

I. INTRODUCTION

On May 19, 1993, seven employees serving at the pleasure of President Bill Clinton in the White House Telegraph & Travel Office ("Travel Office") were dismissed.⁴ Many in Congress and the public criticized this action.⁵ As a consequence, the White House conducted a "White House Travel Office Management Review" which resulted in the reprimand of several White House staff members for their actions in the Travel Office dismissals.⁶ A separate investigation by the United States Department of Justice resulted in the indictment of one Travel

the dismissals). See jurisdictional discussion, infra, section I(A).

⁴ The seven individuals fired on May 19, 1993 were: Billy Ray Dale, who began working in the Travel Office in October 1961 and served as Director of the Travel Office from July 1982 until the firings; Gary Wright, who began working in the Travel Office in April 1961, and served as Deputy Director from July 1982 until the firings; John Dreylinger, who began working in the Travel Office in February 1967; Ralph Maughan, starting in September 1973; John McSweeney, beginning in February 1980; Barnaby Brasseux, who began service in the Travel Office in July 1982; and Robert Van Eimeren, who had worked in the Travel Office since May 1984. As is apparent from the various start dates and periods of service, these individuals served in both Democratic and Republican Administrations. In another matter investigated by this Office, the confidential FBI background reports of Billy Dale and two other Travel Office employees were requested by White House officials seven months after they were fired. See Final Report of the Independent Counsel In re: Anthony Marceca No. 94-1 at 19 (D.C. Cir. [Spec. Div.] June 21, 1996)(filed Mar. 16, 2000)(describing the discovery that Billy Dale's file had been requested on December 20, 1993).

⁵ E.g., 139 Cong. Rec. S7018 (June 9, 1993)(statement of Senator Dole); 139 Cong. Rec. S6526 (May 26, 1993)(statement of Senator Cohen); Paul Richter and Ronald J. Ostrow, Travel Flap Stirs In-House Probe; 5 to Regain Pay, L.A. Times, May 26, 1993; Associated Press, White House Rethinking Firings at Travel Office, St. Louis Post-Dispatch, May 26, 1993.

⁶ The White House Travel Office Management Review was conducted under the direction of Deputy Chief of Staff John Podesta and Special Assistant to the President Todd Stern.

Office employee -- Travel Office Director Billy R. Dale -- who was acquitted of all charges by a jury in the United States District Court for the District of Columbia.⁷

Initially, a regulatory Independent Counsel, Robert B. Fiske Jr.,⁸ examined the Travel Office firings because of their possible relationship to the July 20, 1993 death of former Deputy Counsel to the President Vincent W. Foster Jr., which occurred two months after the Travel Office firings.⁹ This Office assumed jurisdiction over these matters on August 5, 1994, when the United States Court of Appeals for the District of Columbia Circuit, Division for the Purpose of Appointing Independent Counsels ("Special Division"), appointed Kenneth W. Starr as Independent Counsel pursuant to 28 U.S.C. § 593(b).¹⁰ Independent Counsel Starr continued Mr.

⁷ Indictment, United States v. Dale, No. CR-94-469 (D.D.C.) (filed Dec. 7, 1994). Dale was charged with embezzlement and the wrongful conversion to his own use of money belonging to the government and the White House press corps. Judgment of Acquittal, United States v. Dale, No. CR-94-469 (D.D.C. entered Nov. 16, 1995) (Hon. Gladys Kessler, presiding).

⁸ Prior to the enactment of Independent Counsel Reauthorization Act in 1994, Attorney General Janet Reno appointed Mr. Fiske as regulatory Independent Counsel under 28 C.F.R. §§ 600, 603 (1993), to investigate, among other things, the matter commonly referred to as "Whitewater" that was subsequently reassigned to this Office.

⁹ Mr. Fiske also investigated the death of Mr. Foster because of "speculation about a possible link between Foster's death and issues related to Whitewater." Report of the Independent Counsel In re: Vincent W. Foster, Jr. at 1 (June 30, 1994).

¹⁰ The Court's Order provided that the Independent Counsel shall have jurisdiction to investigate possible criminal violations, other than a Class B or C misdemeanor or infraction, "relating in any way to James B. McDougal's, President William Jefferson Clinton's, or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings & Loan Association, Whitewater Development Corporation, or Capital Management Services, Inc." In re: Madison Guaranty Savings & Loan Assoc., Div. No. 94-1 (D.C. Cir. [Spec. Div.] Aug. 5, 1994) (Order appointing Independent Counsel Starr). The Order further provided the Independent Counsel with "prosecutorial jurisdiction to fully investigate and prosecute the subject matter with respect to which the Attorney General requested the appointment of independent counsel, as hereinbefore set forth, and all matters and individuals whose acts may be related to that subject matter, inclusive of authority to investigate and prosecute federal crimes (other than those classified as Class B or C misdemeanors or infractions) that may arise out of the above described

Fiske's investigation into Mr. Foster's death and found that at the time of his death, Mr. Foster had been examining the May 19, 1993 firing of the Travel Office employees, and appeared to have concerns that the firings would result in Congressional or other legal inquiries.¹¹

Concurrently, in 1995, both the United States House of Representatives and the General Accounting Office ("GAO") conducted a separate inquiry into the Travel Office firings and into the subsequent White House review of the firings. Thus, during 1995, the Travel Office firings were the direct subject of Congressional inquiry and, simultaneously, the indirect subject of an ongoing investigation conducted by the Office of the Independent Counsel ("Office" or "OIC").

While these investigations were pending, on January 4, 1996, the White House produced to this Office and to Congress a never before acknowledged or released 1993 draft memorandum prepared by former Assistant to the President for Management and Administration William David Watkins.¹² This memorandum (hereinafter, the "Watkins Memorandum") discussed the firings, stating that the memorandum was "my first attempt to be sure the record is straight, something I have not done in previous conversations with investigators -- where I have been as

matter, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses." Id.

¹¹ Report on the Death of Vincent W. Foster, Jr., By the Office of Independent Counsel at 106, In re: Madison Guaranty Savings & Loan Association, Div. No. 94-1 (D.C. Cir. [Spec. Div.] Oct. 10, 1997). Following his death on July 20 1993, a torn up note found in Foster's briefcase on July 26 included the following statement: "No one in the White House, to my knowledge, violated any law or standard of conduct, including any action in the Travel Office." Report of the Independent Counsel In re: Vincent W. Foster, Jr. at 13-14 (June 30, 1994).

¹² The next day, January 5, 1996, the White House also produced billing records related to Mrs. Clinton's work at the Rose Law Firm that had been subpoenaed eighteen months earlier in connection with other matters within the jurisdiction of this Office. The belated production of these documents will be addressed at the conclusion of the other matters to which they related. See supra, note 11.

protective and vague as possible."¹³ The Watkins Memorandum disclosed, among other things, that "Foster regularly informed me that the First Lady [Hillary Rodham Clinton] was concerned and desired action -- the action desired was the firing of the Travel Office staff."¹⁴

This memorandum amplified David Watkins's earlier testimony to a federal grand jury that the Clintons' personal friend Harry Thomason had told Watkins that he had "talked to Mrs. Clinton" about potential problems in the Travel Office, "and that she was very interested," "[i]t was on her antennae," and she had said, according to Thomason, "that the people in the Travel Office should be fired."¹⁵ The memorandum also elaborated on Watkins's earlier testimony about his one pre-firing telephone conversation directly with the First Lady: "[S]he said, 'Well, you know, we need to have our people in there.' She said, 'I have talked to many people that have been in the White House before, and there are just too many people, if you don't have your own people in -- there are too many leftovers that can create and cause us problems.' And said, 'This is something that we should have our people in there.'"¹⁶

Former White House Chief of Staff Thomas "Mack" McLarty had also testified before the grand jury that prior to the firings "Mrs. Clinton did visit with [him] about the [Travel Office] matter for about five minutes [O]nce she understood that I had been apprised of this situation and was going to fully evaluate it, that was the basic point of her comments about the

¹³ GJ 95-2 Exh. 69-E at 1.

¹⁴ GJ 95-2 Exh. 69-E at 1-2.

¹⁵ Watkins GJ 2/28/95 at 51.

¹⁶ Id. at 53.

Travel Office, simply to make sure I was aware of what she felt was a situation that certainly needed to be carefully reviewed and probably changed."¹⁷

Watkins's and McLarty's testimony and the newly-discovered Watkins Memorandum appeared to conflict with Mrs. Clinton's previous testimony in this Office's investigation. She had been asked during sworn testimony whether she had "any input with either Mr. McLarty or Mr. Watkins as to that decision" to fire the Travel Office employees, to which she responded, "I don't believe I did, no."¹⁸ She also denied that she had any "role" in the decision to fire the Travel Office employees.¹⁹

A. The Jurisdictional Grant to the Independent Counsel.

Although the veracity of Mrs. Clinton's testimony in a sworn deposition before this Office was within the scope of the Office's jurisdiction at the time, this Office did not have jurisdiction to investigate whether false statements were made in other investigations of the Travel Office firings conducted by the GAO and Congress. Consequently, to avoid duplicative and overlapping inquiries, the Independent Counsel, on January 10, 1996, requested that Attorney General Janet Reno apply to the Special Division for an expansion of this Office's jurisdiction or, in the alternative, to refer to the Office the additional matters (of false statements in other investigations) as "related to" the matters then under investigation.²⁰ The Independent

¹⁷ McLarty GJ 4/25/95 at 14.

¹⁸ H. Clinton Depo. 7/22/95 at 12.

¹⁹ Id. at 12.

²⁰ Letter from Kenneth W. Starr, Independent Counsel, to Janet Reno, Attorney General of the United States, January 10, 1996. See 28 U.S.C. §§ 593(c), 594(e).