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BERNARD SANDERS, VERMONT,
INDEPENDENT

January 11, 2002

The Honorable Paul H. O'Neill
Secretary of the Treasury
15th St. & Pennsylvania Ave., NW
Washington, DC 20220

The Honorable Donald L. Evans
Secretary of Commerce
14th St. & Constitution Ave., NW
Washington, DC 20230

Dear Secretary O'Neill and Secretary Evans:

I am writing to request information about your communications with Enron Chairman Kenneth L. Lay and possibly other Enron officials or representatives prior to the company's bankruptcy filing. The purpose of the request is to determine why the Administration apparently did nothing to mitigate the harm of the Enron bankruptcy to thousands of its employees and shareholders. I am also interested in knowing why it has taken so long to learn that two Cabinet Secretaries had early warning of Enron's impending bankruptcy.

News accounts of January 11, 2002, indicate that Secretary O'Neill received calls from Mr. Lay on October 28 and November 8.¹ In one or both of these calls, Mr. Lay reportedly informed Secretary O'Neill that he was concerned that Enron might not be able to meet its financial obligations and that the results could be similar to those that occurred when Long-Term Capital Management went bankrupt. Mr. Lay reportedly also had a conversation on October 29 with Secretary Evans. In this conversation, Mr. Lay apparently stated "that he was having problems with his bond rating and he was worried about its impact on the energy sector," and

¹*Enron Asked for Help from Cabinet Officials*, Washington Post (Jan. 11, 2002); *Enron Contacted 2 Cabinet Officers before Collapsing*, N.Y. Times (Jan. 11, 2002).

The Honorable Paul H. O'Neill
The Honorable Donald L. Evans
January 11, 2002
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that "he would welcome any support the Secretary thinks appropriate."² In addition, Enron President Lawrence "Greg" Whalley reportedly telephoned the Treasury Undersecretary for domestic finance, Peter Fisher, six or eight times in late October and early November.³

White House Press Secretary Ari Fleischer stated that as a result of your conversations with Mr. Lay, Secretary O'Neill asked Undersecretary Fisher to explore whether the "financial condition of Enron could have similar implications as Long Term Capital."⁴ According to Mr. Fleischer, you decided to do nothing.⁵ Mr. Fleischer stated:

[T]he government...took a look at this from a substantive matter, from when Mr. Lay made those phone calls, and decided the appropriate step was not to intervene or take any action....This was done based on judgment of the Cabinet Secretaries and the merits, and they decided properly and wisely so, in the President's opinion, that the government should not have intervened in any way after Mr. Lay made the phone call to Secretary Evans."⁶

On December 2, Enron filed for bankruptcy. Approximately 4,000 Enron employees have been laid off, and an additional 3,500 have been placed on leave.⁷ Many Enron employees have lost virtually their entire retirement accounts, which were heavily tied up in Enron stock. Numerous other investors, including many retirement plans around the country, have lost millions of dollars.

Mr. Lay's discussions with the two of you took place squarely within a lock-down period, when an estimated 12,000 participants in Enron's 401(k) plan were prevented from accessing

²*Enron's Lay Sought Cabinet Officials' Help*, Wall Street Journal (Jan. 11, 2002); *Enron Chairman Warned Bush Officials on Collapse*, N.Y. Times (Jan. 10, 2002).

³*Enron Asked Treasury for Credit Aid*, Associated Press (Jan. 11, 2002).

⁴White House Press Briefing (Jan. 10, 2002).

⁵*Id.*

⁶*Id.*

⁷*Labor Opens ERISA Investigation of Enron Assistance to Dislocated Workers*, U.S. News and World Report (Dec. 5, 2001).

The Honorable Paul H. O'Neill
The Honorable Donald L. Evans
January 11, 2002
Page 3

their retirement accounts and selling their plummeting Enron stock.⁸ If Mr. Fleischer's representations are accurate, it would appear that no one in the Bush Administration acted on the knowledge of Enron's rapidly declining financial condition to help employees whose retirement plan collectively lost an estimated \$1 billion.⁹ The life savings of many Enron employees simply evaporated during this period. Moreover, based on the scant information that this Administration has provided to date, it appears that no one bothered even to ask whether any remedies, administrative or legislative, were available to help the Enron employees frozen out of their retirement accounts.

In fact, some senior Administration officials have publicly expressed surprising indifference to the fate of Enron employees and shareholders. Secretary O'Neill stated this morning that "while Enron may be important, . . . in the world that I live in, with hundreds of other things going on, this is just another piece of business."¹⁰ The President's chief economic advisor, Larry Lindsey, called the Enron debacle a "tribute to American capitalism."¹¹

In addition, accounts of your early conversations with Mr. Lay raise concerns about whether advance notice of Enron's desperate financial condition was taken into account as the Administration formulated positions on important matters of public policy. For example, throughout the month of November, you continued to advocate for retroactive repeal of the alternative minimum tax.¹² This legislation would have had dramatic implications for Enron, as it would have given the company a government-funded infusion of \$254 million.¹³

Given the magnitude of the financial harm caused by Enron's collapse, and the close ties

⁸*Fair Shares? Why Company Stock is a Burden for Many*, Wall Street Journal (Nov. 27, 2001).

⁹*See Enron Employees Enraged Over Losses*, Business Insurance (Dec. 10, 2001).

¹⁰Transcript of Good Morning America (Jan. 11, 2002).

¹¹*Interview with Lawrence Lindsey*, Fox News Sunday Roundtable (Jan. 6, 2002).

¹²*See Deal Breaker*, New Republic (Nov. 29, 2001); *U.S. Panel Says that Recession Officially Began in March*, Business Day (Nov. 28, 2001); *Economic Aid Stalled Amid Recession*, Newsday (Nov. 27, 2001); U.S. Department of the Treasury, *O'Neill Urges Senate to Act Quickly on a Bipartisan Economic Stimulus Bill* (Nov. 8, 2001) (press release).

¹³Citizens for Tax Justice, *House GOP "Stimulus" Bill Offers 16 Large, Low-Tax Corporations \$7.4 Billion in Instant Tax Rebates* (Oct. 16, 2001, updated Oct. 26, 2001).

The Honorable Paul H. O'Neill
The Honorable Donald L. Evans
January 11, 2002
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between the company and the Bush Administration, the public deserves to know what Administration officials knew and when they knew it about the situation of Enron and its employees. Therefore, I request that the two of you individually respond to the following questions:

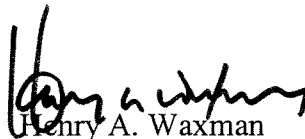
- (1) Please provide details regarding your conversations with Mr. Lay of October 28, October 29, and November 8. Please provide any written or electronic materials held by your Department that relate to this question.
- (2) Please provide details regarding Undersecretary Fisher's conversations with Mr. Whalley in October and November. Please provide any written or electronic materials held by your Department that relate to this question.
- (3) Did you, any other person in your Department, or to your knowledge any other official in the Administration have any other communications with Mr. Lay or any other Enron officials or representatives in 2001, beyond those referred to in questions 1 and 2? If so, please provide names, dates, form of communication, and information exchanged or matters discussed.
- (4) Upon receiving the information regarding Enron's financial situation in October, did you convey information about Enron's financial condition to any person, apart from Undersecretary Fisher? If so, please provide the names, dates, form of communication, and the information exchanged, including copies of any written or electronic materials.
- (5) Did you, any other person in your Department, or to your knowledge any other official in the Administration convey this information to any person within the Vice President's office or any of the advisors to the President? If so, please provide the names, dates, form of communication, and the information exchanged, including copies of any written or electronic materials.
- (6) Please provide details about Undersecretary Fisher's review. For example, over what time period did Undersecretary Fisher explore the financial implications of a potential Enron bankruptcy? What was the scope of the exploration? Did the Department of the Treasury or the Department of Commerce examine the impact of Enron's potential bankruptcy on the employees of the corporation? On the shareholders of the corporation? On other creditors of the corporation? What were your respective departments' conclusions regarding the impacts of an Enron bankruptcy on each of these groups? On the energy sector? On the financial sector? On the economy at large? Please provide any written or electronic materials held by your respective departments that relate to any of these questions.

The Honorable Paul H. O'Neill
The Honorable Donald L. Evans
January 11, 2002
Page 5

- (7) How did Undersecretary Fisher conduct this investigation? Did he or his staff communicate with any Enron officials or representatives? If so, please indicate names, dates, form of communications, and information exchanged. Did he or his staff communicate with Enron's auditors or any financial backers? Did he or his staff communicate with any financial experts outside of the Commerce or Treasury Departments? Did he or his staff communicate with any others within the Administration? Please provide any written or electronic materials held by your respective departments that relate to any of these questions.
- (8) At the time that you decided to take no action, had you considered the potential impacts of an Enron bankruptcy on its employees? Did you make any attempt to obtain information about the impact of such a bankruptcy on the employees?
- (9) The Bush Administration continued to advocate for retroactive repeal of the corporate alternative minimum tax throughout the month of November, when repeal could have had a significant impact on Enron's financial situation. Did any Enron official or representative ask you, any other person in your Department, or to your knowledge any other official in the Administration, to support this legislation? Were you aware that Enron favored adoption of this legislation?
- (10) Why did it take so long for the public to learn about your contacts with Enron prior to its bankruptcy filing?

I want to make clear that I believe it is inappropriate to make any ethical allegations against you or any other Administration official at this time. I think it is essential, however, that these questions be answered so that there is a clear public accounting of this matter. We all owe that to the thousands of families that are facing financial ruin from the Enron bankruptcy, and I hope that it will be possible for you to provide the answers I'm seeking by January 18, 2002.

Sincerely,



Henry A. Waxman
Ranking Minority Member

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January 14, 2002

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WM. LACY CLAY, MISSOURI
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BERNARD SANDERS, VERMONT,
INDEPENDENT

Mr. Andrew H. Card, Jr.
Chief of Staff
The White House
Washington, D.C. 20500

Dear Mr. Card:

I am writing to request information about any communications you had with Secretary of Commerce Donald L. Evans about the financial collapse of Enron.

Last week, it was revealed that Enron Chairman Kenneth L. Lay telephoned Secretary Evans and Secretary of the Treasury Paul H. O'Neill on three occasions during October and November 2001, to inform them about Enron's financial condition.¹ During a call on October 29, Mr. Lay apparently told Secretary Evans that "he was having problems with his bond rating and he was worried about its impact on the energy sector," and that "he would welcome any support the Secretary thinks appropriate."² Initially, White House Press Secretary Ari Fleischer stated that neither Secretary Evans nor Secretary O'Neill informed anyone at the White House about these three phone calls with Mr. Lay.³

However, on yesterday's "Meet the Press" program, Secretary Evans said that he informed you of the October 29 phone call "several weeks" later. Mr. Evans explained: "With all the ongoing and continuing activity at Enron and Dynegy, I thought the White House ought to know. I was over there one day, and I stepped into Andy Card's office and told him I'd received this call. He simply listened to me and said, "Thank you very much."⁴ According to Secretary Evans, he also spoke with your deputy, Joshua Bolten, about Enron "from time to time."

¹*Enron Asked for Help from Cabinet Officials*, Washington Post (Jan. 11, 2002).

²*Enron's Lay Sought Cabinet Officials' Help*, Wall Street Journal (Jan. 11, 2002); *Enron Chairman Warned Bush Officials on Collapse*, N.Y. Times (Jan. 10, 2002).

³White House Press Briefing (Jan. 10, 2002).

⁴Transcript of NBC News "Meet the Press," (Jan. 13, 2002).

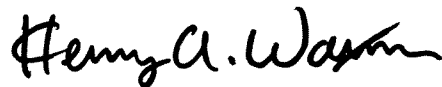
Mr. Andrew H. Card, Jr.
January 14, 2002
Page 2

In light of these developments, I request that you respond to the following questions:

- (1) Please provide details regarding any communications either you or Mr. Bolten had with Secretary Evans regarding Enron. Please provide the dates of any communications, the form of the communication, the information exchanged or matters discussed, and copies of any documents that were exchanged.
- (2) Did either you or Mr. Bolten discuss your communications with Secretary Evans regarding Enron with anyone else, including the President or the Vice President? If so, please provide the dates of any communications, the form of the communication, the persons involved, the information exchanged or matters discussed, and copies of any documents that were exchanged.
- (3) Since January 20, 2001, have you or Mr. Bolten had any communications with anyone, including any Enron executives, regarding Enron's financial condition or other matters relating to Enron, other than the communications described in questions 1 and 2? If so, please provide the dates of any communications, the form of the communication, the persons involved, the information exchanged or matters discussed, and copies of any documents that were exchanged.

I think it is essential that these questions be answered so that there is a clear public accounting of this matter. We all owe that to the thousands of families that are facing financial ruin from the Enron bankruptcy. I hope it will be possible for you to provide the answers I am seeking by January 22, 2002.

Sincerely,



Henry A. Waxman
Ranking Minority Member

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BERNARD SANDERS, VERMONT,
INDEPENDENT

January 14, 2002

Mr. Lawrence B. Lindsey
Assistant to the President for Economic Policy
The White House
Washington, D.C. 20502

Dear Mr. Lindsey:

I am writing to request information about any information you have regarding the financial collapse of Enron.

Last week, it was revealed that Enron Chairman Kenneth L. Lay telephoned Secretary of Commerce Donald L. Evans and Secretary of the Treasury Paul H. O'Neill on three occasions during October and November 2001, to inform them about Enron's financial condition.¹ Initially, White House Press Secretary Ari Fleischer stated that neither Secretary Evans nor Secretary O'Neill informed anyone at the White House about any of these three phone calls with Mr. Lay.² However, on yesterday's "Meet the Press" program, Secretary Evans said that a group of Administration officials – including Secretary Evans, Secretary O'Neill, Deputy Chief of Staff Joshua Bolten, and yourself – met on Mondays and "we all would collectively talk about Enron from time to time."³

In light of these developments, I request that you respond to the following questions:

- (1) Please provide details regarding any communications you had with Secretary Evans or Secretary O'Neill regarding Enron. Please provide the dates of any communications, the form of the communication, the information exchanged or matters discussed, and copies of any documents that were exchanged.
- (2) Did you discuss your communications with Secretary Evans or Secretary O'Neill regarding Enron with anyone else in the White House, including the President or the Vice

¹*Enron Asked for Help from Cabinet Officials*, Washington Post (Jan. 11, 2002).

²White House Press Briefing (Jan. 10, 2002).

³Transcript of NBC News "Meet the Press" (Jan. 13, 2002).

Mr. Lawrence B. Lindsey
January 14, 2002
Page 2

President? If so, please provide the dates of any communications, the form of the communication, the persons involved, the information exchanged or matters discussed, and copies of any documents that were exchanged.


- (3) Since January 20, 2001, have you had any communications with anyone, including any Enron executives, regarding Enron's financial condition or other matters relating to Enron, other than the communications described in questions 1 and 2? If so, please provide dates of any communications, the form of the communication, the persons involved, the information exchanged or matters discussed, and copies of any documents that were exchanged.

In addition, I would like to know whether your participation in discussions about Enron may have created a conflict of interest or an appearance of a conflict of interest. According to your financial disclosure report, you were a member of Enron's advisory board and received a salary of \$50,000 in 2000. You were also the managing director of Economic Strategies, Inc., and one of the firm's clients was Enron. And according to press accounts, you are listed as a creditor of Enron in the company's bankruptcy filing.⁴

Under the regulations governing conflicts of interest, a White House employee faced with either a conflict of interest or an appearance of a conflict of interest should take one of two actions: (1) recuse himself from the matter; or (2) seek a waiver of the conflict of interest rules.⁵ I would like to know whether you recused yourself from the discussions involving Enron, or whether you sought a waiver of the conflict of interest rules. Alternatively, if you determined that your involvement in discussions regarding Enron created neither an actual conflict of interest nor an appearance of a conflict, I would like to know the basis for your determination.

I think it is essential that these questions be answered so that there is a clear public accounting of this matter. We all owe that to the thousands of families that are facing financial ruin from the Enron bankruptcy. I hope it will be possible for you to provide the answers I am seeking by January 22, 2002.

Sincerely,



Henry A. Waxman
Ranking Minority Member

⁴*Bush Aide Linked to Enron*, N.Y. Daily News (Jan. 11, 2002).

⁵18 U.S.C. §208(a); 5 C.F.R. §2635.502(d).

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January 15, 2002

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THOMAS H. ALLEN, MAINE
JANICE D. SCHAKOWSKY, ILLINOIS
WM. LACY CLAY, MISSOURI
DIANE E. WATSON, CALIFORNIA

BERNARD SANDERS, VERMONT,
INDEPENDENT

The Honorable Spencer Abraham
Secretary
Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Secretary Abraham:

I am writing to request information about any communications you had with Enron Chairman Kenneth L. Lay about Enron's financial situation.

Recent news accounts have indicated that Enron executives spoke with several senior Administration officials – including you – last October and November, prior to the company filing for bankruptcy on December 2, 2001.¹ According to news accounts, you telephoned Mr. Lay on November 2, 2001, “to ask about the situation after [you] read news reports about the company's financial problems.”² The Energy Department spokeswoman described the phone call as “information gathering.”³ According to the spokeswoman, Mr. Lay “conveyed an optimistic impression of the situation, without going into specifics.”⁴

It has also been reported that Enron executives, including Mr. Lay, made five requests for meetings with you last year, but that these requests were denied.⁵ However, senior Energy Department officials did meet with senior Enron executives on two occasions.

In light of these developments, I request that you respond to the following questions:

- (1) Since January 20, 2001, have you or any Energy Department employee had any

¹See *Enron Asked for Help from Cabinet Officials*, Washington Post (Jan. 11, 2002).

²*Enron Asked for Help from Banks*, Associated Press (Jan. 11, 2002).

³*Subpoenas on Enron Issued; Calls to Aide Cited*, Boston Globe (Jan. 12, 2002).

⁴*Id.*

⁵*Id.*

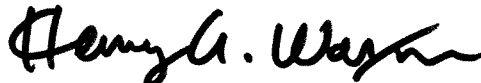
The Honorable Spencer Abraham
January 15, 2002
Page 2

communications with Mr. Lay or any Enron employee regarding Enron? If so, please provide the dates of any communications, the form of the communication, the persons involved, the information exchanged or matters discussed, and copies of any documents that were exchanged.

- (2) Since January 20, 2001, have you or any Energy Department employee discussed Enron with any member of the cabinet, including the President or the Vice President, or any member of the White House staff? If so, please provide the dates of any communications, the form of the communication, the persons involved, the information exchanged or matters discussed, and copies of any documents that were exchanged.
- (3) Since January 20, 2001, have you had any communications with anyone regarding Enron, other than the communications described in questions 1 and 2? If so, please provide the dates of any communications, the form of the communication, the persons involved, the information exchanged or matters discussed, and copies of any documents that were exchanged.

It is essential that these questions be answered so that there is a clear public accounting of this matter. We all owe that to the thousands of families that are facing financial ruin from the Enron bankruptcy. I hope it will be possible for you to provide the answers I am seeking by January 23, 2002.

Sincerely,



Henry A. Waxman
Ranking Minority Member

DAN BURTON, INDIANA,
CHAIRMAN

BENJAMIN A. GILMAN, NEW YORK
CONSTANCE A. MORELLA, MARYLAND
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ONE HUNDRED SEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

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January 15, 2002

HENRY A. WAXMAN, CALIFORNIA,
RANKING MINORITY MEMBER

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WM. LACY CLAY, MISSOURI
DIANE E. WATSON, CALIFORNIA

BERNARD SANDERS, VERMONT,
INDEPENDENT

Mr. Mitchell E. Daniels, Jr.
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Director Daniels:

I am writing to request information about communications you had with Enron Chairman Kenneth L. Lay and possibly other employees of Enron. The purpose of the request is to learn as much as possible about the events surrounding Enron's collapse and relevant actions by the Administration.

According to recent news accounts, you spoke with Mr. Lay about prospects for an economic stimulus package in early October 2001, five days before the company announced massive losses.¹ In light of this development, I request that you respond to the following questions:

- (1) Please describe in detail the conversation you reportedly had with Mr. Lay in early October 2001, including the information exchanged and matters discussed.
- (2) Since January 20, 2001, how many times have you or any Office of Management and Budget employee had communications with Mr. Lay or any Enron employee regarding Enron or related policy matters? Please provide the dates of any communications, the form of the communication, the persons involved, the information exchanged or matters discussed, and copies of any documents that were exchanged.
- (3) Since January 20, 2001, have you or any Office of Management and Budget employee discussed Enron with any member of the cabinet, including the President or the Vice President, or any member of the White House staff? If so, please provide the dates of any communications, the form of the communication, the persons involved, the information exchanged or matters discussed, and copies of any documents that were exchanged.

¹NBC *Nightly News with Tom Brokaw*, NBC (Jan. 14, 2002); *Enron's Washington Clout Before Collapse Draws Scrutiny*, Wall Street Journal (Jan. 15, 2002).

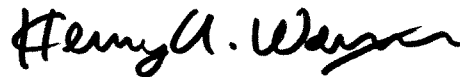
Mr. Mitchell E. Daniels, Jr.
January 15, 2002
Page 2

- (4) Since January 20, 2001, have you had communications with anyone about Enron, other than any individuals described in response to questions 1, 2, and 3? If so, please provide the dates of any such communication, the form of the communication, the persons involved, the information exchanged or matters discussed, and copies of any documents that were exchanged.

I believe it is important to provide this information so there is a clear public accounting of the steps the Administration took in the face of Enron's collapse. The thousands of American families facing financial ruin as a result of Enron's bankruptcy deserve no less.

I hope it will be possible for you to provide the answers I am seeking by January 23, 2002.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive, slightly slanted style.

Henry A. Waxman
Ranking Minority Member

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CHAIRMAN

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February 5, 2002

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BERNARD SANDERS, VERMONT,
INDEPENDENT

Mr. Mitchell E. Daniels, Jr.
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Director Daniels:

On January 15, 2002, I wrote to ask you for information about communications you had with Enron Chairman Kenneth L. Lay and possibly other employees of Enron. I finally received your reply on February 1, 2002. Unfortunately, your response does not address my questions.

Rather than responding to my requests for information, your letter seeks a retraction from me for my statement in an op-ed in the *Washington Post* on January 24. In that op-ed, I wrote that Mr. Lay "called Office of Management and Budget Director Mitch Daniels to lobby for the repeal of the corporate minimum tax. The administration subsequently endorsed the House-passed stimulus bill, which repealed the tax and gave Enron a \$254 million windfall."¹ There is nothing inaccurate about my assertion.

You have asserted in a letter to the editor that Mr. Lay could not have called to lobby you because "the provision to make the corporate alternative minimum tax [AMT] relief retroactive had not even surfaced then, and neither I nor anyone else to my knowledge had even heard of the idea."² Contrary to your claim, however, I never said Mr. Lay lobbied you for retroactive relief. My statement referred to repeal of the AMT, which was clearly an issue when Mr. Lay's call took place on October 11. President Bush had endorsed repeal of the AMT on October 5,³ and the idea of AMT repeal had been widely reported on by the time of your phone call with Mr. Lay.⁴

¹Henry A. Waxman, *All Enron Cards on the Table*, Washington Post (Jan. 24, 2002).

²Letter to the Editor from Mitch Daniels, Washington Post (Feb. 1, 2002).

³White House, *President Urges Tax Relief Aimed at Recovery; Remarks by the President on the Economy* (Oct. 5, 2001).

⁴See, e.g., *Bush Pushes Economic Stimulus Plan*, Associated Press (Oct. 6, 2001); *Economic-Stimulus Bill Gets Regular Legislative Priority*, Washington Times (Oct. 6, 2001).

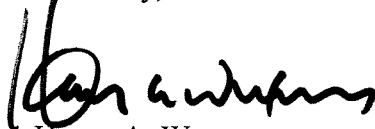
Mr. Mitchell E. Daniels, Jr.
February 5, 2002
Page 2

Moreover, your assertion that neither you nor anyone else had even heard of the idea of retroactive repeal of the AMT is surprising. The stimulus bill passed by the House Ways and Means Committee on October 12 -- the day after your phone call with Mr. Lay -- included that very provision.

Your second point is that the call from Mr. Lay "was solely about the legislative prospects" of the bill and "no lobbying occurred."⁵ As the *Wall Street Journal* has reported, Enron "headed the lobbying coalition of companies seeking repeal" of the ATM.⁶ Mr. Lay's interest in the bill was not academic, and his inquiry was not an idle one. If there is a distinction between Mr. Lay talking about the legislative prospects of a bill he was intensely interested in and lobbying on that bill, it eludes me.

In conclusion, let me express my dissatisfaction with your response of February 1. I hope that you will reconsider your decision not to respond to the questions and requests I posed to you in my letter of January 15, 2001.

Sincerely,



Henry A. Waxman
Ranking Minority Member

⁵Letter to the Editor from Mitch Daniels, Washington Post (Feb. 1, 2002).

⁶*Enron's Washington Clout Before Collapse Draws Scrutiny*, Wall Street Journal (Jan. 15, 2002).

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February 7, 2002

HENRY A. WAXMAN, CALIFORNIA,
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WM. LACY CLAY, MISSOURI
DIANE E. WATSON, CALIFORNIA

BERNARD SANDERS, VERMONT,
INDEPENDENT

Mr. Clay Johnson, III
Assistant to the President for Presidential Personnel
The White House
Washington, D.C. 20502

Dear Mr. Johnson:

I am writing to seek information about Bush Administration appointees who formerly worked for Enron.

According to press accounts and a review of financial disclosure reports, several Administration officials did work for Enron prior to being appointed to their current government positions. Some of these Enron connections are already well known. For example, Secretary of the Army Thomas E. White worked as vice chairman of Enron Energy Services. In addition, Assistant to the President for Economic Policy Lawrence B. Lindsey and U.S. Trade Representative Robert B. Zoellick both served on Enron's advisory board and received \$50,000 in salary in 2000.

I have recently learned that there are other Administration officials with significant ties to Enron. For example, Principal Deputy Secretary of the Army Dominic Izzo worked as senior director for national construction for Enron Energy Services. According to Mr. Izzo's biography, he was the "Manager of Projects for the design, construction, and start-up of a Liquefied Natural Gas (LNG) Terminal and Harbor in Dabhol, India."¹ This terminal and harbor is part of a \$3 billion power plant project in Dabhol in which Enron has a 65% interest. According to press accounts, "[t]he White House coordinated a multi-front effort last year to help Enron Corp. settle a dispute with the Indian government" over this power plant.²

Some press accounts indicate that Commerce Department General Counsel Theodore W. Kassinger has done work for Enron in the past. As I understand it, Mr. Kassinger was a partner

¹Biography of Dominic Izzo (available at <http://www.hqda.army.mil/asacw/izzobio.htm>).

²*White House Aided Enron in Dispute*, Washington Post (Jan. 19, 2002).

Mr. Clay Johnson, III
February 7, 2002
Page 2

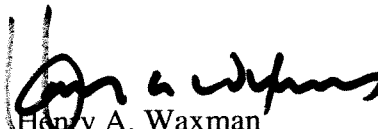
in the Houston-based law firm of Vinson & Elkins and handled international trade and project-financing work for clients, including Enron. According to press accounts, Commerce Secretary Donald L. Evans consulted with Mr. Kassinger last October after Enron Chairman Kenneth L. Lay asked Secretary Evans to intervene on Enron's behalf with a credit rating agency.³

In order to learn more about how Enron tried to influence both the political process and public policy, it is important to obtain a complete list of all appointees who have done work for Enron in the past. Accordingly, I request that you provide me with the following information:

- (1) All persons appointed since January 20, 2001, who worked for Enron as employees, consultants, or advisors – whether paid or unpaid;
- (2) All persons appointed since January 20, 2001, who performed professional services for Enron, including legal, consulting, and accounting services – whether paid or unpaid;
- (3) All persons appointed since January 20, 2001, whose spouse worked in the capacity referred to in request (1) or performed the services referred to in request (2); and
- (4) All persons appointed since January 20, 2001, whose appointment was recommended by Enron, Mr. Lay, or any other Enron employee.

I would appreciate your providing this information to me by the close of business on February 14, 2002.

Sincerely,


Henry A. Waxman
Ranking Minority Member

³*Enron Asked for Help from Cabinet Officials*, Washington Post (Jan. 11, 2002).



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

January 18, 2002

The Honorable Henry A. Waxman
U.S. House of Representatives
2204 RHOB
Washington, DC 20515

Dear Representative Waxman:

I am responding to your letter of January 11, 2002, concerning the Administration's response to communications with Enron Corp. representatives prior to its bankruptcy filing.

Enron's bankruptcy has caused serious hardship for its employees, shareholders, and creditors, as well as the communities in which it operates. Both the Securities and Exchange Commission and the Department of Labor initiated investigations promptly last fall after issues concerning Enron's accounting and pension plan came to light, and other government agencies, as well as authorized committees of the Congress, are investigating these and related matters. President Bush separately has directed Secretary O'Neill, Secretary Chao, and me to explore the rules, regulations and laws that govern pension plans and investment programs, such as 401(k) plans, and to recommend any changes that should be made to further protect employees' retirement savings.

The consequences of the Enron bankruptcy, and in particular its impact on Enron's employees, are of utmost concern to me, and deserve thoughtful and serious analysis. The Department of Commerce remains ready to assist the Congress as well as the agencies fully in their investigations of these matters, and the Administration will take appropriate action in response to their findings.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Evans", is written over the word "Sincerely,".

Donald L. Evans



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

DEPARTMENT OF THE TREASURY

January 18, 2002

TOTAL P. 01
PAGE 01

The Honorable Henry A. Waxman
U.S. House of Representatives
2204 Rayburn House Office Building
Washington, D.C. 20515-0529

202 269 7549

Dear Congressman Waxman:

This letter responds to your correspondence of January 11. The issues raised in your inquiry are within the jurisdiction and current focus of multiple House and Senate committees, the U.S. Labor Department, the Securities and Exchange Commission and the Department of Justice. They will be addressed in an organized, timely and uniform manner by Treasury in response to any and all requests made by such authorities.

The impact of Enron's demise on its employees and investors is a serious matter that warrants careful examination and raises significant policy issues. If such an examination reveals that Enron officials broke the law, the persons responsible should be punished. To address the policy issues, the President has ordered a review of federal law, rules and regulations regarding retirement programs, corporate governance and adequate disclosure of the financial condition of public companies. Our full resources are currently devoted to the endeavor.

Very truly yours,

Paul H. O'Neill
Paul H. O'Neill



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 1, 2002

The Honorable Henry A. Waxman
U.S. House of Representatives
2204 Rayburn House Office Building
Washington, D.C. 20515-0529

Dear Congressman Waxman:

This letter responds to your letter of January 15, 2002. I previously volunteered that I had a very brief conversation, perhaps two minutes in duration, with Kenneth Lay on October 11. Our conversation addressed the prospects, and not the content, of an economic stimulus bill along the lines the President had articulated. There was no discussion of the situation at Enron. These facts having been fully public for some time before your Washington Post column of January 24, 2002, I do not appreciate your erroneous description of the telephone call, and will appreciate a retraction. As you know, numerous committees of the House and Senate and many executive branch departments and agencies, including the Securities and Exchange Commission, the Department of Labor, and the Department of Justice, are currently conducting official investigations into the causes and consequences of the Enron bankruptcy. To the extent any duly authorized investigative bodies may request additional relevant information, I will respond in a timely, orderly, and appropriate way.

Please be assured that the President and I share your concern about the causes and consequences of the Enron bankruptcy, including the consequences for Enron employees and shareholders. The President has assured the American people that he will seek appropriate policy changes that might help to prevent similar occurrences in the future. Indeed, two cabinet-level working groups are now examining the pension regulation and financial disclosure issues presented by Enron's situation. In short, the Administration's resources are fully devoted to appropriate investigative, law enforcement, and policy actions relating to the Enron bankruptcy.

Sincerely,

A handwritten signature in black ink that reads "M E Daniels, Jr." in a cursive style.

Mitchell E. Daniels, Jr.
Director

THE WHITE HOUSE
WASHINGTON

February 1, 2002

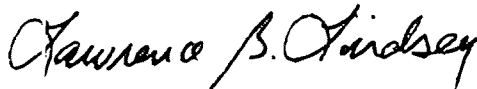
The Honorable Henry A. Waxman
U.S. House of Representatives
2204 Rayburn House Office Building
Washington, D.C. 20515-0529

Dear Congressman Waxman:

This letter responds to your letter of January 14, 2002. As I have noted on previous occasions, I had no communications with Kenneth Lay or other Enron executives last fall relating to their company's financial situation. Following media reports of Enron's deteriorating condition, my staff and I increased the intensity of our monitoring of the energy and financial markets in an effort to assess the potential systemic impacts, if any, of Enron's failure. As others were undertaking similar monitoring relating to their particular agency missions, some interaction between members of the President's economic team and others in the Administration who were working on similar issues occurred.

To the extent that any of the duly authorized investigations that are currently ongoing in either the executive branch or the Congress may request further information from me, I will of course make a timely and appropriate response. In the meantime, I will continue to devote my energies to helping President Bush develop and pursue policies that will help our economy enjoy a rapid, steady, and robust recovery. I welcome your continuing interest and assistance in that important enterprise.

Sincerely,



Lawrence B. Lindsey
Assistant to the President for Economic Policy

THE WHITE HOUSE

WASHINGTON

February 1, 2002

The Honorable Henry A. Waxman
U.S. House of Representatives
2204 Rayburn House Office Building
Washington, D.C. 20515-0529

Dear Congressman Waxman:

This letter responds to your letter of January 14, 2002. As Secretary Evans and I have publicly stated, Secretary Evans received a telephone call from Enron about its financial situation, and Secretary Evans later informed me of the call. As I have publicly stated, I did not inform the President of this call from Enron, and I did not talk to the President about Enron's situation during the relevant period of time last year when there was a question as to what was happening with the company. Secretary Evans also has publicly stated that he spoke from time to time with my Deputy, Joshua Bolten, about Enron's deteriorating condition and its potential impact on the energy trading markets. Beyond that, as you know, numerous committees of the House and Senate and many executive branch departments and agencies, including the Securities and Exchange Commission, the Department of Labor, and the Department of Justice, are currently conducting official investigations into the causes and consequences of the Enron bankruptcy. To the extent any duly authorized investigative bodies may request additional relevant information, we will respond in a timely, orderly, and appropriate way.

The President shares your concern over the Enron bankruptcy, and he is committed to ensuring that its causes and consequences are fully explored and understood. The President is determined to ensure that the law is fully enforced against any person or entity who may have broken it in connection with Enron's failure and to support policy changes that might help to prevent similar occurrences in the future. To that end, he has convened two cabinet-level working groups to examine the pension regulation and financial disclosure issues presented by Enron's situation. All Americans have a right to expect that their government will respond to this problem in a cooperative, responsible, and bipartisan way, and I hope and believe that we will continue to do so.

Sincerely,



Andrew H. Card, Jr.
Chief of Staff to the President

DAN BURTON, INDIANA,
CHAIRMAN

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June 25, 2001

HENRY A. WAXMAN, CALIFORNIA,
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THOMAS H. ALLEN, MAINE
JANICE D. SCHAKOWSKY, ILLINOIS
WM. LACY CLAY, MISSOURI

BERNARD SANDERS, VERMONT,
INDEPENDENT

Mr. Alberto R. Gonzales
Counsel to the President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear Mr. Gonzales:

As you know, press accounts have reported that Karl Rove, Senior Advisor to the President, met with executives of companies in which he owned stock and was involved in issues that are important to these companies.

Specifically, there are allegations that Mr. Rove:

- met with Intel executives seeking federal support for a merger at a time when Mr. Rove owned more than \$100,000 of Intel stock;¹
- “has spoken frequently about energy policy” with the chief executive of Enron, a company in which Mr. Rove owned more than \$100,000 of stock;²
- was involved in shaping the Administration’s policy on a patient’s bill of rights, despite owning more than \$200,000 of stock in Pfizer and Johnson & Johnson;³ and
- discussed the Administration’s energy plan with nuclear power executives, despite owning significant stock in General Electric, which has a nuclear power division.⁴

¹*Intel Pitched Proposed Merger to Rove*, Associated Press (June 14, 2001).

²*Taking Stock of Karl Rove*, Newsweek (June 25, 2001) (available on www.msnbc.com).

³*Id.*

⁴*Intel Pitched Proposed Merger to Rove*, *supra* note 1.

The Honorable Alberto R. Gonzales
June 25, 2001
Page 2

These allegations appear to be at odds with President Bush's statements about the importance of maintaining a high standard of ethics in the White House. At the beginning of the Administration, President Bush told his staff: "I expect every member of this administration to stay well within the boundaries that define legal and ethical conduct. This means avoiding even the appearance of improper conduct."⁵ The President also instructed his staff to consult your office on ethical matters and to confront colleagues if they see questionable behavior, adding: "No one should hesitate to confront me as well."⁶

As I understand it, 18 U.S.C. §208 prohibits an executive branch official such as Mr. Rove from participating "personally and substantially" in a "decision, approval, disapproval, recommendation, [or] the rendering of advice," if the official has a financial interest in the matter.⁷ An exception is made when the official discloses the financial interest and "receives in advance a written determination . . . that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee."⁸

Moreover, even if there is not a direct conflict of interest, the mere appearance of a conflict may require an executive branch official to recuse himself or seek a waiver "[w]here an employee's participation in a particular matter involving specific parties . . . would raise a question in the mind of a reasonable person about his impartiality."⁹ A waiver will be granted only if "the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations."¹⁰

In light of these ethical guidelines, I am interested in learning the following:

- Has Mr. Rove ever sought a waiver pursuant to either of these provisions?

⁵*President Orders Staff to Fall in Line*, USA Today (Jan. 23, 2001).

⁶*Id.*

⁷18 U.S.C. §208(a); *see also* Principles of Ethical Conduct for Government Officers and Employees (Executive Order 12674 of Apr. 12, 1989 (as modified by E.O. 12731)), Sec. 101(b) ("Employees shall not hold financial interests that conflict with the conscientious performance of duty").

⁸18 U.S.C. §208(b)(1).

⁹5 C.F.R. §2635.502(d) (emphasis added).

¹⁰*Id.*

The Honorable Alberto R. Gonzales

June 25, 2001

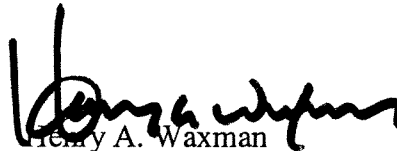
Page 3

- Has your office or any other office in the White House ever granted him such a waiver? If so, please provide me with copies of any waivers pursuant to 18 U.S.C. §208(d)(1), which states that “[u]pon request, a copy of any determination granting an exemption . . . shall be made available to the public.”
- Has your office or any other office in the White House ever determined that Mr. Rove should not be granted a waiver or that Mr. Rove did not require a waiver? If so, please provide information about each such determination.

Finally, in a letter that Chairman Dan Burton wrote me today, he points out instances in which the Department of Justice investigated senior Clinton Administration officials for potential conflicts of interest and imposed civil fines on the officials. In 1997, for example, National Security Advisor Anthony Lake and his successor Sandy Berger paid \$5,000 and \$23,000, respectively, in civil fines after they failed to promptly sell stocks in energy companies. I am interested in knowing whether any investigation is being conducted of Mr. Rove that is similar to those that were conducted by the Department of Justice of Mr. Lake and Mr. Berger.

I would appreciate a response to these questions by July 9, 2001. Thank you for your prompt attention to this matter.

Sincerely,



Henry A. Waxman
Ranking Minority Member

cc: Members of the Government Reform Committee

THE WHITE HOUSE

WASHINGTON

June 29, 2001

The Honorable Henry A. Waxman
Ranking Minority Member
House of Representatives
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Congressman Waxman:

I am writing in response to your letter of June 15, 2001 to Karl Rove and your letter of June 25, 2001 to me. We appreciate the opportunity to clarify the matters raised in your letters.

As you note, at the beginning of his service in the Administration, Mr. Rove owned a portfolio of individual stocks. Mr. Rove no longer owns any of those stocks, having divested himself of them promptly upon receipt of certificates of divestiture from the Office of Government Ethics. He received the certificates from OGE on June 6, 2001 and sold all of his holdings the next day.

Mr. Rove originally determined to divest himself of those stocks in January during the transition in order to avoid any potential ethical complications that might arise by virtue of continued ownership. He was advised by transition counsel that, as long as he complied with applicable conflict of interest regulations in the interim, the sale of his securities should await a review of his finances and receipt of certificates of divestiture. As you know, such certificates allow individuals entering into government service who are obliged to sell stock as part of the ethics program to defer the recognition of capital gains from such sales. *See generally* 5 C.F.R. § 2634.1001 *et seq.* (2000); 26 U.S.C. § 1043. The law entitles individuals such as Mr. Rove to receive such certificates “to minimize the burden of Government service resulting from gain on the sale of assets for which divestiture is reasonably necessary because of the conflict of interest laws, in order to attract and retain highly qualified personnel in the executive branch and to ensure the confidence of the public in the integrity of Government officials and decision-making processes.” *Id.* § 2634.1001(c).

Mr. Rove followed this advice and took care to comply with applicable conflict of interest rules while he awaited the completion of his security and financial disclosure file and the preparation and processing of his request for certificates of divestiture from OGE. Due to the enormous volume of clearance work and other difficulties attendant upon the beginning of a new Administration, combined with an abbreviated transition period, this process took longer than either Mr. Rove or I would have wished, or than it would have taken at other times during a presidential term.

During the period in which Mr. Rove was awaiting completion of his paperwork, he, like all members of the White House staff, received ethics training. For example, on January 29, 2001, slightly more than one week into the new administration, lawyers from my office briefed Mr. Rove and other staff members on applicable ethics rules, including conflict of interest rules. Several weeks later, on February 15, 2001, Mr. Rove attended an ethics training session organized by my office, at which senior lawyers from the Office of Government Ethics reviewed the conflict of interest requirements again. On both occasions, Mr. Rove was advised that, with respect to personal financial holdings, a government official may not personally and substantially participate in particular matters that would have a direct and predictable effect on his or her financial interests. *See id.* § 2635.402(a).

Pending the divestiture of his stockholdings, Mr. Rove took care to avoid any such impropriety. Accordingly, he did not seek a waiver pursuant to 18 U.S.C. § 208(b)(1) or an authorization pursuant to 5 C.F.R. § 2635.502(d), and our office made no determination concerning any such request. With respect to the March 12, 2001 meeting with Intel executives at which the subject of a merger application was raised, Mr. Rove did not participate personally and substantially in any discussion or decision relating to that merger. Ethics regulations make clear that such participation “requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue.” *See id.* § 2635.402(b)(4). Involvement must be “direct[,]” and it must be “of significance to the matter.” *Id.* The examples given in the regulations include such things as “decision, approval, disapproval, recommendation, investigation, or the rendering of advice in a particular matter.” *Id.* Mr. Rove did not play such a role in the merger review in question. Instead, when Intel executives raised the subject with Mr. Rove during their meeting, Mr. Rove was noncommittal and offered no substantive response. Responsibility for that matter rested with an interagency review panel on which Mr. Rove did not sit and in which he played no part. In my opinion, this does not constitute personal and substantial involvement in the merger review; rather, Mr. Rove’s passing contact with this subject would at most constitute the sort of “administrative or peripheral” contact that is outside the scope of the conflict of interest regulations. *Id.*

With respect to your questions concerning Mr. Rove’s holdings in Enron, Mr. Rove was not a member of the National Energy Policy Development Group, and he did not attend any of its meetings. He did participate in a number of other meetings at which the contours of the Administration’s energy policy were discussed. General policy discussions do not, however, concern a “particular matter” within the meaning of the conflict of interest regulations. The regulations make clear that “[t]he term particular matter encompasses only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons.” *Id.* § 2635.402(b)(3). Such matters include “a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation or arrest.” *Id.* They expressly do *not* include “the consideration or adoption of broad policy options that are directed to the interests of a large and diverse group of persons.” *Id.* The formulation of national energy policy is a classic example of the sort of broad policy discussion that is expressly excluded from regulatory coverage. Indeed, one of the examples cited in the regulation – “[a] legislative proposal for broad health care reform” – makes clear that policy proposals of this kind, which affect an entire sector of the economy, are not “particular matters” within the meaning of the conflict of interest regulations.

Id. § 2640.103 (example 8); *see also id.* (example 6) (discussion of economic growth policies among economic advisers).

For similar reasons, general discussions of national energy policy did not have a “direct and predictable effect” on the value of Mr. Rove’s holdings in Enron, as the regulations require. *Id.* § 2635.402(a). Even if the formulation of energy policy had been a “particular matter,” Mr. Rove’s participation in energy-related discussions still would not have presented a conflict of interest unless there was “a close causal link” between those discussions and the value of Mr. Rove’s stock. *Id.* § 2635.402(b)(1)(i). Such a link does not exist where “the chain of causation is attenuated or is contingent upon the occurrence of events that are speculative or that are independent of, and unrelated to, the matter.” *Id.* The gap between discussions of overall national energy policy and concrete impact on an individual company’s share price is simply too wide to meet this standard. Even the final policy recommendations of the NEPDG were general in nature, setting forth broad proposals for action but leaving the specifics to the governmental actors further downstream that would be responsible for reviewing and implementing the proposals. And none of the policy proposals was self-executing: all required further action by the President, executive branch departments or agencies, the Congress, or some combination of these, on an uncertain timetable. No discussions concerning these proposals could have had a “direct and predictable” impact on Mr. Rove’s shares in an individual company such as Enron.

In summary, in connection with the matters raised in your letter to Mr. Rove, Mr. Rove either had passing, inconsequential contacts or participated in broad policy discussions, neither of which presents an ethical problem under applicable regulations. Nonetheless, I wish to assure you that this Administration remains committed to ensuring that all members of the White House staff adhere to the highest ethical standards. I hope this satisfactorily resolves your concerns. If I may be of any further service, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Gonzales', written in a cursive style.

Alberto R. Gonzales
Counsel to the President

cc: The Honorable Dan Burton

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July 17, 2001

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BERNARD SANDERS, VERMONT,
INDEPENDENT

Mr. Alberto R. Gonzales
Counsel to the President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear Mr. Gonzales:

I am writing in response to your June 29, 2001, letter regarding Karl Rove's involvement in matters in which he had a financial interest. While I appreciate your effort to address my June 15 and June 25 letters, your letter raises many more questions than it answers.

On repeated occasions, according to news accounts, Mr. Rove met with or had telephone conversations with executives of companies in which he had significant stock holdings. The point of my inquiries was to seek information about what transpired during these meetings and conversations. Unfortunately, your letter fails to respond to my requests for specific information about whom Mr. Rove met or talked with, what Mr. Rove said, and whether Mr. Rove participated in other meetings or discussions regarding policies affecting these companies.

Instead, your letter states your conclusions that "Mr. Rove . . . took care to comply with applicable conflict of interest rules," that "Mr. Rove took care to avoid any such impropriety," and that "Mr. Rove either had passing, inconsequential contacts or participated in broad policy discussions, neither of which presents an ethical problem under applicable regulations."

I have closely reviewed the law governing conflicts of interest, investigated precedents from prior Administrations, and consulted with experts. If the news reports of Mr. Rove's conduct are accurate, Mr. Rove discussed federal policies with senior executives of companies in which he had substantial investments. This is exactly the type of conflict of interest that the ethics laws are designed to prevent.

The regulations governing conflicts of interest are clear. Under both 18 U.S.C. §208(a) and 5 C.F.R. §2635.502(d), an executive branch official faced with either a financial conflict of interest or an appearance of a conflict must take one of two actions: (1) recuse himself from the matter; or (2) seek a waiver of the conflict of interest rules. There are no exceptions to these requirements.

Mr. Alberto R. Gonzales
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Your letter makes clear, however, that after being informed about his ethical obligations, Mr. Rove neither recused himself nor sought a waiver. Instead, he continued to participate in discussions about federal policy with executives of companies in which he held stock. To be fair to Mr. Rove, it is not possible to assess the seriousness of his actions or his intent based on the little information that has been made public. Under any objective interpretation, however, Mr. Rove's conduct would surely violate the federal conflict of interest laws.

President Bush promised that his Administration will "maintain the highest standards of integrity in government."¹ But I do not believe that the interpretation in your June 29 letter meets even the minimal legal requirements, much less the standard set by President Bush. In the Clinton Administration, allegations were made that National Security Advisors Sandy Berger and Anthony Lake may have violated conflict of interest rules by holding stock in energy companies. In these cases, there were no allegations that Mr. Berger or Mr. Lake ever met with or discussed federal policy with executives of the companies. Nevertheless, your predecessor, Judge Abner Mikva, referred the cases to the Department of Justice. According to Mr. Mikva, he "had no choice under federal law but to refer the matter to the Justice Department's public integrity division."² Both Mr. Berger and Mr. Lake were ultimately required to pay fines.

As you know, federal law establishes a low threshold for referrals to the Department of Justice. Pursuant to 28 U.S.C. §535(b), all executive branch departments and agencies, including the White House, are required to report "[a]ny information, allegation, or complaint" involving potential criminal conduct by an employee to the Department of Justice. The rationale for this low threshold is clear: Congress appropriately believed that the Department of Justice would be in a better position to render an impartial judgment than the employee's own department or agency.

I am not aware of any reason why Mr. Rove should receive special treatment that would exempt him from the independent and impartial investigation envisioned by 28 U.S.C. §535(b). For this reason, I believe you have an obligation under the law to refer Mr. Rove's case to the Public Integrity Section at the Department of Justice. In addition, because of the many unanswered questions, I renew my request for specific information about Mr. Rove's involvement in issues affecting his stock holdings.

I. News Accounts Raise Serious Ethical Questions

A series of news reports on Mr. Rove's conduct raises serious questions about his involvement in matters affecting his stock portfolio prior to the sale of his stocks on June 7,

¹White House Office of the Press Secretary, *Memorandum for the Heads of Executive Departments and Agencies Regarding Standards of Official Conduct* (Jan. 20, 2001).

²*Justice Dept. Investigating Berger's Investments*, Washington Post (Dec. 13, 1996).

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2001. These articles have reported that he had discussions about federal policies with executives of companies in which he held significant amounts of stock or had discussions about federal policies that affect these companies. At least three companies in particular have been identified in the news reports: Enron, Intel, and General Electric.

A. Enron

According to news accounts, Kenneth Lay, the CEO of Enron, has played an active role in shaping the Administration's energy proposals. In addition to being a major fundraiser for President Bush, "Mr. Lay is on a first-name basis with a half-dozen members of the Bush cabinet and knows many senior White House staffers from their days in the Texas governor's mansion with Mr. Bush."³ Apparently, one such White House official is Mr. Rove.

According to *Newsweek*, Mr. Rove "has spoken frequently about energy policy" with Mr. Lay.⁴ Mr. Rove was also contacted by Mr. Lay when Enron was lobbying for Nora Mead Brownell, a Pennsylvania utility regulator, to be appointed to the Federal Energy Regulatory Commission (FERC). According to the *Wall Street Journal*, when Ms. Brownell's appointment ran into some opposition, "Mr. Lay says he phoned Karl Rove, the White House's top political strategist, to tell him that 'she was a strong force in getting the right outcome' in Pennsylvania."⁵ Ms. Brownell was subsequently appointed to FERC.

Mr. Lay also telephoned Mr. Rove when the Administration was shaping its position on global warming. The *Wall Street Journal* reported that Mr. Lay called Mr. Rove "to urge him to talk to Fred Krupp, the head of the moderate Environmental Defense Fund."⁶ Mr. Rove and Mr. Krupp subsequently spoke about global warming.

During the period in which these contacts with Mr. Lay occurred, Mr. Rove owned over \$60,000 of Enron stock. Mr. Rove did not request a waiver from the conflict of interest laws.

³*Power Politics: In Era of Deregulation, Enron Woos Regulators More Avidly than Ever*, Wall Street Journal (May 18, 2001).

⁴*Taking Stock of Karl Rove*, Newsweek (June 25, 2001).

⁵*Power Politics: In Era of Deregulation, Enron Woos Regulators More Avidly than Ever*, Wall Street Journal (May 18, 2001).

⁶*Id.*

B. Intel

On March 12, 2001, Mr. Rove met with senior Intel executives, including Intel's CEO Craig Barrett, even though Mr. Rove owned \$110,000 of stock in Intel at the time and had not requested a waiver from the conflict of interest laws. According to news accounts, Mr. Rove and the Intel executives discussed a range of subjects including "export controls on software."⁷ The Intel executive also raised the subject of a merger between Silicon Valley Group, an Intel supplier, and ASML, a Dutch company, for which Intel was seeking government approval.⁸

Mr. Rove continued to receive correspondence related to the proposed merger until it was approved in May. On April 16, Mr. Barrett wrote to three Cabinet secretaries about the merger and sent a copy to Mr. Rove.⁹ After the merger was approved, an industry executive sent a letter to senior Administration officials thanking them for their "perseverance and hard work" and sent a copy to Mr. Rove.¹⁰

C. General Electric

On March 20, 2001, Mr. Rove met with nuclear power executives about the Administration's energy policy.¹¹ At the time, Mr. Rove owned about \$80,000 of stock in General Electric, which has a nuclear power division. The president of the Nuclear Energy Institute, the trade group representing GE's nuclear interest, attended the March 20 meeting as well.¹²

D. The Need for Additional Information

Because of the concerns raised in these news reports, I wrote to Mr. Rove on June 15 and to you on June 25 seeking detailed information about Mr. Rove's involvement in these matters. I specifically stated that I was not making any accusations about Mr. Rove's conduct, only seeking more information so that members of Congress could make an informed judgment.

⁷*Bush Aide Who Held Intel Stock Met Executives Seeking Merger*, Washington Post (June 14, 2001).

⁸*Id.*

⁹*Intel Pitched Proposed Merger to Rove*, Associated Press (June 14, 2001).

¹⁰*Taking Stock of Karl Rove*, Newsweek (June 25, 2001).

¹¹*Intel Pitched Proposed Merger to Rove*, Associated Press (June 14, 2001).

¹²*Task Force's Leanings Questioned*, Las Vegas Sun (May 17, 2001).

Unfortunately, your letter does not provide this specific information. It merely states the conclusion that Mr. Rove did not engage in inappropriate conduct, but does not provide the factual background that would enable others to evaluate whether or not this is a reasonable conclusion.

For this reason, I am still requesting information on the following matters:

- (1) *Whether Mr. Rove had any meetings, discussions, or phone conversations with representatives of any of the companies in which he held stock and, if so, the date of the meetings, discussions, or phone conversations, the persons involved, the subject matters discussed, and Mr. Rove's best recollection of any views he expressed.* Despite my request, your letter provides no information about the nature of Mr. Rove's contacts with Enron executives, including Mr. Lay. Moreover, although your letter does address Mr. Rove's March 12, 2001, meeting with Intel executives, it simply states that Mr. Rove "was noncommittal and offered no substantive response" and that he had only "passing contact" with the matter. Your letter does not address precisely what Mr. Rove said at the meeting and what his "passing contact" entailed. Moreover, your letter does not provide information on meetings with executives or representatives from other companies in which Mr. Rove held stock.
- (2) *Whether Mr. Rove participated in any meetings, discussions, or phone conversations in which Enron or energy policies advocated by or affecting Enron were discussed and, if so, the date of the meetings, discussions, or phone conversations, the persons involved, the subject matters discussed, and Mr. Rove's best recollection of any views he expressed.* Your letter concedes that Mr. Rove was involved in the formulation of the Administration's energy policy, stating that Mr. Rove "did participate in a number of other meetings at which the contours of the Administration's energy policy were discussed." But your letter does not provide any specific information about the nature of Mr. Rove's involvement. Many of the Administration's energy proposals have a direct impact on Enron and were in fact advocated by Enron. To enable members of Congress to review whether Mr. Rove participated in discussions of these policies, specific information must be provided about Mr. Rove's involvement in any meetings, discussions, or phone conversations in which energy policy was discussed.
- (3) *Whether Mr. Rove has been involved in any other meetings, discussions, phone conversations, or decisions that might have had a direct impact on the stocks in his portfolio and, if so, the date of the meetings, discussions, or phone conversations, the persons involved, the subject matters discussed, and Mr. Rove's best recollection of any views he expressed.* Press accounts indicate that Mr. Rove participated in other discussions potentially affecting his stock holdings, such as meeting with nuclear power executives. Your letter, however, does not respond to my request for specific information about these discussions.

Mr. Alberto R. Gonzales
July 17, 2001
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II. The White House Legal Conclusions Appear to Be Flawed

I have serious concerns about the legal conclusions reached in your letter. I am particularly troubled by your statement that “pending the divestiture of his stockholdings, Mr. Rove took care to avoid such impropriety. Accordingly, he did not seek a waiver.” This statement turns the conflict of interest regulations on its head.

Federal conflict of interest laws establish clear guidelines for federal officials like Mr. Rove. Under 18 U.S.C. §208(a), executive branch employees are prohibited from “participat[ing] personally and substantially” in a matter in which the employee has “a financial interest.” As an example of an impermissible conflict of interest, the regulations prohibit an employee holding stock in pharmaceutical companies from participating in the drafting of a health care bill that controls drug prices. The regulations specifically state that a “health care bill limiting the amount that can be charged for prescription drugs is sufficiently focused on the interests of pharmaceutical companies that it would be a particular matter” for purposes of the regulations.¹³

White House precedent establishes strict standards for senior White House officials. For example, Sandy Berger, President Clinton’s National Security Advisor, was required by the Justice Department to pay over \$20,000 in fines because he held stock in Amoco, an energy company. I am not aware of any evidence in Mr. Berger’s case that he ever met with Amoco officials or discussed federal policy with them. Rather, the basis of the fine was that Mr. Berger’s duties as National Security Advisor affected federal energy policy.¹⁴ Anthony Lake, Mr. Berger’s predecessor as National Security Advisor, was forced to pay \$5,000 in fines for similar reasons.¹⁵

If there is any question about the appropriateness of an official’s involvement in an issue, the official is required to seek a waiver. According to 5 C.F.R. §2635.502(d), an employee must seek a waiver when the employee’s conduct “would raise a question in the mind of a reasonable person about his impartiality.” The standard for seeking a waiver is intended to be minimal. The goal is to ensure that federal officials consult with their agency’s ethics officer whenever there is any appearance of impropriety.

Measured against these standards, Mr. Rove’s unilateral decision to discuss federal

¹³5 C.F.R. §2640.103(a)(1)(example 8).

¹⁴*Berger to Pay Civil Penalties for Failure to Sell Oil Stocks*, Washington Times (Nov. 11, 1997).

¹⁵Office of Government Ethics, *1996 Conflict of Interest Prosecution Survey* (Aug. 12, 1997).

Mr. Alberto R. Gonzales
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policies with executives of companies in which he held stock seems highly questionable. Assuming that the news reports of Mr. Rove's actions are accurate, the Berger and Lake precedents suggest that Mr. Rove's conduct violated the ethics laws. In particular, the energy policies that Mr. Rove apparently discussed with Mr. Lay and participated in formulating would appear to affect Enron, thus triggering the conflict of interest regulations. In fact, it is difficult to imagine a more clear-cut example of government policy affecting the value of a company's stock. By emphasizing increased production over increased efficiency and by favoring greater deregulation, the Administration's energy policy plainly advances positions advocated by Enron that enrich Enron and other large energy companies.

Moreover, even if there were no prohibition against Mr. Rove's discussions with Mr. Lay of Enron, Mr. Rove's subsequent involvement in shaping the Administration's energy policy, or Mr. Rove's discussions with Mr. Barrett of Intel, these actions surely create an appearance of impropriety. Under the regulations, this alone would be sufficient to require Mr. Rove to seek a waiver from the White House ethics officer.

I believe the arguments in your letter rest on a flawed reading of the law. Regarding Enron's interest in the Administration's energy policy, you concede that Mr. Rove participated in meetings at which the Administration's energy policy was discussed. However, you contend that "[g]eneral policy discussions" are not a "particular matter" that falls within the conflict of interest regulations. Although that statement might be true in some cases, its application to these facts is highly questionable. As I pointed out above, the regulations specifically state that general legislation that has an impact on the interests of a company, like health care legislation limiting drug company prices, is considered a "particular matter" affecting the company.¹⁶

You also argue that the energy proposals in which Mr. Rove was involved were not "self-executing" because they required further action by the President, Congress, and the executive branch. Your argument seems to be contradicted by news accounts of Mr. Rove's stature within the White House. Mr. Rove has been described as the "most influential presidential aide in two decades,"¹⁷ who "has a hand in virtually every decision the president makes."¹⁸ If, under your overly narrow interpretation, Mr. Rove's involvement in policy is not significant enough to trigger the conflict of interest regulations, I am hard-pressed to think of an executive branch official's whose actions would.

¹⁶5 C.F.R. §2640.103(a)(1)(example 8).

¹⁷*Washington Memo: Political Soul Mates Since 1973*, Newsweek (Aug. 18, 2001).

¹⁸*Taking Stock of Karl Rove*, Newsweek (June 25, 2001); *see also Karl Rove, President's Focus Engineer, Finds Self in Spotlight*, Washington Post (July 15, 2001) ("Rove, by choice, is involved in most everything the White House does"); *Rove Heard Charity Plea on Gay Bias*, Washington Post (July 12, 2001) ("Literally nothing occurs around [the White House] without his blessing").

Mr. Alberto R. Gonzales
July 17, 2001
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Regarding the Intel matter, your letter states that Mr. Rove had only “passing contact” with the merger sought by Intel, since “[r]esponsibility for that matter rested with an interagency review panel on which Mr. Rove did not sit and in which he played no part.” Under the conflict of interest regulations, it is immaterial whether Mr. Rove was a member of the interagency review panel. Mr. Rove’s “passing contact” can trigger these regulations if “the employee’s involvement is of significance to the matter . . . even though it is not determinative of the outcome of a particular matter.”¹⁹

The factual context of the merger suggests that the White House played a major role in whether the merger would be approved. According to news accounts, the interagency review panel was deadlocked on whether to approve the merger.²⁰ The fact that the Administration approved the merger less than two months after Mr. Rove met with Mr. Barrett of Intel would appear to “raise a question in the mind of a reasonable person about [Mr. Rove’s] impartiality.”²¹

III. The White House Should Refer Mr. Rove’s Case to the Department of Justice

Regardless of whether you believe Mr. Rove’s conduct violated any laws, the White House is under a legal obligation to seek an independent review of Mr. Rove’s conduct by the Public Integrity Section of the Department of Justice.

A consistent theme of federal conflict of interest laws is their emphasis on ensuring an impartial review of the conduct federal employees. For example, as noted above, the regulations require employees to seek an independent review by federal ethics officers whenever their conduct could create even an appearance of impropriety.

The law follows a similar principle when there are allegations of wrongdoing by a federal official. Under 28 U.S.C. §535(b), an executive branch agency, including the White House, is required to refer possible violations of law by employees to the Department of Justice for an independent review. The threshold here is extremely low. Under the statute, “[a]ny information, allegation, or complaint” involving a potential criminal violation of law by a government “shall be expeditiously reported to the Attorney General by the head of the department or agency.”

¹⁹5 C.F.R. §2635.402(b)(4).

²⁰*White House Split over Selling of Tech Firm to Dutch*, Washington Times (Apr. 25, 2001).

²¹5 C.F.R. §2635.502(d).

Mr. Alberto R. Gonzales
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During the Clinton Administration, the White House Counsel's Office referred to the Justice Department matters involving conduct similar to Mr. Rove's conduct. In August 1995, then-White House Counsel Abner Mikva asked the Justice Department to determine whether Anthony Lake had violated the conflict of interest regulations. Even though Mr. Mikva considered Mr. Lake's conduct to be a "technical violation and not intentional," he felt compelled by law to make the referral because "[t]here is an incredibly low threshold."²² Likewise, Judge Mikva referred Sandy Berger's case to the Justice Department's public integrity division. Judge Mikva took this action even though in these cases there was no evidence that either Mr. Lake or Mr. Berger ever discussed federal policies with the chief executives of the companies in which they held stock.

I have also recently learned that former Clinton White House Counsel Jack Quinn referred a potential violation of the conflict of interest regulations involving Mark Middleton, a mid-level White House employee, to the Justice Department in March 1996. Mr. Quinn made the referral because Mr. Middleton owned 100 shares of Tyson Foods stock at the same time he participated in discussions on food labeling regulations. The value of Mr. Middleton's stock was approximately \$2,000, well under the value of Mr. Rove's holdings and well under the \$5,000 threshold necessary to trigger the ethics regulations.²³ After a thorough investigation, the Justice Department declined to prosecute Mr. Middleton in October 1997.

If President Bush is going to succeed in ensuring that his Administration will "maintain the highest standards of integrity in Government," it is important that the White House Counsel's Office aggressively enforce the conflict of interest laws. Unfortunately, the legal interpretation in your June 29 letter would effectively eviscerate these laws: White House employees would no longer have to recuse themselves from matters affecting companies in which they held stock; they would no longer have to seek waivers prior to meeting with executives of those companies; both general and specific discussions of policy would be allowed by employees with a financial self-interest in the policy; and if there were an actual conflict, the employees could always claim that their involvement was not self-executing. The cumulative effect of your reinterpretation of the ethics laws would make a mockery of the President's pledge.

I ask that you review this matter once again and provide the specific information that I sought in my June 25 letter. I would appreciate a response by July 24, 2001. Thank you.

Sincerely,



Henry A. Waxman
Ranking Minority Member

cc: Members of the Government Reform Committee

²²*Justice Dept. Probes Lake's Sale of Stock*, Washington Post (Dec. 12, 1996).

²³*See* 5 C.F.R. §2640.202(a)(2).

THE WHITE HOUSE
WASHINGTON

August 10, 2001

Dear Congressman Waxman:

I was disappointed with your letter of July 17, 2001, which contains a series of factual and legal inaccuracies. The following are just a few examples:

You assert that "discussing federal policies with senior executives of companies in which [a public official] had substantial investments" is "exactly the type of conflict of interest that the ethics laws are designed to prevent." (p. 1) On the contrary, no conflict of interest law or regulation contains such a prohibition. The "exact[] type of financial conflict of interest that the ethics laws are designed to prevent" is the type they expressly proscribe: the personal and substantial participation by a government official in a particular matter that will have a direct and predictable effect upon his financial interests. 5 C.F.R. § 2635.402(a).

Conversations in which a government official hears from a business executive about his company's perspective on aspects of federal policy are not in themselves prohibited. Only if the official were to participate personally and substantially in a particular matter that will have a direct and predictable effect on his financial interests would a prohibited conflict of interest exist. Your further suggestions that waivers are required when government officials (1) are given outside recommendations on personnel matters (p. 3); or (2) are given the names of persons within the environmentalist community with information or perspectives on global warming (p. 3); or (3) are merely copied on correspondence to others (p. 4) are wholly unsupported and erroneous. Were the law as you suggest, the ethics regulations would be transformed from an important safeguard of the substantive integrity of governmental decisionmaking into a needless and intrusive straitjacket that hinders beneficial communication between the government and the public.

You assert that "[a]ccording to 5 C.F.R. § 2635.502(d), an employee must seek a waiver when the employee's conduct 'would raise a question in the mind of a reasonable person about his impartiality.'" (p. 6) This misstates the regulation. Subsection (d) of Section 502 says nothing about the circumstances under which an employee should seek a waiver (or, more precisely, an authorization). That subject is governed by a different subsection of the same regulation, subsection (a). Subsection (a) contains a separate and additional requirement – which you do not cite or quote – making clear that vague and subjective questions about an employee's impartiality are not alone sufficient to trigger application of this regulation. Rather, it is only "[w]here an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter" that the regulation applies. 5 C.F.R. § 2635.502(a) (emphasis added). Thus, your generalization that waiver is required "when the employee's

conduct ‘would raise a question in the mind of a reasonable person about his partiality’” (p. 6) does not account for certain specific and indispensable elements of the rule, i.e., that in a case such as this there be both a particular matter involving specific parties and a likelihood of direct and predictable effect on a financial interest.¹

- *You assert that “Mr. Rove’s stature within the White House” in itself “trigger[s] the conflict of interest regulations.” (p. 7)* In my initial letter, I explained that the National Energy Policy could not have had a “direct and predictable” impact on the value of Mr. Rove’s Enron shares because, among other reasons, the Policy merely set forth a variety of proposals whose ultimate shaping and enactment into law depended on further consideration and action by other governmental actors and whose likely effect on Enron was therefore uncertain. You attempt to contradict that explanation by citing “Mr. Rove’s stature within the White House” and asserting that Mr. Rove is an important and influential adviser. This is beside the point. That Mr. Rove is Senior Adviser to the President cannot transform a general policy discussion of the sort that occurred with respect to the National Energy Policy into personal and substantial involvement by Mr. Rove in a particular matter that would have a direct and predictable effect on his financial interests.
- *You assert that “it is difficult to imagine a more clear-cut example of government policy affecting the value of a company’s stock” than the impact of the announcement of the National Energy Policy on Enron stock. (p. 7)* As I explained in my previous letter, the conflict of interest laws are not addressed to the potential impact of broad governmental policies upon individual companies. In any event, Enron shares traded within a narrow range both before and after the announcement and showed no obvious reaction to it.

Rather than engage in a largely repetitious point-by-point rebuttal of the many other points in your letter with which I disagree, I will focus the remainder of my response on the two principal requests made in your letter.

First, I must deny your request for information responding to the numerous questions posed in Part I(D) of your letter. You have asked for details relating to any “meetings, discussions, and phone conversations” Mr. Rove may have had with an extremely large potential universe of individuals, including dates, participants, and specific views expressed at the meeting. Providing such information would be inconsistent with the longstanding executive branch policy of furnishing non-public information in an oversight context only in response to an authorized request of a committee or House of Congress. Even in this situation, of course, various protections continue to apply to certain categories of information. Moreover, responding to your

¹ I note that this is only one example in a pattern of misrepresentation of legal materials in your letter. To cite another example. Section 502 does not state, as you claim, that the employee “must” seek an authorization; instead, it says only that the employee “should” seek an authorization before participating in a matter. 5 C.F.R. § 2635.502(a). Your letter also claims that “[t]he regulations specifically state that a ‘health care bill limiting the amount that can be charged for prescription drugs is sufficiently focused on the interest of pharmaceutical companies that it would be a particular matter’ for purposes of the regulations.” (p. 6) (citing 5 C.F.R. § 2640.103(a)(1) (example 8)). In fact, the actual text of the regulation provides that “*consideration and implementation, through regulations, of a section of a health care bill limiting the amount that can be charged for prescription drugs is sufficiently focused on the interest of pharmaceutical companies that it would be a particular matter.*” *Id.* (emphasis added). The omitted language is quite significant.

request would appear to require a comprehensive audit of the hundreds of meetings and thousands of “discussions or phone conversations” that Mr. Rove undoubtedly participated in since the beginning of the Administration. Preparing such a response would be extraordinarily burdensome, if not impossible.

Second, I must decline to comment on your request that a referral be made to the Department of Justice pursuant to 28 U.S.C. § 535(b). As a matter of policy, the executive branch generally will not disclose information relating to law enforcement matters, which would include the existence or non-existence of investigative referrals to the Department of Justice.

Notwithstanding your letter’s public disclosure of the heretofore confidential investigation of a named former White House staffer, I am sure you understand the importance of, and share the executive branch’s commitment to, protecting the privacy and reputation of individuals who may become the subject of an official investigation but are later determined to have done nothing wrong. Without commenting on Mr. Rove’s situation, I can, however, assure you that I will not hesitate in appropriate circumstances to make referrals to the Department of Justice, should the need ever arise. I am constrained to point out, however, that, here again, your discussion of the relevant law is inaccurate. Even assuming that 28 U.S.C. § 535(b) applies to the White House,² your understanding of that statute would appear to require referrals to the Department of Justice of even frivolous complaints or irresponsible or poorly-informed accusations. This understanding is not supported by the text of Section 535(b), interpretations of that provision during the past 25 years, or by the sound considerations of public policy that underlie it.

Finally, the Sandy Berger and Tony Lake cases you cite are not analogous to Mr. Rove’s situation. Neither Mr. Berger nor Mr. Lake was charged with anything so amorphous (or innocuous) as performing “duties [that] affected federal energy policy” (p. 6).³ In the Factual Stipulations filed with their Settlement Agreements, both Mr. Berger and Mr. Lake formally *admitted* that they had in fact “personally and substantially participated” in one or more “particular matters” that may have had a “direct and predictable effect” on the companies in which they held an interest. As I explained in my original letter, the general policy discussions and non-substantive interactions in which Mr. Rove engaged are plainly not in the same category.⁴ See 5 C.F.R. §§ 2635.402(b)(1), (b)(3), (b)(4). In addition, both Mr. Berger and Mr. Lake violated express instructions from the White House Counsel to sell their stockholdings. In Mr. Berger’s case, he retained his shares for more than 15 months after the Counsel’s Office had instructed him to divest. In Mr. Lake’s case, he retained his shares for more than 20 months after receiving such an instruction. By contrast, Mr. Rove followed the advice he received from transition counsel and White House Counsel and sold his shares promptly after he received his certificates of divestiture.

² This is, of course, far from clear. See *In re Lindsey*, 148 F.3d 1100, 1110 (D.C. Cir. 1998) (“The statute does not clearly apply to the Office of the President.”).

³ Each was charged with having “knowingly participated personally and substantially as a government officer or employee in a particular matter in which he had a financial interest.” Complaint, *United States v. Berger*, No. 97 CV02679 (filed D.D.C. 11/10/97); Complaint, *United States v. Lake*, No. 97 CV 00268 (filed D.D.C. 2/7/97).

⁴ As for the mid-level Clinton staffer named in your letter, since that matter had not, to my knowledge, been made public before your letter and I have no knowledge of the facts, I cannot comment. From your description of that matter, however, it appears that the Department of Justice determined that there was no basis on which to proceed.

In closing, it is important to note that no one has suggested that any of Mr. Rove's conduct actually undermined executive branch policymaking or personally enriched Mr. Rove. Indeed, Mr. Rove actually suffered considerable financial losses because of his inability to sell his stockholdings at the beginning of the Administration, as he had wished. We understand your role as a member of Congress and we hope that any further pursuit of this matter is motivated solely by a reasonable concern over Mr. Rove's conduct. Please let me know if I can provide additional help.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Gonzales", written in a cursive style.

Alberto R. Gonzales
Counsel to the President

The Honorable Henry A. Waxman
Ranking Minority Member
House of Representatives
Committee on Government Reform
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

cc: The Honorable Dan Burton