOUGH OBLIGATION CONTRACTED IN FY-1974. THE TRANSFER WOULD HAVE BEEN ILLEGAL.

