

THE WHITE HOUSE
WASHINGTON

AUGUST 8, 1990

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: THE PRESIDENT

SUBJECT: Conflict-of-Interest Waiver

AB 8-8-90

I AM writing to notify you of a conflict-of-interest determination I have reached under 18 U.S.C. 208(b)(1) in connection with the current Middle East crisis.

As you know, vital United States and world interests are at stake in the Middle East as a result of the Iraqi invasion of Kuwait. As Commander in Chief and the Nation's Chief Executive, I AM confronting decisions of immense import with lasting consequences for the nation and the world. The United States, along with other world powers, has strongly condemned the Iraqi invasion, and we have instituted a range of measures, including a freeze on Iraqi and Kuwaiti assets in this country among other economic sanctions.

We now face a series of decisions, large and small, about policies and military measures required to defend United States interests and counter this act of blatant aggression. I expect that these decisions will be among the most difficult that I ever face as President. As I confront the demanding choices ahead, it is essential that I be able to call freely upon my advisors for counsel and assistance.

I am aware that under Federal conflict-of-interest law (18 U.S.C. 208), an Executive branch employee cannot participate personally and substantially in a particular matter, in which, to the employee's knowledge, he has or is deemed to have a financial interest. I understand that the Department of Justice has historically interpreted this statute to mean that an individual cannot personally and substantially participate in a particular matter if the resolution of the matter would have a direct and predictable effect on such financial interests. An individual's appointing official is authorized to waive this prohibition based upon a determination that the individual's financial interests are "not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect" from the employee.

It is not clear which, if any, of the decisions ahead would constitute "particular matters" that would have a "direct and

"predictable effect" on the financial interests of advisors on whom I will need to rely. Based on the consultations between our staffs over the past week, I have been advised that most of the high-level decisions and actions ahead will be at a level of generality so broad as not to implicate Federal conflict-of-interest law.

Nonetheless, in the interest of caution and prudence, I believe that under current circumstances, Cabinet members and other key foreign policy advisors should not be needlessly restricted in assisting me in shaping the United States response to the Iraqi offensive or be left in doubt about when they can and cannot assist me. I have therefore directed my Counsel, C. Boyden Gray, to review the financial interests of those of my foreign policy advisors for whom I have not delegated the waiver authority vested in me under 18 U.S.C. 208(b). In particular, I have had him conduct a special review of the financial interests held by --

The Assistant to the President for National Security;
The Assistant to the President and Deputy for National Security;
The Attorney General;
The Chief of Staff to the President;
The Director of Central Intelligence;
The Secretary of Commerce;
The Secretary of Defense;
The Secretary of Energy;
The Secretary of State; and
The Secretary of Treasury.

I have also had the Department of Justice review the financial interests of the Counsel to the President.

I have now been briefed on the financial interests of these individuals. Some of the individuals in question hold only interests such as mutual funds that under no foreseeable circumstances could be construed to implicate any prohibition under conflict-of-interest law. In other instances, individuals have quite substantial financial interests in industries that may be affected (though not necessarily in a "direct" or "predictable" way) by the resolution of situations that may arise.

In light of current world events and the significance of our response to the nation's security, it is my judgment that none of these individuals' financial interests are "so substantial as to be deemed likely to affect the integrity of the services which the Government may expect" from him in all aspects of the current effort to develop and implement a United States and international response to Iraq's occupation of Kuwait. I have been counseled

that the Department of Justice, in interpreting conflict-of-interest waiver authority, has said that the appointing official should consider the size of the financial interest(s) and the nature of the services the individual is called upon to provide.

In my judgment, the nature of the current crisis and the gravity of the measures under consideration by the United States are such that even vast financial interests could not be deemed likely to affect the integrity of the services the Government may expect from its chief foreign policy officers. Maintaining the highest standards of integrity in the Government has been a paramount priority for me throughout the Administration. In my view, national security considerations at stake in the current situation are so great as to diminish to insignificance the likelihood that individual employees could be swayed by their private interests.

On this basis, I hereby determine that the financial interests held by the individuals indicated above are not so substantial as to be deemed likely to affect the integrity of the services that the Government may expect from them in the course of current United States policy-making, discussion, decisions, and actions, in response to the Iraqi invasion of Kuwait. This waiver shall remain in effect until further notice.

A handwritten signature in dark ink, appearing to read "G. Bush". The signature is fluid and cursive, with a large initial "G" and a long, sweeping tail.