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THE WHITE HOUSE
WASHINGTON

FOR: DAVID BELIV

FROM: PWB

Attached are sent to
you for prompt handling,
as we discussed on
the telephone.

We should make Xerox
copies & send originals
with this note to DBB
at 712 Jackson Place
by messenger.



CIA

January 1975

Dear *Mr. President Ford*,

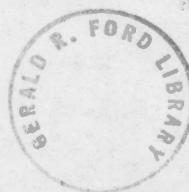
I have been trying for two years to inform someone in regard to C.I.A. involvement on persons. As I have personally been a victim as well as my husband. A victim of a false report made by an agent.

It is too long and involved to put down here. I was told by one informant that Richard Helms and Vernon Walters know of this incident.

I have written to the White House as well as some Senators in the past about this, without any satisfying responds. I hope now that in light of today's problem someone is ready to listen

Most sincerely,

Jeanne M. Roberts



Mr. Buchen,

I hope you will take a minute and have the President read this. It is brief, but the information I was subject to is too involved to put down at this moment.

But I strongly believe the independence and roots of our Country are in danger if many of these wrong doing for personal satisfactions are let to continue.

It is a painful growing process we are in right now. But I believe men of honor, truth and dedication are the ones who can lead us to survive and continue to grow.

Gratefully,
Jeanne M. Roberts

P.S. I shall in about one week send to several Senators a copy of this letter - as well as to a couple of journalists if it be the only way to bring into the open.

J.M.

Tuesday 1/14/75

1:55 David Belin suggested you look at 5 App. USCA,
Sec. 4(b)(1).

He will call you on it -- would like to discuss.

(see attached xerox)



APPENDIX I

FEDERAL ADVISORY COMMITTEE ACT

Pub.L. 92-463, Oct. 6, 1972, 86 Stat. 770.

- | | |
|---|---|
| <p>Sec. 1. Short title.</p> <p>2. Findings and purpose.</p> <p>3. Definitions.</p> <p>4. Applicability; restrictions.</p> <p>5. Responsibilities of Congressional committees; review; guidelines.</p> <p>6. Responsibilities of the President; report to Congress; annual report to Congress; exclusion.</p> <p>7. Responsibilities of the Director, Office of Management and Budget; Committee Management Secretariat; establishment; review; recommendations to President and Congress; agency cooperation; performance guidelines; uniform pay guidelines; travel expenses; expense recommendations.</p> <p>8. Responsibilities of agency heads; Advisory Committee Management Control Officer, designation.</p> | <p>Sec. 9. Establishment and purpose of advisory committees; publication in Federal Register; charter; filing, contents, copy.</p> <p>10. Advisory committee procedures; meetings; notice, publication in Federal Register; regulations; minutes; certification; annual report; Federal officer or employee, attendance.</p> <p>11. Availability of transcripts; "agency proceeding".</p> <p>12. Fiscal and administrative provisions; recordkeeping; audit; agency support services.</p> <p>13. Responsibilities of Library of Congress; reports and background papers; depository.</p> <p>14. Termination of advisory committees; renewal; continuation.</p> <p>15. Effective date.</p> |
|---|---|

§ 1. Short title

This Act may be cited as the "Federal Advisory Committee Act".

§ 2. Findings and purpose

(a) The Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government.

(b) The Congress further finds and declares that—

(1) the need for many existing advisory committees has not been adequately reviewed;

(2) new advisory committees should be established only when they are determined to be essential and their number should be kept to the minimum necessary;

(3) advisory committees should be terminated when they are no longer carrying out the purposes for which they were established;

(4) standards and uniform procedures should govern the establishment, operation, administration, and duration of advisory committees;

(5) the Congress and the public should be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees; and

(6) the function of advisory committees should be advisory only, and that all matters under their consideration should be determined, in accordance with law, by the official, agency, or officer involved.

EXECUTIVE ORDER NO. 11686

Oct. 7, 1972, 37 F.R. 21421

COMMITTEE MANAGEMENT

I have approved the Federal Advisory Committee Act [set out in this Appendix] which provides standards for the establishment and operation of such committees. I hereby direct that the Act be published in the Federal Register and that the Act be printed and distributed to all Federal agencies and to the public.

Appendix] in effect, supersede and replace the committee management standards and procedures set forth in Executive Order No. 11671 which I issued on

of Title 3, The President], and as President of the United States, it is hereby ordered as follows:

Section 1. The heads of all executive departments and agencies shall take appropriate action to assure their ability to comply with the provisions of the act.

Sec. 2. The Director of the Office of Management and Budget shall:

(1) perform, or designate, from time to time, other officers of the Federal Government to perform, without the approval, ratification, or other action of the President, the functions vested in the President by the act, except the function of making the annual reports to the Congress required by section 6(c) of the act;

(2) prepare for the consideration of the President the annual reports to the Congress required by section 6(c) of the act;

and

(3) prescribe administrative guidelines and management controls for advisory committees composed wholly of full-time officers or employees of the Federal Government (inter-agency committees not subject to the provisions of the act), as well as for advisory committees covered by the act.

Sec. 3. Section 8(4) of Executive Order No. 11671 of June 5, 1972, is hereby revoked and the remainder of that order shall be deemed to be superseded effective as of the expiration of ninety days following the date of my approval of the act.

RICHARD NIXON

§ 3. Definitions.

For the purpose of this Act—

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "advisory committee" means any committee, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee"), which is—

(A) established by statute or reorganization plan, or

(B) established or utilized by the President, or

(C) established or utilized by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) the Advisory Commission on Intergovernmental Relations, (ii) the Commission on Government Procurement, and (iii) any committee which is composed wholly of full-time officers or employees of the Federal Government.

(3) The term "agency" has the same meaning as in section 551 (1) of Title 5.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

§ 4. Applicability; restrictions

(a) The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise.

(b) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by—

(1) the Central Intelligence Agency; or

(2) the Federal Reserve System.

(c) Nothing in this Act shall be construed to apply to any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

§ 5. Responsibilities of Congressional committees; review; guidelines

(a) In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be

THE WHITE HOUSE

WASHINGTON

February 11, 1975

MEMORANDUM FOR:

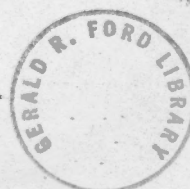
JANE DANNENHAUER

FROM:

~~PHILIP~~ BUCHEN

P.W.B.

Kindly arrange to obtain the necessary additional security clearances for Kenneth Lazarus so that he may review classified materials of the CIA and other agencies or departments engaged in foreign intelligence operations. It is necessary that Mr. Lazarus as a member of my staff assist me in the review of certain such materials from time to time.



THE WHITE HOUSE
WASHINGTON

Feb. 13, 1975

To: Mr. Areeda

From: Eva

Mr. Buchen asked me
to give this to you.



COMMISSION ON CIA ACTIVITIES WITHIN THE UNITED STATES
Washington, DC 20500

Nelson A. Rockefeller,
Chairman

John T. Connor
C. Douglas Dillon
Erwin N. Griswold
Lane Kirkland
Lyman L. Lemnitzer
Ronald Reagan
Edgar F. Shannon, Jr.

David W. Belin,
Executive Director

February 11, 1975

TO: Philip Buchen
FROM: David W. Belin
SUBJECT: William Miller and Jack Boos Meeting -
February 11, 1975

On February 11, 1975, Joseph O'Leary, our legislative liaison, and I met William Miller for lunch. Miller is the Chief-of-Staff for the Senator Church Committee. According to Miller, within two weeks his staff will be in "3/4" gear. He plans to have a total staff of around 40 of whom 10-12 will be lawyers. The initial work will concentrate on review of documents, interviews, and what Miller called "depositions". He said he does not plan to have any hearings for several months. He also said he did not think the September deadline could be met and instead thought the investigation would take at least the rest of this year.

The thrust of his investigation will include the whole range of intelligence gathering agencies and will go into basic matters of policy including whether or not there is a need for all of the agencies, how much the cost is, what the results are, related public policy matters, rights of privacy, questions pertaining to the propriety of operations, etc.

He said the Committee would operate out of a room that he referred to as the "auditorium" which he thought gave the best security. He said there would be rigid standards imposed to try to seal off any leaks. These standards would include having everything in a central filing area with a check out system permitted to particular people so that



leaks occurred the source of the leaks could be readily ascertained. Xeroxing would be severely limited.

The meeting with Jack Boos, who works with Congressman Nedzi, was relatively short. Boos (pronounced Bows) said that it would be a month before the House Committee got organized. He was not certain that Nedzi would be the Chairman. William Miller was present during part of the meeting. When I questioned about possible leaks, the analogy of the Joint Atomic Energy Committee was given as an example of a "leak proof" committee. When I asked why the intelligence investigation was not being done by a Joint Senate/House Committee, the rejoinder was that it was too difficult to arrange because of matters of protocol, etc.

I did not enter into any specific discussion with either Miller or Boos involving any exchange of information.

cc: Vice President Nelson A. Rockefeller

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Rowland Evans and Robert Novak

Protecting the CIA

Thursday, April 17, 1975

THE WASHINGTON POST

Tucked into President Ford's speech to Congress, and ignored in the emotional controversy over Vietnam, was a carefully worded warning that secret operations of the Central Intelligence Agency (CIA) must be protected from "altered" congressional oversight that threatens "essential secrets."

Mr. Ford's purpose: repeal of an oversight provision stuck into a new law last December. That provision requires the President to notify "appropriate committees" including the



Wednesday 6/18/75

CIA Press

4:45 Dave Crock of the Washington Post called and said he had been talking with Mr. Clapper of the CIA Commission, who indicated that Belin recommended some of the testimony be released -- but didn't know exactly to whom the recommendation had been made at the White House.

223-7460

I tried to reach Mr. Clapper but he was not in his office.

I advised Mr. Crock that I had seen nothing come in. He wanted to know to whom it would have come if a recommendation of that nature came from Belin. I told him I didn't know if it would have come to the President or to whom, but perhaps he could check with Mr. Clapper and get more information.



CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

12 November 1975

The Honorable Philip Buchen
Counsel to the President
The White House
Washington, D. C. 20500

Dear Phil:

Some weeks ago we chatted about the Civil Rights Division investigation of some 46 CIA officers and former employees who were involved in the warrantless entry of a Fairfax, Virginia, photographic studio. At that time, I expressed some concern as to whether, as a matter of law, convictions could be obtained on the subject. The enclosed memorandum may be of some interest to you.

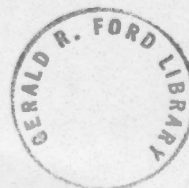
Last week a \$12 million suit was filed in Federal District Court by the couple subject to the entry. If the Department of Justice continues its criminal investigation, I understand that it will neither defend the civil suit nor authorize payment of legal fees to private counsel. Thus, if as I believe, no criminal prosecution is feasible, it would be very helpful to the 46 defendants in the civil suit for a prompt decision to be made by Justice.

Sincerely,

Mitchell Rogovin

Mitchell Rogovin
Special Counsel to the Director

Attachment



Body of Slain CIA Man Is Returned Home

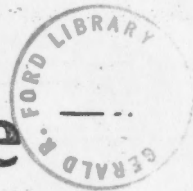
By Jeremiah O'Leary

Washington Star Staff Writer

The Washington Star

Tuesday, December 30, 1975

In the half-light of a cold winter dawn, a young Marine officer stood at rigid salute this morning as an honor guard marched in slow-step down the ramp of an Air Force plane bringing home the body of his murdered father, CIA officer Richard Welch.



THE WHITE HOUSE
WASHINGTON

January 2, 1976

CIA
Consultants

MEMORANDUM FOR: JACK MARSH

FROM: PHIL BUCHEN P.

Attached is a copy of an article entitled "The CIA and American Foreign Policy" by Ernest W. Lefever, which appeared in a recent issue of the "Lugano Review."

It occurs to me that this article deserves additional circulation and that we might want to see that copies are distributed to people in the Congress and to appropriate media people. It also occurs to me that Ernest Lefever may be a useful addition to the group we have used as consultants.

cc: Max Friedersdorf
Director William Colby
Ambassador George Bush
Mike Duval



20
C/A

THE WHITE HOUSE

WASHINGTON

February 3, 1976

Dear George:

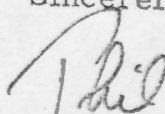
As you begin your tenure as DCI, I would like to call to your attention two individuals -- John Clarke and Marshall Miller -- who could be of some assistance to you.

John Clarke retired from the CIA last summer as Associate Deputy to the DCI for the Intelligence Community; he is currently the Assistant Comptroller at Amtrak. At the Agency John was the de facto head of the Intelligence Community Staff. I worked closely with him during the early stages of the Congressional investigations and have consulted with him since then on a variety of intelligence matters. In my dealings with John, he impressed me as a man of exceptional intelligence, judgment, loyalty and common sense. I believe he still has much to give to the CIA and recommend him to you without any reservations whatsoever.

I don't know Marshall Miller personally, but he is highly regarded by Jim Wilderotter of my staff. As you will note from his resume, Mr. Miller was with Bill Ruckelshaus both at EPA and the Department of Justice. He is quite interested in a position on your staff, and Jim feels his legal background and broad government experience would be particularly useful to you in view of the kinds of problems the Agency will be facing in this transitional period.

Best regards.

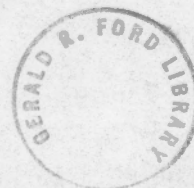
Sincerely,



Philip W. Buchen
Counsel to the President

The Honorable George Bush
Director of Central Intelligence
Washington, D. C.

Enclosure



DECLASSIFIED
E.O. 13526 (as amended) SEC 3.3

MR 3 11-080, # 2

CIA Letter 9/24/11

By dal NARA, Date 3/3/12

Biography

Marshall Lee Miller

Marshall Lee Miller is Deputy Assistant Secretary for the Occupational Safety and Health Administration, which he joined in June 1975.

Before taking this position, Mr. Miller was in private law practice in Washington, D. C., during 1970-1971 and 1974-1975. Prior to this, Mr. Miller was Associate Deputy Attorney General to William Ruckelshaus at the Department of Justice.

From 1971 until 1973, he was at the Environmental Protection Agency where he was Special Assistant to Mr. Ruckelshaus for air pollution, toxic chemicals, and pesticides. He also served as EPA's Chief Judicial Officer, acting for the Administrator on appeals from decisions of the Administrative Law Judges.

Mr. Miller attended Harvard College, Oxford University, Heidelberg University, and Yale Law School.

He is the author of the "Environmental Law Handbook" and "Bulgaria in the Second World War." He also conducted a seminar at Yale University on the Arab-Israeli Conflict.

Mr. Miller was born in Chattanooga, Tennessee, in 1942 and currently resides in Alexandria, Virginia.



CIA

THE WHITE HOUSE

WASHINGTON

February 9, 1976


Dear Bill:

Now that you have settled back to a time for contemplation and writing, I want to express my warm feelings and deep gratitude for your superb service in a most difficult government position during a most trying period.

I derived much satisfaction and pleasure from working closely with you on some of the many problems you had over the last thirteen months. And my admiration for you is sure to be a lasting one.

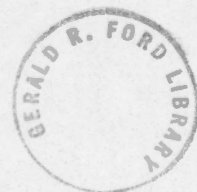
I do wish you much success and satisfaction in your current undertaking and in whatever new career you may decide to pursue after that.

Sincerely,



Philip W. Buchen
Counsel to the President

The Honorable William E. Colby
5317 Briley Place
Bethesda, Maryland 20016





CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D. C. 20505

For filing
P

February 23, 1976

The Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, D. C. 20500

Dear Phil:

Thank you for your letter about John Clarke and Marshall Miller. I have heard good things about both of them.

Right now, I see no openings that would be fully challenging for either of these men. I have told our personnel people that you have recommended them, and I will certainly keep in mind their interest in coming to the CIA. I don't like to be discouraging, but if there is any urgency in either case, perhaps it would be well to advise them that I don't foresee an immediate change in the situation on this end.

Thanks for writing me about both Messrs. Clarke and Miller.

Sincerely,

George Bush
George Bush
Director



ORIGINAL RETIRED FOR PRESERVATION

12:40 p.m.

Friday, March 21

Listed below are the names and titles of the people
Captain Howe (VP staff) promised you.

Murphy Commission, working on:

Dr. Francis Wilcox
Executive Director,
Commission on Organization of the Government
for the Conduct of Foreign Policy
254-9850

Fisher Howe
Deputy Executive Director
254-9850



For filing

7 April 1976

MEMORANDUM FOR: Vice Admiral Daniel J. Murphy, USN
Deputy to the DCI for the Intelligence
Community

FROM: Mitchell Rogovin, Special Counsel

SUBJECT: Delivery of Documents to Congress

1. This is in reply to your 5 April memorandum forwarding the proposed form to be used to transmit documents to Congressional committees. Although I believe the form meets our needs, I am concerned that the Congressional committees may view the prohibition referred to in Paragraph 2 of the instructions as a frontal attack on the Committee's constitutional authority to receive information and to inform the Congress and the public.

2. The legend to be stamped on each document, "on loan from (Agency), not to be reproduced" (as amended by Seymour Bolten to include "or publicly disclosed without the express permission of the originating agency"), can generate a serious problem if this legend is indiscriminately placed on all documents.

3. Our experience regarding "loan documents" has been that committees will respect the concept when the document itself is not only highly classified but highly sensitive and, they are put on prior notice that access to the document will not be available unless such a condition is accepted by the committee. If all the materials sought by a Congressional committee (even if classified) are stamped with such a limitation, I can envision a refusal on the part of the committee to accept the documents. The Committee can then fall back on its subpoena power to attempt to secure the materials, unfettered by any condition. This leaves the Executive Branch in the unenviable position, if a subpoena is issued, of either complying with the demand or asserting executive privilege.



4. It would be my judgment that the "loan document" concept should be used sparingly and not automatically stamped on all materials.

5. I do not believe that the Department of Justice would be prepared to support the flat position that such a legend (even without the Bolten amendment) stamped on all of the documents was legally defensible. It would be my suggestion that before the form is placed in service that the Acting General Counsel seek the advice of the Justice Department regarding this matter. I believe this legal issue can better be resolved outside of the pressure of an actual demand by a committee chairman.

Mitchell Rogovin

Mitchell Rogovin
Special Counsel to the Director

cc: Philip Buchen
Jack Marsh
Mike Duval
Antonin Scalia
Seymour Bolten
George Cary
John Morrison



CIA

Friday 4/23/76

9:35 Dotty Cavanaugh said Mildred had a call from a General who is a friend of Mildred's, as well as the President's.

He thinks the law regarding CIA is that one of the top two men has to be military. He is concerned about the Knoche nomination.

The General will be calling again to ask if that is correct so Mildred would appreciate knowing.

*Top two can be civilians
but by tradition it
is usually military.*



CIA

THE WHITE HOUSE

WASHINGTON

May 6, 1976

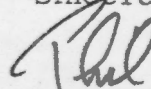
Dear George:

In response to a request from your office, enclosed is a copy of the provision in the regulations governing the conduct of employees of the Executive Office of the President which relates to the acceptance of honoraria. My office has interpreted this provision as prohibiting the acceptance of honoraria for writings or appearances which in any way relate to subject matters involving the official's agency, even if the honorarium is to be given directly to charity by the sponsor.

Please don't hesitate to contact me if you have additional questions of this nature.

With best wishes,

Sincerely,



Philip W. Buchen
Counsel to the President

The Honorable George Bush
Director, Central Intelligence Agency
Washington, D.C. 20505



(4) Accept unsolicited advertising or promotional materials such as pens, pencils, note pads, calendars, or other items of nominal intrinsic value.

(c) An employee shall not solicit contributions from another employee for a gift to an employee in a superior official position. An employee in a superior official position shall not accept a gift presented as a contribution from employees receiving less salary than himself. An employee shall not make a donation as a gift to an employee in a superior official position (5 U.S.C. 7251). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(d) The Constitution (Art. 1, sec. 9, par. 8) prohibits acceptance from foreign governments, except with the consent of Congress of any emolument, office, or title. The Congress has provided for the receipt and disposition of foreign gifts and decorations in 5 U.S.C. 7342. See also Executive Order 11320, 31 F.R. 13739, and the regulations pursuant thereto in 22 CFR Part 3 (as added, 32 F.R. 6569). Any such gift or thing which cannot appropriately be refused shall be submitted to the Counselor for transmittal to the State Department.

§ 100.735-15 Outside employment and other activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include, but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interests; or

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) Within the limitations imposed by this section, employees are encouraged to engage in teaching, lecturing, and writing. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that

information has been made available to the general public or will be made available on request, or when the agency head gives written authorization for the use of non-public information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by section 401(a) of Executive Order No. 11222 of May 8, 1965, shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his agency, or which draws substantially on official data or ideas which have not become part of the body of public information.

(c) An employee shall not engage in outside employment under a State or local government, except in accordance with applicable regulations of the Civil Service Commission (Part 334 of 5 CFR Ch. I).

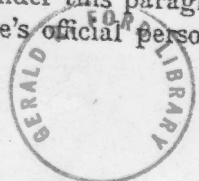
(d) Neither this section nor § 100.735-14 precludes an employee from:

(1) Receipt of bona fide reimbursement unless prohibited by law, for actual expenses for travel and such other necessary subsistence as is compatible with this subpart and for which no Government payment or reimbursement is made. However, an employee may not be reimbursed, and payment may not be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967.

(2) Participation in the activities of national or State political parties not proscribed by law. (See paragraph (c) of § 100.735-22 regarding proscribed political activities.)

(3) Participation in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by, a charitable, religious, professional, social, fraternal, nonprofit educational or recreational, public service, or civic organization.

(e) An employee who intends to engage in outside employment shall obtain the approval, through his official superior, of his agency head. A record of each approval under this paragraph shall be filed in the employee's official personnel folder.



CENTRAL INTELLIGENCE AGENCY

For filing

6 May 1976

NOTE TO: The Honorable Brent Scowcroft
The Honorable William G. Hyland
The Honorable Philip W. Buchen
The Honorable John O. Marsh, Jr.
Mr. Michael Duval

Tony Lapham will be the new General Counsel at CIA starting 1 June. He has asked that this not be made public until we complete the security procedures at the Agency.

I am very pleased about this and hope that you will enjoy working with Tony.

Best regards,

George Bush

George Bush
Director

Att: Bio Sketch



Anthony A. Lapham, born San Francisco, California, August 22, 1936; admitted to bar, 1962, District of Columbia. Preparatory education, Yale University (B.A., 1958); legal education, Georgetown University.

C/A

THE WHITE HOUSE

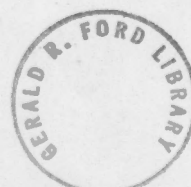
WASHINGTON

August 7, 1976

MEMORANDUM FOR: BARRY ROTH
FROM: PHIL BUCHEN *P.*
SUBJECT: CIA BUILDING

At your request, I did talk to Tony Lapham on August 3rd about either cutting down the cost of the proposed project or having his office render an opinion that, because funds for the project have already been appropriated, no prospectus for the building is required. I assume he will get back in touch with either you or me on the matter. So that your file is complete, I enclose the Ogilvie memorandum to Jack Marsh.

Attachment



THE WHITE HOUSE
WASHINGTON

August 31, 1976

*Copy to
Schmultz
Logans*

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: PHIL BUCHEN/ED SCHMULTS
FROM: JIM CONNOR *JEC*
SUBJECT: Recommended Telephone Call to
Rep. Walter Flowers

Confirming telephone call to your office, the President made the recommended telephone call to Representative Walter Flowers today concerning the private relief bill for the benefit of the survivors of Dr. Frank Olson and made the following notation:

"Talked with Congressman Flowers. Sub-Committee action September 1/ full Committee following week. Foresees no problem."

Please follow-up with appropriate action.

cc: Dick Cheney
Max Friedersdorf



ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 00645

Collection/Series/Folder ID No. :	001900077
Reason for Withdrawal :	DR,Donor restriction
Type of Material :	LET,Letter(s)
Creator's Name :	Philip Buchen
Receiver's Name :	Deputy General Counsel of the CIA
Description :	re request for testimony before t
he Rockefeller Commission	
Creation Date :	09/30/1976
Date Withdrawn :	05/09/1988

THE WHITE HOUSE
WASHINGTON

October 15, 1976

MEMORANDUM FOR:

PHIL BUCHEN

FROM:

MIKE DUVAL 

SUBJECT:

Claim against the CIA

Attached is a communication I received from the law firm of Sellers, Conner & Cuneo concerning a claim by the General Aircraft Corporation against the CIA.

I have no idea why this was sent to me.

I'm forwarding it to you for whatever action you deem appropriate.

Attachment



JOHN D. CONNER
GILBERT A. CUNEO
ROBERT L. ACKERLY
HERBERT L. FENSTER
C. STANLEY DEES
RAYMOND S. E. PUSHKAR
JAMES J. GALLAGHER
JOSEPH S. WAGER
CHARLES A. O'CONNOR, III
WILLIAM J. SPRIGGS
STEVEN L. BRIGGERMAN
HARVEY G. SHERZER
BUEL WHITE
WILLIAM H. BUTTERFIELD
ROBERT A. MANGRUM
THOMAS L. PATTEN

WILSIE H. ADAMS, JR.
JEFFREY P. ALTMAN
JOHN D. CONNER, JR.
LAWRENCE S. EBNER
D. MICHAEL FITZHUGH
ALLEN B. GREEN
E. SANDERSON HOE
JOE G. HOLLINGSWORTH
ALLAN W. MARKHAM
THOMAS A. MAURO
NEIL H. RUTTENBERG
D. JOE SMITH, JR.
KENNETH W. WEINSTEIN

SELLERS, CONNER & CUNEO

ATTORNEYS AND COUNSELORS
1625 K STREET, NORTHWEST
WASHINGTON, D. C. 20006

(202) 452-7500
CABLE: SELCONCU

HOMER CUMMINGS
(1870-1956)

ASHLEY SELLERS
JOEL P. SHEDD
OF COUNSEL

September 30, 1976

CERTIFIED MAIL
RETURN RECEIPT

Mr. George Bush
Director
Central Intelligence Agency
Washington, D. C. 20505

Dear Mr. Bush:

This firm represents General Aircraft Corporation, successor in name to Helio Aircraft Corporation. General Aircraft Corporation, hereinafter referred to as "GAC" or "Helio," is a manufacturer of light C/STOL aircraft, including models known as "Courier," "Stallion" and "U-5." This letter will constitute a claim made by and on behalf of General Aircraft Corporation against the United States and the Central Intelligence Agency under the Federal Tort Claims Act, 28 U.S.C. § 1365 and the Fifth Amendment to the Constitution, for a taking of private property for public use without just compensation.

This letter will also constitute a claim made by and on behalf of GAC against: (1) corporations under the control of the Central Intelligence Agency and known as "proprietarys" of the Central Intelligence Agency, including Pacific Corporation, Civil Air Transport, Air America, Seven Seas Airlines, and Air Asia; and (2) individual employees of the Central Intelligence Agency and the proprietarys in their individual capacities and as officers, directors or principal employees of the proprietarys under applicable anti-trust laws, including Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1, 2 and under statutory and common law precedents covering tortious interference with business relations and unfair trade practices.

Further, this letter will also constitute notice to you of the intention of GAC to investigate and, as appropriate, act on conflicts of interest and malpractice by professional organizations who

DECLASSIFIED

AUTHORITY BAc nlf-PB-1-2-1-6 9/21/05

BY 112 NLF, DATE 6/29/09

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have and are determined to have represented the Central Intelligence Agency and its proprietaries (including their employees) while, without appropriate notice, also undertaking to represent GAC, its subsidiaries and related companies and its employees.

Claim is made in the amount of \$25 million against the parties identified above, jointly and individually, for the causes of action which have also been identified. This amount represents damages suffered by GAC. This does not, however, represent treble damages which may be assessed against the proprietaries. GAC further demands that the United States and its appropriate departments and agencies take all actions necessary in the United States and overseas to correct the actions and representations of all of those against whom this claim is made, which actions and representations compromised GAC's reputation and access to customers and markets and gave rise to the claim herein. We request prompt review, negotiation and settlement of this claim, since certain of the causes of action alleged are continuing and without settlement will continue to damage GAC.

STATEMENT OF FACTS

A. GAC Organization, Operation and Markets

GAC was founded as Helio Corporation in 1949. In 1950 Midwest Aircraft Corporation acquired Helio by an exchange of stock and changed its name, adopting the Helio Aircraft Corporation name. Subsequently, an aircraft manufacturing facility was established by the company in Pittsburgh, Kansas. In 1969 Helio acquired the assets of General Aircraft Corporation and adopted that corporation's name.

The principal product of the company since its organization has been control short takeoff and landing (C/STOL) aircraft. The development and manufacture of such an aircraft incorporating very advanced and proprietary technologies was the purpose of the organization of the company in 1949.

Such an aircraft was developed with considerable success by the company in the 1950's and sold in substantial numbers in the 1950's and 1960's in the general aviation market and both to the United States and foreign governments. This aircraft was known as the Helio



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Courier (U-10). Starting in the 1950's and continuing into the early 1960's, sales of the Helio Courier were made from time to time both directly and indirectly to the Central Intelligence Agency. To the company's information and belief, such aircraft were used by the Central Intelligence Agency in support of covert operations conducted in areas where communications and transportation by normal means, including small aircraft with normal takeoff and landing constraints, would have been impossible.

During the same period, personnel of the company undertook the development of comprehensive communications systems for use in primitive, remote and underdeveloped areas of the world. One such system was known as the Jungle Aviation and Radio Service (JAARS). A second system was developed and marketed through a company organized by personnel of Helio and known as National Air Communications Systems, Inc. (Naircom). In the late 1950's and early 1960's the Central Intelligence Agency, as well as the Agency for International Development of the State Department, had participated significantly with Helio and its personnel in the development of these communications systems, particularly in Latin America. Such systems were deployed successfully in Peru, Ecuador, Columbia and Panama. While it now appears that these systems and various features of them were used by the Central Intelligence Agency to carry on covert operations, the propriety of which is questioned, neither Helio nor its personnel were ever party to such operations, nor did they knowingly participate in such operations.

During this period (the mid-1950's through the early 1960's) Helio had developed substantial and profitable markets for its Courier aircraft, both in domestic general aviation and with the United States and foreign governments. In addition to sales to the Central Intelligence Agency, sales were also made to the Air Force. Furthermore, substantial and potentially lucrative overseas markets were being developed. In particular, these markets were in emerging "third world" countries where the distinctive C/STOL and safe handling features of the Helio Courier were of paramount importance and provided Helio with a considerable competitive advantage over other available aircraft. Markets for the aircraft thus were developed in Africa south of the Sahara, in the Pacific, including Micronesia, on the Indochina Peninsula and in Latin America.

These markets paralleled the potential and developing markets for the comprehensive air transport and communications systems which were being developed by Helio and its personnel.



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Restrictions on air field use in the United States appeared to limit commercial application of Helio's aircraft products and technology. As a result, very substantial stress during the 1950's and 1960's was placed on overseas sales, particularly to underdeveloped nations and on military sales to the Department of Defense. By the early 1960's it had become apparent that a new generation of C/STOL aircraft, combining greater payload and increased engine power (including the use of turboprop engines), would be required. In response to this developing need, Helio undertook a program which led to the development and production of a new advanced C/STOL aircraft which became known as the "Stallion." This aircraft was developed at very substantial expense to Helio upon the determination that its established world markets, as well as its potential sales to United States Government agencies, particularly the Department of Defense, would return the investment with profit.

In the early 1960's, Helio and its personnel devoted to comprehensive communications systems undertook intensive sales efforts in Africa and the Far East. These markets for Helio were real and viable, since the Helio products, including both the aircraft and communications systems, were unique and served significant needs in remote areas of underdeveloped countries. Moreover, Helio had established access to foreign government agencies and private investors who would have an interest in the purchase of Helio products. Thus, in the years 1960 through 1962, Helio undertook an intensive effort to sell its systems and aircraft in East Africa and the Congo. Negotiations between the company and African Government representatives were advanced to the point where substantial sales seemed assured. Negotiations regarding these sales were then suddenly cut off and Helio personnel were at the same time declared persona non grata and the opportunities were irrevocably lost. In 1961 Helio undertook an intensive sales effort in the Philippines. This effort was implemented through Naircom. The effort seemingly received the support of the United States Embassy in Manila and the attached AID personnel. Again, this effort advanced to the point where the adoption of Helio's proposal was favorably recommended within the Philippine Government. However, the Helio proposal was once more suddenly rejected without explanation and the Helio representatives were warned by United States Government representatives not to continue negotiations or reenter the country.

A similar pattern of facts, in each case resulting in Helio's personnel being excluded from the country, was repeated in Thailand, Vietnam, Laos, Nepal, Cambodia and Micronesia. Ultimately, Helio,

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its personnel, representatives and employed outside sales representatives were systematically excluded from all potential markets in underdeveloped and developing nations around the world.

With the development of its "Stallion" aircraft, Helio sought to enter into the defense market, in which it had successfully engaged with its earlier "Courier" aircraft. Proposals in this connection were made from time to time, both to the Air Force and the Navy, but in each case the company was excluded or virtually excluded from the market, usually without adequate evaluation of its product but upon representations by Department of Defense personnel that they had received and reviewed evaluation information on the Helio products from other sources.

The exclusion from its logical and historical markets has required Helio to contract very substantially its operations in toto and to discontinue its aircraft manufacturing operations entirely. Such exclusion has, in sum, nearly destroyed the company's aircraft operations.

As is normal for companies manufacturing aircraft, Helio did carry on for many years a significant aircraft parts manufacturing function in support of its aircraft in the field. Again, in the 1960's this operation diminished significantly and inexplicably. Furthermore, Helio received many complaints concerning the quality and reliability of its parts equipments which could not be substantiated by quality assurance testing and reliability controls. This combination of circumstances, together with the disintegration of its markets for new aircraft, has resulted in a complete closing of all of Helio's aircraft operations.

B. Interference by the Central
Intelligence Agency, Its
Proprietaries and Personnel
in Helio Overseas Business
Activities

As has been alleged above, in the 1960's Helio was systematically excluded from all of its foreign markets. While a conscientious effort was made by Helio to determine the reasons for the failures of such markets, such a determination could never be adequately made. The recent investigations of CIA activities and those of CIA proprietaries now discloses that Helio's exclusion from these world markets



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resulted directly and intentionally from the activities of the CIA, its proprietaries and personnel. It is now apparent that this exclusion resulted from a combination of the use of Helio's name and products by the CIA and its proprietaries with the conduct by the CIA in that connection of illegal, immoral and frequently violent actions against the foreign governments, their officials and citizens.

In the late 1950's and early 1960's, Helio had, in addition to selling aircraft to the CIA, provided, from time to time, irregular assistance to CIA personnel, transporting them to various locations when doing so did not inconvenience Helio's marketing and maintenance operations. Such assistance was in no case provided covertly, nor were Helio personnel ever engaged in or aware of covert operations of the CIA, its proprietaries or personnel.

In 1961 Helio had virtually completed a substantial sale to the Congo Government through negotiations, many of which were carried on directly with the Congo's then Government leader, Moise Tshombe. During this sales activity, Helio personnel had from time to time provided transportation to CIA representatives who apparently were attached to consular offices. In such instances, the transportation was provided to CIA personnel as "strangers" and no connection between the CIA personnel and the company was ever established by Helio.

Nevertheless, it now appears that agents of the CIA obtained by forgery, misrepresentation, and other devices, credentials indicating that they were sales employees of Helio, knowing well that such was not the case. These agents of the CIA used the "cover" of such misrepresentations to establish competing selling activities. More importantly, however, such "cover" was used by these agents to carry on illegal and immoral activities which ultimately resulted in the death of Government officials in the Congo and the fall of the existing Government. These activities, conducted in the name of Helio, came to the attention of the Congo Government and its officials through their own intelligence and immediately resulted in the exclusion of Helio and its legitimate employees from any further operations.

Similar activities were conducted by the CIA, its proprietaries and personnel, under cover of the company's name in Thailand, and in other countries on the Indochina Peninsula. There, agents employed directly by the CIA or its proprietaries, representing themselves as Helio employees, carried on activities frequently using Helio aircraft,



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which involved the smuggling of illegal drugs, the murder of indigenous people and clandestine operations against existing governments or gorilla movements. Such activities, when identified by the relevant governments, resulted in the immediate and permanent exclusion of Helio's legitimate personnel from those countries.

In 1962 Helio was approached by a representative of a proprietary of the CIA who instructed Helio to turn over to the proprietary its worldwide selling operations. Helio refused and the subject was not thereafter raised by the Agency or its proprietary. In fact, Helio was assured that the proprietary lacked the authority to conduct such activities in Helio's name or in its own name. Nevertheless, it now appears that the CIA and its proprietaries, at that time and thereafter, undertook both to carry on activities in Helio's name and without Helio's knowledge, in all cases suppressing such facts and otherwise misrepresenting to Helio that such conduct was not taking place, and furthermore to compete with Helio by undertaking to market, through fraudulent and illegal means, competing products, identifying such marketing with the Government of the United States. It appears, moreover, that such activities were carried on both to advance the clandestine operations of the CIA and to provide means independent of the United States Government for financing such operations and to garner a profit for the individuals involved.

The aforesaid operations of the CIA, its proprietaries and their employees and agents included fraudulent traffic in the maintenance of Helio aircraft owned and operated by the CIA and its proprietaries, the illegal manufacture and sale of equipments bearing the Helio name, and the marketing of competing products by CIA proprietaries, using as agents for such marketing uniformed officers of the United States Armed Services. Such activities by the CIA and its proprietaries actually included the establishment of an operation which illegally manufactured and marketed parts for Helio aircraft of inferior quality. Such activities also included the clandestine but worldwide marketing of competing aircraft, using as selling agents therefor personnel of the United States Air Force and a concerted campaign carried on with foreign governments and the United States Department of Defense to malign, misrepresent, and otherwise denigrate the worth and quality of Helio products. Upon information and belief, it was the purpose of such activities by the CIA and its proprietaries both to provide means for clandestine operations by CIA agents and to provide independent sources of revenue for CIA operations and for the individuals connected with those operations, without the necessity for recourse to the United States Government. Such activities,



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undertaken as early as the early 1960's, were carried on clandestinely by the CIA, its proprietaries and personnel and at all times the CIA, its proprietaries and personnel denied to Helio the existence of such operations.

C. Use of Central Intelligence
Agency Personnel and Agents
to Cover Alleged Illegal
Operations

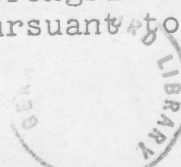
In the late 1950's, when Helio began sales to the CIA of "Courier" aircraft, the CIA then insisted that Helio employ counsel cleared by the Agency to know of and pass upon such sales. Helio employed such counsel, upon the direct advice of the Agency. Such counsel continued to advise Helio throughout the 1960's and early 1970's, until the connection of such counsel to the CIA was discovered. At all times while advising Helio, such counsel was either employed by or in direct communication with, the CIA and at such times owed primary allegiance to the CIA. Such relationships created a conflict of interest which was manifested by advice to Helio, erroneous in fact and law, and known to be so by such counsel.

In the early 1960's, when Helio began to encounter significant marketing problems in its overseas markets, all as aforesaid, Helio approached personnel of the CIA, including those responsible for aircraft purchase and operations and the Agency's Chief Counsel, both to complain and voice concern. On all such occasions, Helio was told that the Agency was conducting no illegal activities, nor any activities which would involve Helio, its name or products, and which would cause Helio any of the difficulties of which it complained. The Agency at all times denied any of the activities which have been recited above, notwithstanding the fact that the persons who made such denials were themselves personally engaged in such activities and directly responsible for them.

CLAIM

A. Claim Under The Federal Tort
Claims Act

This is a claim by General Aircraft Corporation under the Federal Tort Claims Act, 28 U.S.C. § 1346, et seq., against the Central Intelligence Agency, its agents and assigns for their wrongful interference in the prospective business of the company. Pursuant to



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28 U.S.C. § 1365, General Aircraft Corporation hereby notifies the Central Intelligence Agency of this claim in the sum certain amount of \$25 million, by reason of such tortious interference in the company's prospective business during the period set forth in the above Statement of Facts. 28 C.F.R. § 14.1 et seq. Notice is also hereby given that the facts alleged have been secreted, sequestered and intentionally withheld by the Agency, its agents and assigns, from the knowledge of General Aircraft Corporation and its employees from the dates when such activities are alleged to have occurred and until the time of and conclusion of proceedings before the United States Congress in or about June, 1976.

The undersigned is authorized to present this claim under 28 C.F.R. § 14.3(e) on behalf of General Aircraft Corporation.

Acts Of Interference

In support of its claim under the FTCA for tortious interference with the prospective business of Helio Aircraft Corporation, claimant would show the following:

1. The Naircom Corporation was unable to establish a market for its services in the Philippines in 1961, wholly as a result of the Agency's interference with Naircom's efforts to establish a market in that area, as more fully set forth above.
2. Helio Aircraft Corporation was unable to obtain award of United States Government military contracts for the purchase of its aircraft due to the widespread and wrongful disparagement of Helio aircraft by the Agency. Such disparagement of Helio's product in particular resulted in the loss of otherwise competitive procurements from the Air Force and Navy, as more fully set forth above.
3. Helio Aircraft Corporation suffered extensive interference in the worldwide marketing of its aircraft as a consequence of the active sponsorship of a Helio competitor, as more fully set forth above.

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4. The Agency's use and appropriation of Helio's corporate name and identity as a worldwide "cover" caused Helio Aircraft Corporation to suffer substantial stigmatizing and loss of sales in otherwise favorable markets. This stigmatizing and attendant loss of reputation and sales ultimately impaired Helio's marketing of its aircraft, as more fully set forth above.

Tortious Interference

Helio Aircraft maintains that its right to pursue business without unjustified interference is a recognized property right protected under the FTCA and breached by the United States in this instance when the Central Intelligence Agency and/or its proprietaries induced third persons not to enter into business relations with Helio Aircraft Corporation. It is firmly established that the Government is not exempted as a wrongful interferer in a corporation's business.

Helio Aircraft Corporation submits that in the face of the Agency's historical interference with the business of Helio, the Agency's conduct meets the requisites of the tort of interference with prospective business and, further, this action is not exempted from liability under § 2680 of Title 28 of the FTCA, which provides, in part:

(a) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights [is exempt from liability under the FTCA] (emphasis supplied).

Established case law recognizes that governmental disparagement of a company's name, similar to the acts of the Central Intelligence Agency in this instance, creates a cause of action not exempted from the "interference with contract rights" exception of § 2680.

Helio Aircraft Corporation contends that the Central Intelligence Agency's historical interference in its marketing of Helio aircraft and the Agency's worldwide disparagement of its name and reputation were tantamount to a "sanction" against Helio Aircraft



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Corporation for Helio's failure to acquiesce to the Central Intelligence Agency and/or its proprietaries' demands that Helio serve as a "front" for Agency intelligence activities. The final product of this sanction was the substantial impairment of Helio's assets and its ability to maintain a viable business entity. The acts of the Central Intelligence Agency taken against Helio Aircraft Corporation have had a substantial adverse impact upon Helio's business relations with other private and governmental parties.

The breadth of the scope of the Agency's interference with the prospective business of Helio, as described above, was wide and geographically dispersed. Against this factual posture that Helio possessed a right to compete for business without interference from the government or its proprietaries, Helio will show:

- (1) Existence of a valid business relationship or expectancy of the same prior to Agency interference;
- (2) Knowledge of this relationship or expectancy on the part of the Central Intelligence Agency or its proprietaries;
- (3) An intentional interference by the Central Intelligence Agency, in both prospective foreign and domestic procurements, inducing or causing a breach or termination of the relationship or its expectancy; and
- (4) Attendant damage to Helio Aircraft Corporation whose relationship or expectancy has been substantially disrupted.

Situs Of Interference

Helio Aircraft Corporation submits that, aside from substantial domestic interference with United States Government procurement contracts, in the case of disparagement of Helio's foreign reputation and interference and prospective foreign business, in each instance the situs of the tortious interference was the central office of the Central Intelligence Agency. While Helio Aircraft Corporation submits that the Agency's acts of interference originated from the Agency's acts of interference originated from the Agency's central office, Helio does not characterize such acts of interference as



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"discretionary action" exempt from liability under § 2680 of Title 28 of the FTCA. Instead, it is the belief of Helio Aircraft Corporation that the acts of tortious interference by the Central Intelligence Agency were committed at the operational or proprietary level.

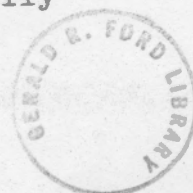
Moreover, Helio Aircraft Corporation, in submitting this claim under the FTCA, submits that its action under the Act did not accrue until the full extent of damages resulting from the Agency's tortious interference were discernible and not until it was aware of the tortious acts, the injury and the casual relationship. In this regard, Helio Aircraft Corporation was not fully aware, nor had any reason to be aware, of the extent of the Agency's tortious acts and attendant damage to its fiscal integrity, until advised of the same through hearings and reports of recent date of the United States Congress concerning the activities of the Central Intelligence Agency.

B. Fifth Amendment Taking

The Fifth Amendment to the Constitution prevents a federal agency from taking a person's private property for public use without just compensation. Included within the definition of persons under this provision of the Fifth Amendment are corporations.

General Aircraft Corporation contends that the Central Intelligence Agency during the time set forth in the above Statement of Facts brought about a taking of its corporate property by a continuing process of physical events. In support of its claim under the Fifth Amendment, Helio will establish that the loss suffered as a consequence of the Agency's acts in this instance are both compensable "property" under the Fifth Amendment and, secondly, that the Agency's acts constitute a compensable "taking" under the Fifth Amendment. More particularly, the acts of the Central Intelligence Agency constituting a taking of Helio Aircraft's property under the Fifth Amendment include the following:

1. Depriving Helio Aircraft Corporation of prospective business opportunities, as more fully set forth above.
2. Appropriation and use of Helio Aircraft's corporate name throughout the world by the Central Intelligence Agency as a "cover," as more fully set forth above.



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3. Appropriation and use of Helio Aircraft's proprietary and confidential data, drawings, and trade secrets in the manufacturing of Helio airplanes and aircraft parts at an agency facility, as more fully set forth above.

Where the government chooses to bring about a taking by a continuing process of physical events, such as the continuous and cumulative past facts of the Central Intelligence Agency against Helio Aircraft Corporation, Helio Aircraft was not required to resort piecemeal or premature litigation to ascertain the just compensation of its appropriate property. Helio Aircraft Corporation was not under an obligation to bring a taking action under the six-year Statute of Limitations of § 2041(a) of Title 28 of the United States Code until it knew that the corporation's name had been substantially diminished as a result of the Agency conduct.

Helio's Corporate Name

The name of a corporation has been recognized traditionally as an invaluable asset of a company as a property right. Helio Aircraft Corporation will establish that its company name was well established and assumed the attribute of property prior to the adverse disparagement and appropriation of its name by the Central Intelligence Agency. It is that consolidated good will, reputation and public identification which are entitled to protection from confusion by the operation of the CIA and those under its control.

It is firmly established that a claim constitutes a compensable property right under the Fifth Amendment if that claim is a legally protected interest. As law and equity have historically protected the corporate name, it follows that the corporate name and attendant identity of Helio Aircraft Corporation is a compensable property right under the Fifth Amendment.

Taking

By using the corporate name of Helio Aircraft Corporation as a putative proprietary "cover" throughout the world, Helio Aircraft Corporation assumed an identity and consequent stigma tantamount to that of the Agency's own aviation proprietaries. Helio Aircraft in many international communities was therefore associated on many occasions with questionable activities of the Central Intelligence Agency and/or its aviation proprietaries, ultimately adversely



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affecting Helio's worldwide reputation and ability to effectively market its unique C/STOL aircraft. Before the Agency's appropriation and misuse of Helio's corporate name, the company possessed a valuable asset in the form of a viable and respected reputation as a manufacturer of a unique aircraft. Following the use by the Agency of Helio's name as an ostensible aviation proprietary, that same asset was substantially diminished. In this posture, Helio Aircraft contends that its property in the form of the company's name, reputation and good will was taken by the Central Intelligence Agency for public use. The total destruction of all value of Helio's corporate name and reputation was attributable solely to the Central Intelligence Agency's appropriation of that name for its own advantage.

In summary, Helio Aircraft will establish:

- (1) that its corporate name, reputation and good will are compensable property interests under the Fifth Amendment and that this property had assumed a definitive value prior to the Central Intelligence Agency's appropriation of Helio Aircraft's corporate name; and
- (2) that by using Helio's name, the Central Intelligence Agency effected a "taking" under the Fifth Amendment.

Appropriation of Helio Aircraft's Trade Secrets

Helio Aircraft Corporation has reason to believe that the Central Intelligence Agency, through its proprietaries, appropriated and used to its own advantage, trade secrets and other proprietary data of Helio Aircraft Corporation in the manufacture of Helio airplanes and Helio aircraft parts at the Agency's facility, as more fully set forth in the above Statement of Facts. This appropriation by the proprietaries of Helio Aircraft's trade secrets and proprietary and confidential data constitutes a wrongful taking of property under the Fifth Amendment, for which compensation must be made either by the proprietaries, the Central Intelligence Agency, or the United States.



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Helio's Trade Secrets As "Property"

A trade secret is generally defined as any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. A trade secret qualifies as property and, as a property right, the trade secret is protected against its appropriation or use without consent of the owner. That this principle extends to prohibit wrongful appropriation by the government of "technical data" is not novel.

As a species of property, the trade secrets and confidential data appropriated by the Agency and its proprietaries are subject to the compensation requirements of the Fifth Amendment. It is clear that trade secret and confidential data are "property" under the meaning of the Fifth Amendment.

In summary, Helio Aircraft Corporation will show that:

- (1) Helio Aircraft Corporation has maintained proprietary data, drawings and information pertaining to the process of manufacturing Helio aircraft and parts;
- (2) This data was secret and not of public knowledge or of general knowledge in the trade or business; and
- (3) This data was appropriated by the Agency and its proprietaries to its own benefit and that this appropriation constituted a "taking" under the Fifth Amendment.

Violation of the Federal Anti-Trust
Laws by CIA Proprietary Companies,
Their Officials and Agents, Individually and in Combination

Proprietaries are business entities, wholly owned by the Central Intelligence Agency, which either actually do business as private firms, or appear to do business under commercial guise. The proprietaries possess commercial business characteristics, including requisite licenses, notwithstanding the fact that they are under the complete control of the Agency. The CIA proprietary



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complex, in order to expand its own economic power, has destroyed Helio's ability to compete in markets which Helio itself played an essential role in creating and has seriously jeopardized the continuing viability of General Aircraft Corporation.

With respect to Helio's antitrust claims, at least three types of product markets can be identified. Each was affected by acts of proprietaries and their co-conspirators:

1. Sale of C/STOL aircraft in foreign and domestic markets;
2. Sale of transport and communication systems using C/STOL aircraft (e.g., JAARS, Naircom);
3. Sale of C/STOL aircraft research and design.

The above listed products are sold for domestic military applications and in international geographical markets, primarily in Asia, Africa and South America, which require systems and equipment based on the utilization of C/STOL aircraft. Helio has actively engaged in marketing its products in all of the geographical markets referred to.

Trade and Commerce

The CIA air proprietary complex has also been intimately involved in these domestic and international markets. Indeed, it has dominated the air transport industry for these areas. The activities complained of here, therefore, have had an obvious and substantial effect on commerce with foreign nations and on domestic interstate commerce. Like other normal corporations, the proprietary companies are domestically incorporated, are subject to the same review as any corporate entity within their respective jurisdictions, file applicable state and federal tax returns, and obtain necessary licenses to conduct businesses. In addition, the air proprietaries compete directly with privately owned corporations such as General Aircraft. These companies, held together under the umbrella of the Pacific Corporation, a Delaware (?) corporation, have invested substantially abroad and in United States banks, and have dealt and continue to deal in common stocks, debentures and commercial paper of various types. In the past twelve years the sale of stocks, for example, has resulted in publicly disclosed profits in excess of \$500,000 accruing to the CIA.



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During the period in question, the proprietaries bought and sold substantial amounts of aircraft, carried domestic passengers to and from foreign locations, and maintained an extensive maintenance operation in Taiwan, among other areas, which required parts and personnel from the domestic markets. It operated like any other normal business. It used its profits for corporate and company purposes, routinely dealt with the IRS, established normal business relationships with affiliated and associated companies.

Unquestionably, CIA proprietary activities substantially affected United States domestic commerce and commerce with foreign nations. In particular, there can be no doubt that the CIA activities complained of here had a significant impact on commerce in the products and in the geographical markets in which Helio participated.

Violations Alleged

Conspiracy to Violate Sherman 1 and Sherman 2

From at least as early as 1955 until 1975, the CIA, through its officials, together with other United States Government officials, officials of its operating and non-operating proprietary corporations, and officials of other corporations, engaged in activities to restrain trade in the domestic and international markets for C/STOL products and services in violation of Section 1 of the Sherman Act and conspired to monopolize those markets and, in fact, did monopolize the markets for those products in violation of Section 2 of the Sherman Act.

The facts disclose that the members of this conspiracy engaged in activities designed to foreclose Helio from further participation in the domestic markets for its products, namely, for United States Government contracts, among others. Although Helio successfully developed these military markets during the decade 1959 through 1969, late in the 1960's it was confronted with unexplained sales resistance from government procurement officials. Helio aircraft had been evaluated extensively by military procurement agencies during the 1950's and 1960's. It now appears that such resistance was the direct and proximate result of activities of CIA proprietary companies, their employees and agents, which activities included the "planting" of false and misleading information with military agencies and the active promotion of competing aircraft.



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The CIA, through its agents and co-conspirators, engaged in acts to foreclose Helio from further participating in the international markets for its products, namely, individual foreign markets in Asia, Africa and South America, among others. Misrepresentations and misuse of Helio's name by CIA operatives caused total losses of sales in Thailand, the Philippines and Nepal, among other places. Helio was foreclosed from participating in competition for the Thai Government's procurement of turbine-powered STOL aircraft in 1972 and again in 1975 because of the CIA stigma attached to its name. The CIA and its proprietaries, acting through other United States Government officials, encouraged the foreign governments to reject Helio aircraft and refuse to deal with its personnel.

In furtherance of their conspiracy to foreclose Helio from its own markets, the CIA and its co-conspirators also engaged in a series of predatory practices and unfair methods of competition and disparaged Helio's personnel and its products to its severe detriment. The CIA and its proprietaries operated manufacturing facilities and built essentially complete Helio air frames without a license from Helio, so as to support clandestine air transport and communications networks throughout Southeast Asia, and so as to earn revenues which could be sequestered from government and public knowledge. Many of the components so manufactured failed in service. As a result, many deficiency and failure reports accumulated in FAA records concerning the Helio Courier. These manufacturing operations not only unfairly and defectively copied Helio's design but used poor manufacturing techniques and inferior raw materials to produce inferior products of shabby workmanship. As a direct result of these Helio performance reports, the military establishment in Southeast Asia and elsewhere refused to purchase Helio products and spread false information concerning their structural design throughout the industry. The source of this deceptive, improper and misinformative activity was the proprietary established by the CIA. Numerous other false and derogatory reports, maintenance and operating abuses originating in the proprietary complex not only tarnished the reputation of Helio products, but also the competency and integrity of its management.

As previously stated, abuse of Helio's name and good will during covert Agency activities in foreign markets further contributed to the inexplicable sales resistance and rejection by foreign officials of Helio's products. Even now, Helio's attempts to cleanse itself of the stigma of CIA association have been fruitless. As



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late as 1975, twelve years after the initial acts of the CIA and its proprietaries, foreign government representatives refuse to deal with General Aircraft, since the company is still associated with clandestine activities, including the murder of public officials.

In engaging in the acts described above, the Agency, through its officials and in combination with its co-conspirators, acted maliciously for their own economic gain, and with the intent of driving Helio from the markets which Helio had successfully developed. The effect of these violations has been to foreclose, monopolize, unreasonably restrain and lessen competition in the defined markets in violation of Sections 1 and 2 of the Sherman Act.

The facts demonstrate that the CIA, its proprietary organizations, and other co-conspirators conspired to restrain trade unreasonably in foreign and domestic commerce in violation of Section 1 by, among other things:

1. engaging in a boycott of Helio's products;
2. allocating territorial markets for C/STOL-related products and services;
3. disparaging Helio's officers and goods;
4. employing methods of doing business which are patently unfair; and
5. in general, trying to drive Helio out of business, or at the very least, out of the markets in which Helio has a right to compete.

Thus, one can reasonably conclude from the totality of facts that the individuals and proprietary companies involved were engaged in a pattern of activities which, even under the rule of reason standard, amounts to an unreasonable restraint of trade in the defined markets. The conspirators employed tactics which prevented the development of free and open competition in those markets. Indeed, the facts demonstrate that unless Helio was willing to turn its marketing activities over to the CIA and its proprietaries, that is, unless it was willing to join the conspiracy, it could not effectively compete in these markets.



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Not all restraints of trade, however, require a detailed rule of reason analysis. The CIA and its co-conspirators have engaged in at least two per se violations of Section 1. The facts are replete with examples which demonstrate a conspiracy originating from actions of the CIA and its co-conspirators whereby potential government and private customers were successfully persuaded not to deal with Helio. These same facts demonstrate that the CIA, its proprietary organizations, and other co-conspirators conspired to monopolize and did, in fact, monopolize at least the international markets for Helio's products in violation of Section 2 of the Sherman Act. As a direct result of the conspirators' activities, Helio was unable to market its products in the foreign and domestic markets in which they either previously had been successful or had the potential of becoming successful.

Attempts to Monopolize and Monopolization by the CIA,
Its Proprietaries and Their Employees and Agents

Beginning at least as early as 1961 and ending in 1975, the CIA, through its proprietaries and their officials and agents attempted individually to monopolize the markets -- both domestic and international -- for STOL products and services and, in fact, did monopolize these markets in violation of Section 2 of the Sherman Act.

The CIA and its proprietaries had created an air transport complex of immense size with operations throughout the world. This complex included one of the largest air transport operators in the world.

The CIA and its proprietaries have exercised the power inherent in this complex by eliminating Helio as a competitive factor in markets which the proprietaries dominated and, to some extent, in domestic military markets and in other markets.

The CIA and its proprietaries abused their substantial economic power and their unique position to the severe detriment of General Aircraft. They did so maliciously for their own economic gain and with a specific intent to drive Helio from markets in which it had a right to compete. They illegally sponsored and sold competing aircraft; repeatedly issued misleading reports concerning the capability of such aircraft; and engaged in widespread discrediting of Helio's products and its management.



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The CIA and its proprietaries "embraced" each new opportunity open to Helio by acting to exclude Helio from domestic, Asian and African markets and to prevent Helio from taking advantage of new domestic and foreign opportunities as they opened. Consequently, its activities fall directly within the terms of Section 2 of the Act.

The acts complained of herein demonstrate a consistent pattern of willful violation of Sections 1 and 2 of the Sherman Act. Taken together and in perspective, it is obvious that the actions of the CIA and its proprietaries establish a conspiracy to violate, and clear violations of the law. The proprietary companies and all individuals are subject to the sanctions of the Sherman Act. General Aircraft Corporation herein claims its damages and the punitive treble damages prescribed by the Act.

CONCLUSION

General Aircraft Corporation has herein stated a claim in the amount of \$25 million and for violation of the Sherman Act, \$75 million, based on actions of the CIA, its proprietaries and their employees and agents. The facts alleged will demonstrate that the Agency, its proprietaries and individuals acted willfully and knowingly to misuse the company's name, misrepresent the company, and otherwise appropriate the company's assets and good will to their own benefit for purposes of carrying on acts illegal under United States and foreign laws and to garner revenues for the individual profit of those involved and to avoid the laws of the United States. The facts alleged will show that the aircraft operations of Helio were effectively destroyed by the acts of the CIA, its proprietaries, their employees and agents, which were so manifestly illegal and corrupt that when such acts were represented as those of Helio, Helio was thereby effectively precluded from selling and marketing operations everywhere in the world.

Similarly, the facts as alleged above will show that the CIA, its proprietaries and their employees and agents, by plan and design, maligned and discredited Helio's products in the United States and elsewhere in the world and actively engaged in the selling of competing products. All such acts were carried on for the purpose of garnering revenues illegally for the individuals and organizations involved.



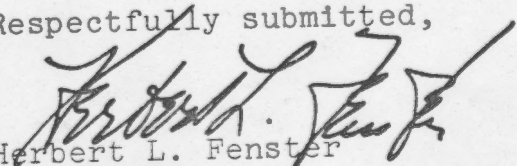
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For all of these acts, General Aircraft Corporation claims damages as stated and further demands that the CIA, the State Department, and all other departments and personnel of the United States having the power and authority to do so, immediately assume responsibility for the acts complained of, announcing thereby that General Aircraft and its personnel were in no way involved in nor responsible for such acts.

General Aircraft Corporation, through its counsel, requests the opportunity to meet with you and to present further facts and evidence in support of this claim. It is pointed out in this connection that the facts alleged consist substantially of covert acts by the Agency, its proprietaries and their employees and agents. As such, a substantial portion of the evidence of such acts lies wholly in the hands of the CIA. General Aircraft Corporation requests and demands that such facts and evidence be disclosed reasonably and promptly for purposes of settlement of this claim and without regard to allegations of privilege which might be made in matters of general public disclosure.

It is requested that this claim be promptly reviewed and that voluntary disclosure of information and documents in connection therewith be made without imposing upon the company the requirement for disclosure through litigation.

Respectfully submitted,


Herbert L. Fenster
Attorney for
General Aircraft Corporation

HLF/gt

cc: Mr. Michael Duvall
Special Assistant to the President
The White House
Washington, D. C.



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THE WHITE HOUSE
WASHINGTON

October 18, 1976

MEMORANDUM FOR THE RECORD

I called Tony Lapham on October 18. He advises that this matter had come up some years ago, and he does not think there is any grounds for the claim.

He sees no reason for our involvement.

P. Buchen

